

WATER SERVICES ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Provision of Water and Sewerage Services

Definitions for Part

Section 27: Meaning of “eligible premises”

178. Section 27 defines “eligible premises” for the purposes of Part 2 of the Act. This is required to define which customers water and sewerage services providers may make arrangements to supply water or sewerage services to. Where a customer meets this definition a licensed provider can supply services to them without contravening the general prohibitions in sections 4(3) and 5(3) of the Act.
179. Subsection (1) defines eligible premises as those that are connected, or are to be connected to the public water supply system or, as the case may be, the public sewerage system, and are not a dwelling.
180. Subsection (2) defines “dwelling” by reference to the definition given to it for council tax purposes under Part II of the Local Government Finance Act 1992 (i.e. premises in respect of which council tax is payable). The main purpose of this provision is to ensure that water and sewerage services providers cannot make arrangements to provide services to households. However, certain places which are dwellings under the 1992 Act, are not to be classed as a dwelling for the purposes of this Act, namely the residential part of part residential subjects within the meaning of Part II of the 1992 Act. This means that premises which are technically residential but which form part of a building whose main purpose is to function as a business, e.g. a care home, are not caught by the definition of “dwelling”; they will therefore fall within the definition of “eligible premises” and be able to receive water and sewerage services from a licensed provider notwithstanding that, for council tax purposes, certain parts of those subjects may be classed as a dwelling.
181. Subsection (3) gives Ministers the power by order to amend the definition of a “dwelling” for the purposes of the Act. This power could be used, for example, in the event of any changes made under the 1992 Act for council tax purposes to the definition of dwelling, to ensure that premises used primarily as dwellings are always excluded from the category of "eligible" premises. Section 34 provides for these regulations to be subject to negative procedure in the Parliament.

Section 28: Meaning of “public water supply system”

182. A water services licence will authorise a provider to arrange for a supply of water to be made to any eligible premises through the public water supply system. Section 28 defines what constitutes the public water supply system for the purposes of Part 2 of the Act.

183. Subsection (1) defines the public water supply system as all mains, pipes, water treatment works and other similar infrastructure vested in Scottish Water (i.e. infrastructure for which Scottish Water is responsible), or used by Scottish Water (or a person acting on its behalf or under its authority, such as a PFI contractor) in connection with the exercise of Scottish Water's core functions in respect of the public water supply. (Scottish Water's core functions are defined at section 70(2) of the Water Industry (Scotland) Act 2002 and for all practical purposes the definition includes all activities involved in providing statutory public water and sewerage services.)

Section 29: Meaning of "public sewerage system"

184. In parallel to the water services licence, a sewerage services licence authorises a provider to arrange for a supply of sewerage to, or disposal of sewage from, eligible premises through the public sewerage system. Section 29 provides a definition of the public sewerage system for the purposes of Part 2 of the Act.
185. Subsection (1) defines the public sewerage system as all sewers, drains, sustainable urban drainage systems (SUDS), sewage treatment works or other similar infrastructure vested in Scottish Water or used by Scottish Water (or a person acting on its behalf or under its authority, such a PFI contractor) in connection with the exercise of Scottish Water's core functions in respect of statutory public sewerage services.