

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, made under sections 36(3) and 37 of the [Water Environment and Water Services Scotland Act 2003 \(asp 3\)](#) (“the 2003 Act”), makes consequential and savings provisions necessary or expedient in consequence of the 2003 Act and the Water Environment (Controlled Activities) (Scotland) Regulations 2005 ([S.S.I. 2005/348](#)) (“the 2005 Regulations”), made under the 2003 Act. The 2005 Regulations provide the mechanism by which activities which impact on the water environment are authorised and regulated in Scotland.

Article 2 gives effect to the repeals, revocations, savings and amendments specified in the Schedule to the Order. In the Schedule, the repeals are listed in Part I, the revocations in Table 1 of Part II and the partial revocations in Table 2 of Part II. The savings provisions are in Part III and the amendments to primary and secondary legislation are listed in Parts IV and V respectively.

The purpose of those provisions is to make the existing legislative framework which regulates the water environment consistent with the new regulatory regime contained in the 2003 Act and the 2005 Regulations. In particular the current measures on pollution control as they apply to the water environment contained in the Control of Pollution Act 1974 and the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 are repealed. Such matters will now be regulated under the 2005 Regulations. Provision is also made in relation to the interaction of the 2005 Regulations with section 17 of the Water (Scotland) Act 1980 ([c. 45](#)) (“the 1980 Act”), which makes provision for the Scottish Ministers to make orders to provide for the acquisition of water rights by Scottish Water.

Article 3 provides that the terms of existing orders made under section 17 of the 1980 Act, or enactments (which, by virtue of paragraph 1 of Schedule 9 to that Act, have effect as if done under that section), under which water rights are acquired, are to be treated as modified to the extent necessary to be consistent with any relevant authorisation made under the 2005 Regulations.