

SCHEDULE 2 LICENCES AND COMPLIANCE: FURTHER PROVISION

Enforcement notices

- 8 (1) If it appears to the Commission (whether or not following the exercise of powers under paragraph 5)—
- (a) that—
 - (i) a water services provider or a sewerage services provider has contravened a term or condition of the licence held by the provider and the contravention is likely to recur; or
 - (ii) such a provider is contravening a term or condition of the licence held by the provider and the contravention is likely to continue or to recur or both; and
 - (b) that the provider is not taking appropriate steps for the purpose of rectifying the contravention or (as the case may be) preventing its recurrence,
- the Commission may serve on the provider a notice (in this paragraph and paragraphs 9, 10 and 12 referred to as an “enforcement notice”) in respect of the contravention.
- (2) An enforcement notice must specify—
- (a) the contravention to which it relates;
 - (b) the Commission’s reasons for believing (as the case may be) that the contravention—
 - (i) has occurred and is likely to recur; or
 - (ii) is occurring and is likely to continue or to recur or both;
 - (c) the date by which the provider is required to rectify the contravention or (as the case may be) take steps to prevent its recurrence;
 - (d) any particular steps which the Commission requires the provider to take for that purpose; and
 - (e) the date on which the notice is to take effect.
- (3) An enforcement notice may specify different dates by which different steps specified under sub-paragraph (2)(d) must be completed.
- (4) The date referred to in sub-paragraph (2)(e) must be no earlier than the day following the last day on which an appeal may be made under sub-paragraph (9).
- (5) In considering whether to serve an enforcement notice, the Commission must consult—
- (a) Scottish Water; and
 - (b) such other persons as the Commission considers appropriate.
- (6) Before serving an enforcement notice on a provider under sub-paragraph (1), the Commission is to—
- (a) serve a copy of the proposed notice on the provider; and
 - (b) specify a period (which is to be not less than 7 days and no more than 28 days from the date of service of the notice) within which the provider may make representations to the Commission about the proposed notice.
- (7) The Commission—
- (a) is to have regard to any representations made by virtue of sub-paragraph (6)
 - (b); and

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- (b) may adjust the notice in light of the representations.
- (8) The Commission must send a copy of an enforcement notice to—
 - (a) the Scottish Ministers; and
 - (b) Scottish Water.
- (9) A provider on whom an enforcement notice has been served may, by summary application made within 14 days of the date of service of the notice, appeal to the sheriff against the notice; and the enforcement notice is of no effect until the appeal is withdrawn or finally determined.
- (10) In an appeal under sub-paragraph (9), the sheriff may make such order as the sheriff thinks fit; and the decision of the sheriff in the appeal is final.
- (11) The Commission may—
 - (a) withdraw an enforcement notice; or
 - (b) waive or relax any requirement of an enforcement notice, including substituting a later date for a date specified under sub-paragraph (2)(c) or (3), and may do so whether or not the notice has taken effect.
- (12) The withdrawal of an enforcement notice does not affect the Commission's power to issue a further such notice.