



# Water Services etc. (Scotland) Act 2005

## 2005 asp 3

### PART 2

#### PROVISION OF WATER AND SEWERAGE SERVICES

##### *Scottish Water: water and sewerage services undertaking*

### **13 Water and sewerage services undertaking**

- (1) Scottish Water must, in accordance with any requirements made under subsection (2), secure the establishment of a business undertaking for the purposes of this section.
- (2) The Scottish Ministers may require Scottish Water to—
  - (a) take such steps for the purposes of or in connection with—
    - (i) the establishment and development of the undertaking; and
    - (ii) Scottish Water's interest in the undertaking,as the Scottish Ministers may specify; and
  - (b) take the steps, or any particular steps, by such date as they may specify.
- (3) It is, subject to the approval of the Scottish Ministers, for Scottish Water to determine whether the undertaking is—
  - (a) to be—
    - (i) a subsidiary (<sup>F1</sup>as defined in section 1159 of the Companies Act 2006) of Scottish Water;
    - (ii) a company (<sup>F2</sup>as defined in section 1(1) of that Act) formed by Scottish Water (on its own or with others); or
    - (iii) a partnership; or
  - (b) to be established through such other arrangements as Scottish Water considers it appropriate to make.
- (4) The functions of the undertaking are—
  - (a) to become a water services provider and a sewerage services provider; and
  - (b) thereafter, to perform the activities authorised by the water services and sewerage services licences held by it.

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*Changes to legislation: There are currently no known outstanding effects for the  
 Water Services etc. (Scotland) Act 2005, Section 13. (See end of Document for details)*

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- (5) Accordingly, the undertaking must (as soon as reasonably practicable after it is established) apply for a water services licence and a sewerage services licence.
- (6) The Scottish Ministers may by order provide that paragraphs 1 and 2 of schedule 2 have effect—
- (a) as regards an initial application by the undertaking for a licence; and
  - (b) following such an application, as regards the granting of the licence and the incorporation in it of conditions,
- with or subject to such modifications as the order may specify.
- (7) The undertaking may engage in any activity which it considers is not inconsistent with the performance of the activities authorised by the water services and sewerage services licences held by it.
- (8) After the undertaking is established, Scottish Water must not treat it any more or less favourably than it treats—
- (a) in relation to services as respects the supply of water, other water services providers; and
  - (b) in relation to services as respects the provision of sewerage and the disposal of sewage, other sewerage services providers.
- (9) Any reference in any enactment to Scottish Water is to be construed as not including the undertaking.

#### **Textual Amendments**

- F1** Words in s. 13(3)(a)(i) substituted (1.10.2009) by virtue of [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 248(a)** (with art. 10)
- F2** Words in s. 13(3)(a)(ii) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 248(b)** (with art. 10)

#### **Commencement Information**

- I1** S. 13 in force at 7.9.2006 by [S.S.I. 2006/445](#), art. 2, **Sch.**

**Changes to legislation:**

There are currently no known outstanding effects for the Water Services etc. (Scotland) Act 2005, Section 13.