

SCHEDULE 2 LICENCES AND COMPLIANCE: FURTHER PROVISION

Transfer of licence

- 4 (1) Any water services licence or sewerage services licence may, subject to sub-paragraphs (2) to (5), be transferred to another person by the provider who holds it (“the transferor”), either in respect of—
- (a) all the activities; or
 - (b) any particular activity or activities, authorised by the licence.
- (2) A transfer of a licence is not valid unless—
- (a) the transfer complies with any condition of the licence as to transfer; and
 - (b) the Commission consents to the transfer.
- (3) The Commission may consent to a transfer only if satisfied that—
- (a) in a case where the proposed transfer is in respect of all the activities authorised by the licence, the person to whom the transferor proposes to transfer the licence (“the transferee”) has the ability to perform adequately those activities; or
 - (b) in a case where the proposed transfer is in respect of any particular activity or activities authorised by the licence, the transferee has the ability to perform adequately that activity or (as the case may be) those activities.
- (4) In assessing the transferee’s ability so to perform that activity or those activities, the Commission is to have special regard to—
- (a) the factors mentioned in paragraphs (a) and (b) of subsection (2) of section 7; and
 - (b) any other matters specified under that subsection.
- (5) In relation to a transfer—
- (a) an application for consent is to be made by the transferee; and
 - (b) sub-paragraphs (1) to (6) of paragraph 1 apply as regards an application for consent as they apply as regards an application for a licence.
- (6) Any applicant for consent to a transfer of a licence who knowingly or recklessly makes a statement, in connection with the application for consent, that is false or misleading in a material particular is guilty of an offence.
- (7) A person who is guilty of an offence under sub-paragraph (6) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on indictment, to a fine.
- (8) The Commission may consent to a transfer subject to such—
- (a) modification to any condition of the licence; and
 - (b) conditions apart from the conditions of the licence, as it considers it appropriate to make.
- (9) As soon as practicable after deciding whether to consent to a transfer, the Commission is to intimate its decision to—
- (a) the transferor and the transferee; and

Status: This is the original version (as it was originally enacted).

(b) Scottish Water.

- (10) Where the Commission withholds consent to the transfer, the transferee may, within 14 days of the date on which the decision to do so was intimated to the transferee under sub-paragraph (9)(a), appeal to the Court of Session against the decision on a question of law.
- (11) Where the Commission consents to the transfer, Scottish Water may, within 14 days of the date on which the decision to do so was intimated to Scottish Water under sub-paragraph (9)(b), appeal to the Court of Session against the decision on a question of law.
- (12) In an appeal under sub-paragraph (10) or (11), the Court may quash or confirm the Commission's decision to withhold consent to the transfer or (as the case may be) to consent to the transfer; and the decision of the Court in the appeal is final.
- (13) In this paragraph, "transfer" includes any form of assignation.