



# Water Resources (Scotland) Act 2013

## 2013 asp 5

### PART 5

#### NON-DOMESTIC SERVICES

#### 32 Deemed contracts

After section 20 of the 2005 Act there is inserted—

*“Contractual matters*

#### **20A Deemed contracts**

- (1) Subsection (4) applies as respects the circumstances specified in subsection (2) or (3).
- (2) The circumstances are that water is supplied to eligible premises by Scottish Water otherwise than in pursuance of arrangements made between—
  - (a) a water services provider, and
  - (b) the occupier of the premises.
- (3) The circumstances are that sewerage is provided to, or sewerage is disposed of from, eligible premises by Scottish Water otherwise than in pursuance of arrangements made between—
  - (a) a sewerage services provider, and
  - (b) the occupier of the premises.
- (4) The relevant parties are deemed to have made arrangements with each other for the provision to the premises of the services to which subsection (2) or (as the case may be) (3) relates.
- (5) The terms and conditions set by a scheme made under section 20B are incorporated into the arrangements—
  - (a) as if they were agreed by the relevant parties, and
  - (b) so far as they are relevant having regard to the purposes or areas to which they extend.

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- (6) The arrangements are effective as from the later of—
  - (a) the day on which the premises began to receive those services,
  - (b) the day on which the occupier acquired the premises,
  - (c) the day on which section 32 of the Water Resources (Scotland) Act 2013 came into force.
- (7) Sections 16 to 20 have effect in relation to the arrangements as if they were made ordinarily between the relevant parties.
- (8) In this section—
  - (a) the references to the relevant parties are to—
    - (i) the water services or (as the case may be) sewerage services provider that is designated in accordance with a scheme made under section 20B, and
    - (ii) the occupier of the premises,
  - (b) the references to the occupier of premises are, if the premises are unoccupied, to be construed as references to the owner of the premises.

### **20B Commission's scheme**

- (1) The Commission must make a scheme setting out the terms and conditions to be incorporated into any arrangements deemed by section 20A(4) to have been made.
- (2) A scheme under this section may—
  - (a) specify the basis on which a particular water or sewerage services provider is to be designated in connection with section 20A(8)(a)(i),
  - (b) in respect of the services to which section 20A(2) or (as the case may be) (3) relates—
    - (i) fix the maximum charges that may be recovered by the water or sewerage services provider so designated,
    - (ii) allow the water or sewerage services provider so designated to set the particular charges that are to be recovered by it.
- (3) A scheme under this section may—
  - (a) make different provision for different purposes or areas,
  - (b) for future application, revise an earlier such scheme.
- (4) Before making a scheme under this section, the Commission must consult—
  - (a) every water or sewerage services provider,
  - (b) Scottish Water, and
  - (c) the National Consumer Council.
- (5) As soon as practicable after the Commission makes a scheme under this section, it must—
  - (a) in a manner appropriate for bringing the scheme to the attention of persons likely to be affected by it, publish a notice stating its effect,
  - (b) send a copy of the scheme to—
    - (i) every water or sewerage services provider,
    - (ii) Scottish Water, and

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(iii) any other person who requests it.”.

#### Commencement Information

- I1** S. 32 in force at 10.6.2013 for specified purposes by S.S.I. 2013/163, art. 3, Sch.  
**I2** S. 32 in force at 1.4.2016 in so far as not already in force by S.S.I. 2016/14, art. 2

### 33 Notification of occupancy

(1) In section 34 (orders and regulations) of the 2005 Act, after subsection (2) there is inserted—

“(2A) Regulations under section 20C(4) or 20D(4) are subject to the negative procedure.”.

(2) After section 20B of the 2005 Act there is inserted—

#### “20C Notification of occupancy

- (1) Subsection (2) applies to any premises—
- to which water is supplied under section 16(2), or
  - to which sewerage is provided, or from which sewage is disposed of, under section 16(5).
- (2) The owner of the premises must give the water or sewerage services provider the required information if there is a change in occupancy because they—
- are occupied by a new occupier, or
  - have fallen vacant.
- (3) In subsection (2), “required information” means—
- address of the premises,
  - identity of the new occupier or (as the case may be) fact that the premises have fallen vacant,
  - day on which the change in occupancy occurred.
- (4) The Scottish Ministers may by regulations—
- make rules for timing and procedure in connection with subsections (1) and (2),
  - by addition, modify the list in subsection (3).

#### 20D Liability for charges

- (1) Subsection (2) applies if, without reasonable excuse, an owner of any premises to which section 20C(1) relates fails to comply with section 20C(2) (except where the new occupier is the owner or the premises have fallen vacant).
- (2) The new occupier's liability (if any) to the water or sewerage services provider for the relevant charges becomes shared jointly and severally with the owner.
- (3) In subsection (2), “relevant charges” means charges arising by virtue of any arrangements to which section 16(1) or (as the case may be) (4) relates.

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- (4) The Scottish Ministers may by regulations make rules for—
- (a) timing and procedure in connection with subsections (1) and (2),
  - (b) exempting an owner from liability under subsections (1) and (2) where, although information supplied by the owner is inaccurate or incomplete, the owner has taken prescribed steps to ensure its accuracy or completeness.”.

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**Commencement Information**

**I3** S. 33 in force at 10.6.2013 for specified purposes by S.S.I. 2013/163, art. 3, Sch.

**I4** S. 33 in force at 1.1.2017 in so far as not already in force by S.S.I. 2016/327, art. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Water Resources (Scotland) Act 2013, PART 5.