

WATER SERVICES ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Provision of Water and Sewerage Services

Scottish Water: services via licensed providers

Section 20: Continuation and discontinuation of sewerage services

89. *Section 20* makes provision in relation to Scottish Water's duty to provide sewerage or dispose of sewage when the arrangements between a licensed sewerage services provider and occupier of eligible premises have come to an end. Specific provision is made in relation to "trade effluent services" (as defined in subsection (15)), to permit such services to be discontinued under particular circumstances.
90. Subsection (1) places a duty on Scottish Water to continue providing sewerage, or disposing of sewage from eligible premises (as defined in section 27 of the Act), even if the arrangements between the occupier of the premises and the sewerage services provider have come to an end. However, in contrast to the duty in section 17 as regards the continuing provision of a water supply, no time limit is put on this duty. However, by virtue of subsection (2), the duty does not apply to trade effluent services.
91. Subsection (3) provides that where arrangements between a sewerage services provider and the customer have come to an end, such as, for example, on revocation or suspension of a sewerage provider's licence, Scottish Water has a continuing duty to provide trade effluent services for the period specified in subsection (4) (namely, for 2 months or such shorter period as Scottish Water, with the Water Industry Commission's consent, determines).
92. However, subsection (5) provides that Scottish Water's duty under subsection (3) ceases where a new arrangement has been made between a sewerage services provider and the occupier of eligible premises under section 16(5) of the Act, or if the occupier of the premises notifies Scottish Water that trade effluent services are no longer required.
93. Subsection (6) enables a sewerage services provider to request that Scottish Water discontinue any trade effluent services provided to premises under section 16(5) of the Act. The procedures for this are set out in subsections (7) to (13). Under subsection (7), at least 14 days before making such a request, the provider must serve a notice of its intention to do so on: the occupier of the premises, Scottish Water, and the Commission. Subsection (8) gives Ministers the power to specify by order the form and content of such a notice, and under section 34 of the Act, such an order is subject to negative procedure in the Parliament.
94. Subsection (9) gives the occupier of the premises concerned the right to make representations to the provider about the notice within 10 days of it being served, which the provider must have regard to.

*These notes relate to the Water Services etc. (Scotland) Act
2005 (asp 3) which received Royal Assent on 17 March 2005*

95. Under subsection (10), if the request proceeds, Scottish Water must discontinue the trade effluent services, provided that the conditions set out in subsection (11) are satisfied, namely, that other arrangements for the provision of sewerage or the disposal of sewage in respect of those or other premises is not adversely affected by the discontinuation, and there is no likely risk to public health as a result of the discontinuation.
96. Subsection (12) provides that the sewerage services provider who requested the discontinuation should pay any reasonable costs incurred by Scottish Water in carrying out the discontinuation (which, in the event of a dispute, must be determined by the Commission - see subsection (13)).
97. Subsection (14) provides that section 20 is expressly without prejudice to the existing statutory provisions governing the provision of trade effluent services, as set out in Part II of the Sewerage (Scotland) Act 1968. Part II of that Act makes provision generally for the granting or continuation of consents by Scottish Water in respect of discharges of trade effluent from premises, or for agreements in relation to such discharges. Those consents or agreements can be subject to appropriate conditions, which may include provision as regards their discontinuance in certain circumstances.
98. Subsection (15) defines trade effluent services for the purpose of section 20, in accordance with section 59(1) of the 1968 Act, which provides that ““trade effluent” means any liquid, either with or without particles of matter in suspension therein, which is wholly or in part produced in the course of any trade or industry carried on at trade premises, including trade waste waters or waters heated in the course of any trade or industry and, in relation to any trade premises, means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises”.