



Water Services etc. (Scotland) Act 2005

2005 asp 3

PART 2

PROVISION OF WATER AND SEWERAGE SERVICES

Offences

5 Public sewerage system: offences

- (1) Any person who draws sewage from the public sewerage system is guilty of an offence.
- (2) Any person who uses the public sewerage system for the disposal of sewage from the premises of another person is guilty of an offence.
- (3) Any person who makes arrangements for or in relation to the provision of sewerage to, or disposal of sewage from, the premises of another person through the public sewerage system is guilty of an offence.
- (4) Subsections (1) to (3) do not apply to—
 - (a) Scottish Water; or
 - (b) another person if (and to the extent that) the person is acting on behalf of Scottish Water or under its authority.
- (5) Subsections (2) and (3) do not apply to a person if (and to the extent that) the person is providing sewerage, or disposing of sewage, with the help of services provided by Scottish Water as described in section 30 of the 2002 Act⁷.
- (6) Subsection (3) does not apply to a sewerage services provider where the provider is acting as authorised by the sewerage services licence held by the provider.
- (7) The Scottish Ministers may by regulations—
 - (a) specify other circumstances in which subsection (1), (2) or (3) does not apply; or
 - (b) specify that subsection (1), (2) or (3) does not apply—
 - (i) to such other person or to such category of person; and
 - (ii) to such extent and subject to such conditions, as may be specified in the regulations.

Status: This is the original version (as it was originally enacted).

- (8) The Scottish Ministers are to consult—
- (a) Scottish Water;
 - (b) the Commission; and
 - (c) such other persons as they consider appropriate,
- on any regulations they propose to make under subsection (7).
- (9) It is competent to make regulations under subsection (7) only if the effect of the regulations would not be prejudicial to the exercise of Scottish Water’s core functions as respects the provision of sewerage and disposal of sewage.
- (10) A person who is guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding £20,000; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both.
- (11) A person who is guilty of an offence under subsection (2) or (3) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to a fine.
- (12) Any contract or other agreement which involves a contravention of subsection (1), (2) or (3) is unenforceable.
- (13) In this Part, “sewage” is to be construed in accordance with section 59(1) (interpretation) of the 1968 Act.