



# Water Services etc. (Scotland) Act 2005

## 2005 asp 3

### PART 2

#### PROVISION OF WATER AND SEWERAGE SERVICES

##### *Sewerage nuisance: code of practice*

#### **25 Sewerage nuisance: code of practice**

- (1) The Scottish Ministers may make an order containing a code of practice (referred to in this section and section 26 as a “sewerage code”) for the purposes of assessing, controlling and minimising sewerage nuisance.
- (2) In this section and section 26, “sewerage nuisance” means—
  - (a) smells and discharges;
  - (b) insects; or
  - (c) any other thing,emanating from, or present at, any part of the public sewerage system so as to be prejudicial to health (that is to say, injurious, or likely to cause injury, to health) or a nuisance.
- (3) A sewerage code may, in particular, set out—
  - (a) guidance as to the best practicable means of assessing, controlling and minimising sewerage nuisance; and
  - (b) circumstances in which—
    - (i) Scottish Water; or
    - (ii) any other person to whom the code applies,is to be regarded for the purposes of this section and section 26 as complying, or (as the case may be) not complying, with the code.
- (4) In subsection (3)(a), “best practicable means” is to be construed by reference to the following provisions—
  - (a) “practicable” means reasonably practicable having particular regard to—
    - (i) local conditions and circumstances;
    - (ii) the current state of technical knowledge; and

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*Changes to legislation: There are currently no known outstanding effects for the  
 Water Services etc. (Scotland) Act 2005, Section 25. (See end of Document for details)*

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- (iii) financial implications; and
- (b) “means” includes—
  - (i) the design, installation, maintenance and manner and periods of operation of plant and machinery; and
  - (ii) the design, construction and maintenance of buildings and other structures.
- (5) A sewerage code is to apply to—
  - (a) Scottish Water in respect of its core functions relating to the provision of sewerage and the disposal of sewage; and
  - (b) any other person to the extent that the person is acting on Scottish Water's behalf, or under its authority, in that respect.
- (6) Scottish Water and any other person to whom a sewerage code applies must comply with the code.
- (7) The Scottish Ministers and every local authority must publicise any sewerage code.
- (8) Before making an order under subsection (1), the Scottish Ministers must consult—
  - (a) Scottish Water;
  - (b) every local authority; and
  - (c) such other persons as they consider appropriate,
 about the proposed sewerage code.
- (9) For the purposes of subsection (5), the provision of sewerage and the disposal of sewage does not include such provision or disposal through any part of the public sewerage system which is regulated by a permit granted by virtue of regulations made under section 2 of the Pollution Prevention and Control Act 1999 (c. 24) [<sup>F1</sup>or by an authorisation under regulations made under section 18 of the Regulatory Reform (Scotland) Act 2014].
- (10) Subsection (9) is subject to any direction made by the Scottish Ministers by virtue of any enactment in relation to the application of a sewerage code to any such part of the public sewerage system.

#### **Textual Amendments**

- F1** Words in s. 25(9) inserted (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), s. 61(2), [Sch. 3 para. 9](#); S.S.I. 2014/160, art. 2(1)(2), Sch.

#### **Commencement Information**

- I1** S. 25 in force at 10.2.2006 by [S.S.I. 2006/40](#), art. 2(a)

**Changes to legislation:**

There are currently no known outstanding effects for the Water Services etc. (Scotland) Act 2005, Section 25.