



# Water Environment and Water Services (Scotland) Act 2003

## 2003 asp 3

### PART 3

#### GENERAL

#### **35 Crown application**

- (1) Part 1 and this Part bind the Crown.
- (2) The amendments and repeals made by Part 2 bind the Crown to the extent that the enactments amended or repealed bind the Crown.
- (3) Subsection (1) does not require subordinate legislation made under this Act to bind the Crown.
- (4) No contravention by the Crown of any provision made by or under this Act makes the Crown criminally liable; but the Court of Session may, on the application of any public body or office-holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (5) Despite subsection (4), any provision made by or under this Act applies to persons in the public service of the Crown as it applies to other persons.

#### **36 Orders and regulations**

- (1) Any power of the Scottish Ministers to make orders or regulations under this Act is exercisable by statutory instrument.
- (2) Any such power includes power to make—
  - (a) such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient,
  - (b) provision for the delegation of functions,
  - (c) different provision for different purposes and different areas.
- (3) An order under <sup>F1</sup>... 37, and regulations under section 8, 20, 22 or 23, may modify any enactment, instrument or document.

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*Changes to legislation: Water Environment and Water Services (Scotland) Act 2003, Part 3 is up to date with all changes known to be in force on or before 29 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) A statutory instrument containing an order or regulations under—
- (a) any of sections 2, 5 to 7, 9, 10 and (except where subsection (6) applies) 37, or
  - (b) paragraph 20(4) of schedule 2,
- is subject to annulment in pursuance of a resolution of the Parliament.
- (5) A statutory instrument containing regulations under section 8, 19, 20, 22 or 23, if made without a draft having been laid before, and approved by a resolution of, the Parliament is subject to annulment in pursuance of a resolution of the Parliament.
- (6) No—
- (a) order under section 4 <sup>F2</sup> ...,
  - (b) regulations under section 25,
  - (c) order under section 37 or regulations under section 8, 20, 22 or 23 containing provisions which add to, replace or omit any part of the text of an Act,
- is or are to be made unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, the Parliament.

#### Textual Amendments

- F1** Words in s. 36(3) repealed (1.4.2007) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\), s. 59\(2\), Sch.](#); [S.S.I. 2007/130, art. 2\(2\), Sch.](#)
- F2** Words in s. 36(6)(a) repealed (1.4.2007) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\), s. 59\(2\), Sch.](#); [S.S.I. 2007/130, art. 2\(2\), Sch.](#)

### 37 Ancillary provision

The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes or in consequence of this Act.

### 38 Commencement and short title

- (1) The provisions of this Act, other than this Part, come into force on such day as the Scottish Ministers may by order appoint.
- (2) This Act may be cited as the Water Environment and Water Services (Scotland) Act 2003.

**Changes to legislation:**

Water Environment and Water Services (Scotland) Act 2003, Part 3 is up to date with all changes known to be in force on or before 29 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 23(5) inserted by [2014 asp 3 sch. 3 para. 8\(6\)\(b\)](#)