

PUBLIC SERVICES REFORM (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Schedule 2 – Transfer of Waterwatch Scotland Functions: Modification of Enactments

358. [Schedule 2](#) is introduced by section 3(6) and modifies enactments in consequence of the transfer of functions from the Water Customer Consultation Panels and their Convener (known together by the operating name of Waterwatch Scotland) to the Scottish Public Services Ombudsman (SPSO) and the National Consumer Council (NCC) and makes repeals in consequence of the dissolution of Waterwatch Scotland.

Part 1 - Amendments

359. In Part 1 of this schedule, paragraphs 1 to 13 amend the Water Industry (Scotland) Act 2002 (the 2002 Act). Paragraph 2 introduces a new section 2A into the 2002 Act which places certain bodies including Scottish Ministers and Scottish Water under a duty to have regard to representations made by NCC and to publish responses to any proposals made by it.
360. [Paragraph 3](#) gives the Water Industry Commission for Scotland (WICS) a power of direction over Scottish Water to ensure that the NCC can obtain information needed from Scottish Water for the exercise of its functions.
361. [Paragraph 4](#) requires the WICS to include information on representations from NCC in its annual report to Ministers and to explain any decision not to act upon these representations.
362. [Paragraph 5](#) gives Ministers a power of direction over Scottish Water to pay NCC sums in respect of its expenses in representing Scottish Water's customers. The power is exercisable after consultation with NCC.
363. [Paragraphs 8 to 12](#) add NCC in place of Waterwatch Scotland as the statutory consultee in relation to various consultation processes under the 2002 Act. Paragraph 13 requires Scottish Water to send a copy of its annual report to NCC.
364. [Paragraph 14](#) amends the Water Services etc. (Scotland) Act 2005 to add NCC in place of the Convener to the list of bodies that the WICS must consult when making a disconnections code.
365. [Paragraphs 15 to 20](#) amend the Consumers, Estate Agents and Redress Act 2007 (2007 Act). Paragraph 17 inserts a new section 7A into the 2007 Act to require NCC to provide Scottish Ministers with an annual report on all activities in relation to Scottish Water and for Scottish Ministers to lay this report before the Scottish Parliament.

*These notes relate to the Public Services Reform (Scotland) Act
2010 (asp 8) which received Royal Assent on 28 April 2010*

366. **Paragraph 18** inserts a new section 20A into the 2007 Act to require those bodies representing water customers' interests (NCC, the SPSO and the WICS) to enter into a co-operation arrangement.
367. **Paragraph 19** adds the WICS as a “designated regulator” for the purposes of section 24 (*Provision of information to the Council*) of the 2007 Act. This has the effect both of allowing NCC to obtain information relevant to its functions from the WICS and for the WICs to obtain information from NCC under section 27 of the 2007 Act. Paragraph 20 adds Scottish Water and the WICS as a ‘regulated provider’ and “relevant regulator” respectively, for the purposes of section 25 (*Enforcement by regulator of section 24 notice*) of the 2007 Act. This means that if Scottish Water fails to comply with an information notice issued to it by NCC under section 24 of the 2007 Act, NCC can refer the matter to the WICS for investigation and possible enforcement.

Part 2 - Repeals

368. **Part 2** repeals sections of the Water Industry (Scotland) Act 2002, the Scottish Public Services Ombudsman Act 2002, the Freedom of Information (Scotland) Act 2002 and the Water Services etc. (Scotland) Act 2005 to remove obsolete references to the Convener and Water Customer Consultation Panels.