

# **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.