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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2014 No.**

**The Public Water Supplies (Scotland) Regulations 2014**

**PART 10**

**OFFENCES: PARTS 8 AND 9**

**Offences**

**35.**—(1) It is an offence for Scottish Water to contravene—

- (a) regulation 29(1);
- (b) a requirement of a notice given to it under regulation 31(3)(d);
- (c) regulation 33(1);
- (d) a requirement of a notice given to it under regulation 33(7);
- (e) a requirement of a notice given to it under regulation 34(1)(b); or
- (f) a requirement of a notice given to it under regulation 34(2)(b).

(2) In any proceedings against Scottish Water for an offence under paragraph (1)(a) or (1)(b), it is a defence to show that Scottish Water took all reasonable steps and exercised all due diligence to avoid committing the offence.

(3) It is an offence for a person furnishing information or making an application (for approval) under regulation 33 or 34 to make a statement which that person knows to be false in a material particular, or to recklessly make a statement which is false in a material particular.

(4) A person<sup>(1)</sup> who commits an offence under paragraph (1) or (3) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

**Offences by bodies corporate**

**36.**—(1) Where—

- (a) an offence under regulation 35 has been committed by a body corporate or a Scottish partnership or other unincorporated association; and
- (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect of the part of—
  - (i) a relevant individual; or
  - (ii) an individual purporting to act in the capacity of a relevant individual,

the individual (as well as the body corporate, partnership or, as the case may be, other unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.

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(1) By virtue of section 5 and section 23(1) of, and Schedule 1 to, the Interpretation Act 1978 (c. 30), “person” includes a body of persons corporate (such as Scottish Water) and unincorporate (such as Scottish partnership or other association).

- (2) In paragraph (1), “relevant individual” means—
- (a) in relation to a body corporate—
    - (i) a director, manager, secretary or other similar officer of the body;
    - (ii) where the affairs of the body are managed by its members, the members;
  - (b) in relation to a Scottish partnership, a partner; and
  - (c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.