

WATER SERVICES ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 2: Licences and Compliance: Further Provision

Paragraph 8: Enforcement notices

269. **Paragraph 8** gives the Commission power to issue enforcement notices and describes the process to be followed in issuing these notices.
270. Sub-paragraph (1) gives the Commission power to issue enforcement notices if a water or sewerage services provider has contravened or is contravening a licence condition and the contravention is likely to recur. The Commission can do so only where it appears to it that the provider is not taking appropriate steps to remedy the contravention or prevent it from recurring. Any enforcement notice that the Commission issues must contain information about the contravention and the steps required by the provider to remedy it and about the timescales for doing so, as specified at sub-paragraphs (2) to (4).
271. Sub-paragraphs (5) and (6) specify the steps that the Commission must take before issuing an enforcement notice, including consultation with Scottish Water and other appropriate persons and allowing the provider to whom the notice will relate to make representations. Sub-paragraph (7) requires the Commission to have regard to any representations made to it by the provider about an enforcement notice. Sub-paragraph (8) requires copies of enforcement notices to be sent to Ministers and Scottish Water.
272. Sub-paragraph (9) gives those on whom a notice has been served a right to appeal to the sheriff against the notice within 14 days. Sub-paragraph (10) empowers the sheriff to make any order in respect of an appealed notice as considered necessary and provides that the sheriff's decision is final in such cases.
273. Sub-paragraphs (11) and (12) empower the Commission to withdraw, waive or relax any requirement of an enforcement notice, without in any way restricting its power to issue subsequently a further notice in respect of the same contravention.