



# Water Industry (Scotland) Act 2002

## 2002 asp 3

### PART 4

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### 63 Register of trade effluents: confidential information

After section 37B of the 1968 Act insert—

##### **“37C Exclusion from register of commercially confidential information**

- (1) Despite subsection (2) of section 37A of this Act, Scottish Water shall not enter in the register maintained under that section information relating to the affairs of any individual or business if—
  - (a) it determines, on the application of the person providing the information, that it is commercially confidential (as regards that or any other person), and
  - (b) the information is not information which is required to be entered in the register in pursuance of a direction under subsection (4) below.
- (2) If, on an application under subsection (1) above, Scottish Water fails to make a determination within the period of 21 days beginning with the date of the application, it shall be treated as having determined that the information is commercially confidential.
- (3) Where, on an application under subsection (1) above, Scottish Water determines that information is not commercially confidential, the information shall not be entered on the register until the end of the period of 21 days beginning with the date on which the determination is notified to the person concerned.
- (4) The Scottish Ministers may give Scottish Water directions as to specified information, or descriptions of information, which the public interest requires to be included in the register regardless of whether the information is commercially confidential.

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- (5) Information excluded from the register by virtue of subsection (1) above shall be treated as ceasing to be commercially confidential for the purposes of this section on the expiry of the period of 4 years beginning with the date of the determination by virtue of which it was excluded unless Scottish Water determines, on the application of the person who provided the information, that it is still commercially confidential.
- (6) Subsection (2) above applies in relation to an application under subsection (5) above as it applies in relation to an application under subsection (1) above.
- (7) The Scottish Ministers may, by order made by statutory instrument, substitute (whether in all cases or in such descriptions of case as the order may specify) for the period for the time being specified in subsection (2) above such other period as they consider appropriate.
- (8) A statutory instrument containing an order under subsection (7) above is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (9) Information is, for the purposes of any determination under this section, commercially confidential, in relation to any person, if its inclusion in the register would prejudice to an unreasonable degree the commercial interests of that person.”

## 64 Works in connection with metering

After section 24A of the 1980 Act insert—

### “24B Works in connection with metering

- (1) This section applies where, in relation to any premises (“the premises concerned”), the conditions specified in subsection (2) are satisfied.
- (2) The conditions referred to in subsection (1) are that—
  - (a) Scottish Water is supplying or proposes to supply water to the premises,
  - (b) such supply is or is to be by meter, and
  - (c) there is a service pipe which is connected with a water main vested in Scottish Water and by which a supply of water is or could be provided to those premises.
- (3) Where this section applies, Scottish Water may serve a notice on the owner of the premises concerned requiring the execution, within such period of not less than 3 months as the notice shall specify, of such of the works mentioned in subsection (4) as the notice may specify.
- (4) The works referred to in subsection (3) are, in relation to the premises concerned—
  - (a) works consisting of the installation and connection of any meter for use in determining the quantity of water supplied to the premises,
  - (b) where a supply of water is or could be provided by the service pipe referred to in subsection (2)(c) to other premises as well as the premises concerned, works consisting of the installation, for any purpose connected with the installation or connection of such a meter, of a separate service pipe for the premises concerned, but only to the

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- extent that such a pipe will constitute a supply pipe and is not required to be laid in a road,
- (c) works for the purpose of maintaining, repairing, disconnecting or removing—
    - (i) any meter which has been installed for use in determining the quantity of water supplied to the premises, or
    - (ii) any pipes or apparatus installed in the course of any works specified in this section, and
  - (d) any other works appearing to Scottish Water to be necessary or expedient for any purpose connected with the carrying out of any works specified in paragraph (a), (b) or (c), including the installation and connection of any pipes or other apparatus on the premises and the alteration or removal of any of the plumbing of the premises.
- (5) In the case of any of the works mentioned in paragraph (a) of subsection (4) and paragraph (c)(i) of that subsection so far as relating to maintenance and repair of a meter, Scottish Water may execute the works itself instead of requiring the owner, under subsection (3), to execute the works.
- (6) If an owner upon whom a notice has been served under subsection (3) fails to comply with it, Scottish Water may itself execute the works which the owner was required by the notice to execute.
- (7) Where Scottish Water has served a notice under that subsection requiring the execution of the works mentioned in paragraph (b) of subsection (4), it shall, within 14 days after those works have been executed, lay so much of the separate service pipe referred to in that paragraph as will constitute a communication pipe or a supply pipe to be laid in a road and shall make all necessary connections.
- (8) Scottish Water may recover from the owner of the premises concerned any expenses reasonably incurred by it in executing any works under subsection (5), (6) or (7).
- (9) Subsection (8) is without prejudice to the rights and obligations, as between themselves, of the owner and occupier of the premises.”

## **65      Contravention of water byelaws: penalties and proceedings**

- (1) Section 72 (general provisions as to byelaws) of the 1980 Act is amended as follows.
- (2) In subsection (3) (maximum level of penalty), for “level 4” substitute “level 5”.
- (3) After that subsection, insert—
  - “(3A) Subject to subsection (3B), proceedings for any offence against such byelaws may be commenced at any time—
    - (a) within 6 months after the date on which evidence sufficient in the opinion of the procurator fiscal to justify the proceedings came to the procurator fiscal’s knowledge, or
    - (b) where such evidence was reported to the procurator fiscal by Scottish Water, within 6 months after the date on which it came to Scottish Water’s knowledge.
  - (3B) No such proceedings shall be commenced more than 3 years after—

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- (a) the date of the commission of the offence, or
  - (b) in the case of a continuing offence, the last date on which the offence was committed.
- (3C) Subsection (3) of section 136 (time limit for certain offences) of the Criminal Procedure (Scotland) Act 1995 (c. 46) applies for the purposes of this section as it applies for the purposes of that section.
- (3D) For the purposes of subsection (3A), a certificate signed by or on behalf of the procurator fiscal or, as the case may be, Scottish Water, and stating the date on which evidence such as is mentioned in that subsection came to the procurator fiscal's or, as the case may be, Scottish Water's knowledge shall be conclusive evidence of that fact.
- (3E) A certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.”