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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 351 (C.14)**

**WATER INDUSTRY**

**The Water Services etc. (Scotland) Act 2005  
(Commencement No. 1 and Savings) Order 2005**

*Made - - - - 14th June 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 34(2), 37(2) and 37(3) of the Water Services etc. (Scotland) Act 2005(1) and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation and interpretation**

1.—(1) This Order may be cited as the Water Services etc. (Scotland) Act 2005 (Commencement No. 1 and Savings) Order 2005.

(2) In this Order—

“the 2002 Act” means the Water Industry (Scotland) Act 2002(2);

“the 2005 Act” means the Water Services etc. (Scotland) Act 2005;

“the Commissioner” means the Water Industry Commissioner for Scotland(3); and

“the Commission” means the Water Industry Commission for Scotland.

**Appointed days**

2. The provisions of the 2005 Act which are specified in column 1 of either Schedule 1 or Schedule 2 to this Order, the subject matter of which is described in column 2 of those Schedules shall, so far as not then in force, come into force on the day appointed in relation to that Schedule in the Table below; but where a particular purpose is specified in relation to any such provision in column 3 of those Schedules, that provision shall come into force on that day only for that purpose.

**TABLE**

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<i>Schedule</i>	<i>Appointed Day</i>
1	20th June 2005

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(1) 2005 asp 3.

(2) 2002 asp 3.

(3) The office of the Commissioner was established by section 12 of the Water Industry Act 1999 (c. 9) and continued by section 1 of the 2002 Act. Section 1 of the 2005 Act establishes the Commission which replaces that office.

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<i>Schedule</i>	<i>Appointed Day</i>
2	1st July 2005

### Savings provisions

3.—(1) Notwithstanding the repeal of section 32 of the 2002 Act by virtue of article 2 and Schedule 2, any charges scheme made by Scottish Water and approved under that section shall continue to have effect, on and after 1st July 2005, as if approved by the Commission under section 29A of that Act<sup>(4)</sup>.

(2) Notwithstanding the transfer of functions to the Commission by virtue of article 2 above, the following functions under the 2002 Act shall remain exercisable by or in relation to the Commissioner until that office is dissolved by an order under section 2 of the 2005 Act—

- (a) section 5 (annual reports by, and information from, the Commissioner), but only in relation to the financial year beginning 1st April 2005;
- (b) section 6 (funding of the Commissioner); and
- (c) schedule 1, paragraph 4 (accounts), but only in relation to the financial year beginning 1st April 2005.

(3) Notwithstanding the amendment or repeal by virtue of article 2 and Schedule 2 of the enactments specified in paragraphs 5, 6, 8(b), 9(b) and 10 of schedule 5 to the 2005 Act, those enactments shall continue to apply to or in relation to the Commissioner until that office is dissolved by an order under section 2 of the 2005 Act.

St Andrew's House, Edinburgh  
14th June 2005

*LEWIS MACDONALD*  
Authorised to sign by the Scottish Ministers

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(4) Section 29A of the 2002 Act is inserted by section 21(1) of the 2005 Act.

## SCHEDULE 1

Article 2

## PROVISIONS OF THE 2005 ACT COMING INTO FORCE ON 20TH JUNE 2005

<i>Column 1</i> <i>Provisions of the 2005 Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 1(1)	Water Industry Commission for Scotland	Only for the purpose of bringing into force the new section 1(1) of the 2002 Act
Section 1(4)	Water Industry Commission for Scotland	Only for the purpose of bringing into force the provisions of Schedule 1 to the extent specified in column 3 of this Table below
Section 4, apart from subsection (6)	Public water supply system: offences	
Section 5, apart from subsection (6)	Public sewerage system: offences	
Section 9	Fees relating to licences	Only for the purpose of any water services or sewerage services licence applied for or held by any undertaking established under section 13 of the 2005 Act
Sections 28 and 29	Meanings of “public water supply system” and “public sewerage system”	
Section 30 (Part 3)	Coal mine water pollution	
Section 31	Offences by bodies corporate and partnerships	
Schedule 1	Water Industry Commission for Scotland	Only for the purposes of bringing into force paragraphs 1 to 7 of the new Schedule A1 to the 2002 Act
Schedule 4	Powers of entry under the Coal Industry Act 1994	

## SCHEDULE 2

Article 2

## PROVISIONS OF THE 2005 ACT COMING INTO FORCE ON 1ST JULY 2005

<i>Column 1</i> <i>Provisions of the 2005 Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 1	Water Industry Commission for Scotland	

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<i>Column 1</i> <i>Provisions of the 2005 Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 2	Dissolution of office of Commissioner	
Section 21, apart from subsections (4) and (5)	Scottish Water's charges for water and sewerage services	
Section 22	Scottish Water's functions: powers of the Scottish Ministers	
Section 24	Qualification of duty to provide services	
Section 32	Amendments to enactments	Only for the purpose of bringing into force the provisions of Schedule 5 specified in column 1 of this Table below
Schedule 1	Water Industry Commission for Scotland	
Schedule 3	Certain pre-existing agreements as to charges	
Schedule 5, paragraphs 1 to 6; 7(1) to (2); 7(4); 7(6); 7(8) to (9); 8(b); 9(b) and 10	Amendments to enactments	

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order appoints 20th June and 1st July 2005 for the coming into force of certain of the provisions of the Water Services etc. (Scotland) Act 2005 (“the 2005 Act”), as set out in Schedules 1 and 2 of this Order.

Article 2 provides that the provisions specified in the schedules to this Order, so far as not then in force, shall come into force on the corresponding appointed day specified in the Table within the article.

Article 3(1) makes provision to save Scottish Water's charges schemes made under section 32 of the Water Industry (Scotland) Act 2002, (“the 2002 Act”), until a replacement scheme can be made under the new section 29A of the 2002 Act (as inserted by section 21(1) of the 2005 Act).

Articles 3(2) to (3) make savings provisions in consequence of the commencement of provisions in the 2005 Act establishing the new Water Industry Commission for Scotland (“the Commission”) which, among other things, takes over, as from 1st July 2005, functions previously exercised by the office of the Water Industry Commissioner for Scotland (“the Commissioner”) (whose office will shortly be dissolved by an order under section 2 of the 2005 Act). This is to ensure

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that, notwithstanding the transfer of functions to the Commission, the Commissioner will remain responsible for exercising a number of functions under the 2002 Act, such as the preparation of an annual report (section 5) and accounts (Schedule 1, paragraph 4) and will be able to be funded under section 6 of that Act, until such time as that office is dissolved. Moreover, the Commissioner in carrying out any remaining functions before dissolution will continue to be subject to the [Public Finance and Accountability \(Scotland\) Act 2000 \(asp 1\)](#), the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(asp 7\)](#), the [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), the [Freedom of Information \(Scotland\) Act 2002 \(asp 13\)](#) and the [Public Appointments and Public Bodies etc. \(Scotland\) Act 2003 \(asp 4\)](#).