



# Water Industry (Scotland) Act 2002

## 2002 asp 3

### PART 3

#### SCOTTISH WATER

##### *General duties*

#### **49 Interests of customers**

The Scottish Ministers, when exercising their functions under or by virtue of this Act, the 1968 Act or the 1980 Act and Scottish Water, when exercising its functions, must have regard to the interests of every person who is a customer or potential customer of Scottish Water and especially of such of those persons as—

- (a) are likely, by reason of a persistent disability or medical condition or of family circumstances, to require to have a much greater supply of water, or to make much greater use of facilities for the disposal of sewage, than might ordinarily have been expected, or
- (b) are ordinarily resident in a rural or remote part of Scotland.

#### **50 Economy, efficiency and effectiveness**

Scottish Water must, in exercising its functions, seek to ensure that its resources are used economically, efficiently and effectively.

#### **51 Sustainable development**

- (1) Scottish Water must, in exercising its functions, act in the way best calculated to contribute to the achievement of sustainable development.
- (2) Subsection (1) applies so far as is consistent with the purposes of any enactment relating to the functions of Scottish Water.
- (3) In complying with subsection (1) Scottish Water must have regard to any guidance for the time being issued by the Scottish Ministers.

## **52 Public access to land held by Scottish Water**

- (1) The Scottish Ministers, in exercising their functions under or by virtue of this Act, the 1968 Act or the 1980 Act and Scottish Water, in exercising its functions, must have regard to the desirability of preserving for the public any freedom of access (including access for recreational purposes) to land held by Scottish Water.
- (2) This section is without prejudice to section 53(1) and (2)(a).

## **53 Environmental matters**

- (1) The Scottish Ministers, in exercising their functions under or by virtue of this Act, the 1968 Act or the 1980 Act and Scottish Water, in exercising its functions, must have regard to the matters specified in subsection (2).
- (2) Those matters are—
  - (a) the desirability of preserving for the public any freedom of access (including access for recreational purposes) to areas of forest, woodland, mountains, moor, bog, cliff, foreshore, loch or reservoir and to other places of natural beauty, and
  - (b) the desirability of protecting and conserving—
    - (i) buildings,
    - (ii) sites, and
    - (iii) objects,  
of archaeological, architectural, historic or scientific interest and of maintaining the availability to the public of any facility for visiting or inspecting any such building, site or object.
- (3) The Scottish Ministers and Scottish Water must, in exercising the functions referred to in subsection (1), further—
  - (a) the conservation and enhancement of natural beauty and the conservation of flora and fauna, and
  - (b) the conservation of geological or physiographical features of special interest.
- (4) Subsection (3) applies so far as is consistent with the purposes of any enactment relating to the functions of the Scottish Ministers or, as the case may be, Scottish Water (whether or not functions under or by virtue of this Act, the 1968 Act or the 1980 Act).

## **54 Protection of natural heritage**

- (1) Scottish Natural Heritage (“SNH”) must by notice in writing notify Scottish Water of any area of land in Scotland which is a protected area.
- (2) An area of land is a protected area if—
  - (a) it has been designated under section 6(2) of the Natural Heritage (Scotland) Act 1991 (c. 28) (“the 1991 Act”) as a Natural Heritage Area,
  - (b) it is an area in respect of which notification has been given by SNH under section 28(1) (areas of special scientific interest) of the Wildlife and Countryside Act 1981 (c. 69), or
  - (c) it is a European site within the meaning of Regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994 (S.I.1994/2716).
- (3) Where SNH has given notice under subsection (1) in respect of an area of land and—

- (a) in the case of an area mentioned in subsection (2)(a), the designation referred to in that subsection is cancelled or varied under section 6(7) of the 1991 Act,
- (b) in the case of an area mentioned in subsection (2)(b), the notification ceases to have effect,
- (c) in the case of an area mentioned in subsection (2)(c), the area ceases to be a European site,

SNH must by notice in writing advise Scottish Water of that fact.

- (4) Where Scottish Water has received notice under subsection (1), it must (unless SNH has given notice under subsection (3) to the effect that the area of land in question is no longer a protected area) consult SNH before commencing any scheme, work, operation or activity which is likely to prejudice significantly the qualities by reference to which the area of land was designated as a Natural Heritage Area or notified as an area of special scientific interest or, as the case may be, is a European site.
- (5) Before commencing any scheme, work, operation or activity which appears to Scottish Water to be likely to affect adversely an area of land designated as a National Park under the National Parks (Scotland) Act 2000 (asp 10), Scottish Water must consult the National Park authority for the National Park.
- (6) Subsections (4) and (5) do not apply in relation to anything to be done by Scottish Water in an emergency but particulars of what is done and of the emergency must be notified by Scottish Water to SNH or, as the case may be, the National Park authority as soon as is practicable after the thing is done.

## **55 Consultation with Health Boards**

- (1) Where it appears to Scottish Water that (whether or not as a result of any act or omission by it) services provided by it in the exercise of its core functions give rise to, or are likely to give rise to, a significant risk to public health in relation to the area of any Health Board, Scottish Water must—
  - (a) consult the Health Board, and
  - (b) exercise its core functions with a view to reducing or eliminating the risk to public health, having regard to any views expressed by the Health Board.
- (2) This section is without prejudice to section 11(6).