



# Water Services etc. (Scotland) Act 2005

## 2005 asp 3

### PART 2

#### PROVISION OF WATER AND SEWERAGE SERVICES

##### *Licensing of services to eligible premises*

#### **6      Licence authorisation**

- (1) The Commission may, subject to section 7 and paragraphs 1 and 2 of schedule 2, grant a licence authorising a person—
  - (a) to—
    - (i) make arrangements with the occupier of any eligible premises for or in relation to the supply of water to the premises through the public water supply system; and
    - (ii) fix, demand and recover charges for or in relation to the supply of water to any premises in respect of which the person has made such arrangements; and
  - (b) to make such arrangements with Scottish Water and such other persons as are necessary for the purposes of or in connection with the things mentioned in paragraph (a).
- (2) A licence granted under subsection (1) is in this Act referred to as a “water services licence”; and a person who holds a water services licence is in this Act referred to as a “water services provider”.
- (3) The Commission may, subject to section 7 and paragraphs 1 and 2 of schedule 2, grant a licence authorising a person—
  - (a) to—
    - (i) make arrangements with the occupier of any eligible premises for or in relation to the provision of sewerage to, or the disposal of sewage from, the premises through the public sewerage system; and
    - (ii) fix, demand and recover charges for or in relation to the provision of sewerage to, and disposal of sewage from, any premises in respect of which the person has made such arrangements; and

- (b) to make such arrangements with Scottish Water and such other persons as are necessary for the purposes of or in connection with the things mentioned in paragraph (a).
- (4) A licence granted under subsection (3) is in this Act referred to as a “sewerage services licence”; and a person who holds a sewerage services licence is in this Act referred to as a “sewerage services provider”.
- (5) The references in subsections (1) and (3) to the occupier of premises are, if the premises are unoccupied, to be construed as references to the owner of the premises.

## **7 Granting of licences**

- (1) The Commission may grant a water services licence or a sewerage services licence only if satisfied that the applicant has the ability to perform adequately the activities authorised by the licence.
- (2) In assessing an applicant’s ability so to perform those activities, the Commission is to have special regard to the following factors (in so far as relevant in relation to the performance of those activities)—
  - (a) knowledge, expertise and experience; and
  - (b) financial acumen and business viability,
 and such other matters as the Scottish Ministers may by order specify.
- (3) The Commission may issue guidance (either generally or in a particular case or category of case) in relation to the things mentioned in subsection (2).
- (4) A water services licence and a sewerage services licence—
  - (a) must be in writing; and
  - (b) unless revoked or suspended, continues in force for such period as may be specified in or determined by or under the licence.
- (5) As soon as practicable after refusing an application for a water services licence or a sewerage services licence, the Commission is to intimate the refusal to—
  - (a) the applicant; and
  - (b) Scottish Water.
- (6) As soon as practicable after granting a water services licence or a sewerage services licence, the Commission is to send a copy of the licence to—
  - (a) the person to whom it is granted; and
  - (b) Scottish Water.

## **8 Compliance with licences**

- (1) The Commission is to—
  - (a) monitor compliance with the terms and conditions of water services licences and sewerage services licences; and
  - (b) take such steps as it considers are necessary for the purposes of ensuring that the terms and conditions of such licences are complied with.
- (2) The Commission may give directions to any water services provider or sewerage services provider for the purpose of ensuring that the provider complies with the terms

and conditions of the provider's licence; and the provider must comply with any such directions.

- (3) The Commission may issue guidance (either generally or in a particular case or category of case) in relation to compliance with the terms and conditions of water services licences and sewerage services licences.
- (4) Scottish Water must report to the Commission any contravention of a term or condition of a water services licence or a sewerage services licence which appears to it to have occurred or be occurring.

## **9 Fees relating to licences**

- (1) The Commission may, for the purpose mentioned in subsection (2), make a scheme (a "fees scheme") which specifies—
  - (a) the matters relating to water services and sewerage services licences in respect of which fees are payable; and
  - (b) the amounts of fees payable (and, as appropriate, the persons by whom they are payable) in respect of each of those matters.
- (2) The purpose is securing that the fees payable in accordance with the scheme are sufficient to meet the costs incurred by the Commission in exercising its functions relating to water services and sewerage services licences.
- (3) A fees scheme may, in particular—
  - (a) impose on licence-holders fees by way of annual levies; and
  - (b) specify fees by reference to maximum amounts.
- (4) A fees scheme may make provision with respect to the times and methods of payment of the fees specified by the scheme.
- (5) A fees scheme may—
  - (a) make different provision for different cases or types of case;
  - (b) revoke or amend a previous scheme.
- (6) The Commission must—
  - (a) send any fees scheme to the Scottish Ministers for approval; and
  - (b) publish a summary of the scheme (and, in doing so, invite representations for the purposes of subsection (7)).
- (7) The Scottish Ministers—
  - (a) must have regard to any representations about a fees scheme which are made to them within 4 weeks of publication of the summary of it under subsection (6)(b); and
  - (b) may approve a fees scheme with or without modifications.
- (8) If the Scottish Ministers approve a fees scheme with modifications, they must give their reasons for doing so.
- (9) When a fees scheme has been approved under subsection (7), the Commission—
  - (a) must—
    - (i) make arrangements for allowing any person to obtain a copy of the scheme on payment of such reasonable fee (if any) as the Commission may determine; and

- (ii) publicise those arrangements and publish the scheme; and
- (b) may charge and recover fees in accordance with the scheme.

## **10 Licensed providers to give information**

- (1) Water services providers and sewerage services providers must provide the Commission with such information (including information in the form of a document) as it reasonably requires in the exercise of its functions.
- (2) Subsection (1) does not authorise the Commission to require the disclosure of anything that a person would be entitled to refuse to disclose on grounds of confidentiality in proceedings in the Court of Session.
- (3) Any person who fails, without reasonable excuse, to provide information required by the Commission under subsection (1) is guilty of an offence.
- (4) A person who is guilty of an offence under subsection (3) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum; or
  - (b) on indictment, to a fine.

## **11 Participation of licensed providers**

- (1) The Commission is (so far as is consistent with the exercise of its function under section 1(2) of the 2002 Act”) to exercise its functions relating to water services and sewerage services licences for the purposes of securing the participation—
  - (a) in an orderly manner; and
  - (b) in a manner that is not detrimental to the exercise of Scottish Water’s core functions,
 of water services and sewerage services providers in the provision of water and sewerage services.
- (2) The Commission may give directions of a specific or general character to—
  - (a) Scottish Water; or
  - (b) any—
    - (i) water services or sewerage services provider; or
    - (ii) person in whose favour it intends to grant a water services or sewerage services licence,
 as to steps to be taken for the purposes mentioned in subsection (1).
- (3) Directions under subsection (2) may, in particular, relate to—
  - (a) any costs attributable to the participation of water services and sewerage services providers in the provision of water and sewerage services; and
  - (b) the provision or exchange of information about customers of water services or sewerage services providers.
- (4) Before giving directions under subsection (2), the Commission must consult any person to whom the directions are to be given.
- (5) Any person to whom directions are given under subsection (2) must comply with the directions.

## **12      Licences and compliance: further provision**

Schedule 2 makes further provision regarding licences and compliance with licences.