

WATER SERVICES ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Provision of Water and Sewerage Services

Scottish Water: charges and functions

Section 21: Scottish Water's charges for water and sewerage services

Subsections (4) and (5): Liability of occupiers etc. for charges

146. Subsection (4) of section 21 amends section 35 of the 2002 Act which sets out the liability of the occupiers of premises to pay Scottish Water for water or sewerage services. The amendment disapplies the section in respect of services provided under section 16(2) and (5) of the Act, i.e. services to persons eligible to be served by a water or sewerage services provider; unless their supply has been continued under section 17(1) or section 20(1) or (3). This provides that only occupiers of eligible premises whose service is continued by Scottish Water under the supplier of last resort provisions in sections 17 and 20 are liable to Scottish Water directly for their water charges. For all other occupiers of eligible premises whose services are arranged by a licensed provider, the latter will instead be liable to Scottish Water for charges under the new section 35A.
147. Subsection (5) of section 21 inserts a new section 35A into the 2002 Act. This new section provides that water and sewerage services provided by Scottish Water to eligible premises by a licensed provider, as provided in section 16 of the Act, are to be considered as services provided solely by Scottish Water to the licensed provider for the purposes of charge schemes and determinations under the new sections 29 to 29F of the 2002 Act (as inserted by section 21(1) of the Act) (see, in particular, section 35A(1) and (2) which make provision for water and sewerage services respectively). Section 35A(3), however, disapplies section 35A(1) and (2) where water or sewerage services continue to be provided directly to the occupiers of those premises under section 17(1) or 20(1) or (3) of the Act. In that case, occupiers will be directly liable to Scottish Water for charges as set out in a charges scheme under the new section 29A of the 2002 Act.