

SCHEDULE 2 LICENCES AND COMPLIANCE: FURTHER PROVISION

Conditions of licence

- 2 (1) Each water services licence and sewerage services licence—
- (a) is, subject to sub-paragraph (10), to have incorporated in it by reference to the standard conditions such of those conditions as are applicable to it; and
 - (b) may include such ordinary conditions as appear to the Commission to be necessary or expedient for the purposes of or in connection with the activities authorised by the licence.
- (2) The Commission is, within 9 months of the coming into force of this sub-paragraph, to determine standard conditions that are to apply to water services licences and sewerage services licences.
- (3) The standard conditions are to relate to the obligations of water services providers and sewerage services providers to their customers and to Scottish Water; and the standard conditions may, in particular—
- (a) include standard conditions that are to apply to—
 - (i) all licences; and
 - (ii) a particular type of licence; and
 - (b) make provision for—
 - (i) the standard conditions (or any of them) not to apply to a particular licence or type of licence in such circumstances; and
 - (ii) the coming into effect and suspension of the standard conditions (or any of them) in such manner and in such circumstances, as may be specified in the standard conditions.
- (4) The Commission is to—
- (a) consult the Scottish Ministers on proposals for standard conditions; and
 - (b) publish the standard conditions.
- (5) The Commission—
- (a) is from time to time to review the standard conditions; and
 - (b) may—
 - (i) modify the standard conditions; and
 - (ii) make such modification to the conditions of any licence as it considers is necessary or expedient as a consequence of any modification of the standard conditions.
- (6) Before making any modification under sub-paragraph (5)(b), the Commission is to—
- (a) send a notice of the proposed modification to—
 - (i) every water services provider and sewerage services provider whose licence would be affected by the modification;
 - (ii) the Scottish Ministers; and
 - (iii) Scottish Water; and
 - (b) publish the notice.
- (7) The notice must—
- (a) state the reasons why the modification is proposed; and

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- (b) specify the period (which is to be not less than 28 days from the date of publication of the notice) within which representations with respect to the proposed modification may be made to the Commission.
- (8) The Commission is to have regard to any representations made by virtue of sub-paragraph (7)(b).
- (9) Where the Commission modifies the standard conditions, the Commission is to publish them as modified.
- (10) The Commission may, in granting a particular licence, exclude or modify any of the standard conditions to such extent as it considers appropriate in the circumstances of the case.
- (11) Sub-paragraphs (6) to (8) apply to exclusions and modifications under sub-paragraph (10) as they apply to modifications under sub-paragraph (5)(b) (but as if, in the case of an exclusion, the references in sub-paragraphs (6) and (7) to modification were references to exclusion).
- (12) Any ordinary condition of a licence may provide for the condition to—
 - (a) have effect or cease to have effect; or
 - (b) be modified,at such time, in such manner and in such circumstances, as the Commission considers appropriate.
- (13) The Commission may modify any condition of a particular licence if it considers that the modification is necessary or expedient in the circumstances of the case.
- (14) Sub-paragraphs (6) to (8) apply to modifications under sub-paragraph (13) as they apply to modifications under sub-paragraph (5)(b).
- (15) Any water services provider or sewerage services provider who is aggrieved by the inclusion of a condition in the licence held by the provider may, within 14 days of the date on which the licence was granted, appeal to the Court of Session against the inclusion of the condition on a question of law.
- (16) Any water services provider or sewerage services provider who is aggrieved by a modification of a condition included in the licence held by the provider may, within 14 days of the date on which the modification has effect, appeal to the Court of Session against the making of the modification on a question of law.
- (17) In an appeal under sub-paragraph (15) or (16), the Court may quash, confirm or vary the condition; and the decision of the Court in the appeal is final.