



# Water Industry (Scotland) Act 2002

## 2002 asp 3

### PART 3

#### SCOTTISH WATER

#### *Charges*

#### [<sup>F1</sup>29 Charges for goods and services

- (1) Scottish Water may—
  - (a) demand and recover charges for any services provided by it in the exercise of its core functions, and
  - (b) fix, demand and recover charges for any goods supplied or services provided in exercise of its other functions.
- (2) Scottish Water is to exercise the power conferred by subsection (1)(a) in accordance with—
  - (a) a charges scheme, or
  - (b) a departure from a charges scheme for which consent has been given under section 29E.
- (3) The power conferred by subsection (1)(b) is exercisable by or in accordance with an agreement with the person to be charged.
- (4) Subsections (1) to (3) are subject to sections 9A and 47 of the 1980 Act (which provide for no charge for water in certain circumstances).

#### **Annotations:**

#### **Amendments (Textual)**

- F1** Ss. 29-29G substituted for s. 29 (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(1), 37(2)** (with s. 36); [S.S.I. 2005/351](#), art. 2, sch. 2

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*Changes to legislation: There are currently no known outstanding effects for the Water Industry (Scotland) Act 2002, Cross Heading: Charges. (See end of Document for details)*

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## 29A Charges schemes

- (1) Scottish Water must make a scheme (referred to in this Act as a “charges scheme”) which fixes the charges to be paid for services provided by Scottish Water in the exercise of its core functions.
- (2) A charges scheme must be made by reference to a determination made under section 29B.
- (3) In particular, the scheme must not fix in any case a charge exceeding any maximum charge applying to the case by virtue of the determination.
- (4) A charges scheme may make provision with respect to the times and methods of payment of the charges fixed by the scheme.
- (5) The Scottish Ministers and the Commission must provide Scottish Water with such information as it reasonably requires for the purposes of making a charges scheme.
- (6) Scottish Water must send a charges scheme to the Commission for approval by such date as the Scottish Ministers may direct.
- (7) The Commission may approve a charges scheme with or without modifications.
- (8) If the Commission approves a charges scheme with modifications, it must give its reasons for doing so.
- (9) When a charges scheme is approved by the Commission, Scottish Water must—
  - (a) make arrangements for allowing any person to—
    - (i) inspect the scheme at any reasonable time,
    - (ii) obtain a copy of the scheme or part of it on payment of such reasonable fee (if any) as Scottish Water may determine, and
  - (b) publicise those arrangements and publish a summary of the scheme.
- (10) Following approval of a charges scheme by the Commission, the scheme comes into effect on such date as is specified in the scheme.

### Annotations:

#### Amendments (Textual)

- F1** Ss. 29-29G substituted for s. 29 (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(1), 37(2)** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2

## 29B Determination of maximum charges

- (1) The Commission must—
  - (a) determine in writing maximum amounts of charges by reference to which a charges scheme is to be made, and
  - (b) send the determination to Scottish Water by such time as the Scottish Ministers may specify.
- (2) Maximum amounts determined under subsection (1)(a) apply in relation to such period as the Scottish Ministers may specify.
- (3) A determination made under subsection (1)(a) may make different provision for different cases or categories of case.

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*Changes to legislation: There are currently no known outstanding effects for the Water Industry (Scotland) Act 2002, Cross Heading: Charges. (See end of Document for details)*

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- (4) Before making a determination under subsection (1)(a), the Commission—
- (a) must send a draft determination to—
    - (i) the Scottish Ministers,
    - (ii) Scottish Water, <sup>F2</sup>...
    - <sup>F3</sup>(iii) every water services provider and sewerage services provider, and
    - (iii) [<sup>F4</sup>[<sup>F5</sup>Citizens Advice Scotland] ,]
  - (b) must—
    - (i) publish the draft determination, and
    - (ii) invite (by way of advertisement or otherwise) representations as regards the draft determination by such time as the Commission may specify, and
  - (c) must have regard to any representations made to the Commission by virtue of paragraph (a) or (b).
- (5) The Scottish Ministers and Scottish Water must provide the Commission with such information as it reasonably requires for the purposes of making a determination under subsection (1)(a).

**Annotations:**

**Amendments (Textual)**

- F1** Ss. 29-29G substituted for s. 29 (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(1), 37(2)** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2
- F2** Word in s. 29B(4)(a) repealed (15.8.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 130(4)(a), 134(7)(8)**; S.S.I. 2011/278, art. 2(b)
- F3** S. 29B(4)(ia) inserted (15.8.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 130(4)(b), 134(7)(8)**; S.S.I. 2011/278, art. 2(b)
- F4** S. 29B(4)(a)(iii) substituted (15.8.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7)(8), **sch. 2 para. 10**; S.S.I. 2011/278, art. 2(d)
- F5** Words in s. 29B(4)(a)(iii) substituted (1.4.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(3), **Sch. 1 para. 15(8)** (with Sch. 1 para. 28, Sch. 2 paras. 13-15)

**29C Exercise of functions regarding charges**

- (1) Scottish Water must exercise its functions under sections 29A and 29F for the purposes of ensuring that subsections (4) and (5) are complied with.
- (2) The Commission must—
- (a) exercise its functions under sections 29A, 29B and 29F for the purposes of ensuring that subsections (4) and (5) are complied with,
  - (b) exercise its functions under section 29E for the purposes of ensuring that subsection (5) is complied with, and
  - (c) in exercising its functions under those sections, have regard to—
    - (i) any guidance issued to Scottish Water by the Scottish Ministers, and
    - (ii) any directions given to Scottish Water under section 44 or 56, so far as relevant in relation to charges schemes.
- (3) The Scottish Ministers must—

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- (a) provide the Commission with such information as it may require for the purpose of subsection (2)(c); and
  - (b) in particular, send to the Commission copies of any guidance and directions referred to in that subsection when issued or given.
- (4) This subsection is complied with if (so far as is consistent with compliance with subsection (5)) a charges scheme gives effect to any statement issued under section 29D.
- (5) This subsection is complied with if (so far as is consistent with compliance with section 41(1)) Scottish Water's receipts from the aggregate of—
- (a) its income from charges for services provided in the exercise of its core functions, and
  - (b) the amount of—
    - (i) any grants paid to it under subsection (1) of section 42,
    - (ii) money it may borrow under subsection (3) of that section, and
    - (iii) any other resources reasonably available to it,
 for the purposes of the exercise of those functions,
- is not less than sufficient to meet the expenditure required for the effective exercise of those functions.

**Annotations:**

**Amendments (Textual)**

- F1** Ss. 29-29G substituted for s. 29 (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(1), 37(2)** (with [s. 36](#)); [S.S.I. 2005/351](#), [art. 2](#), [sch. 2](#)

**29D Statements regarding charges**

- (1) The Scottish Ministers must—
- (a) in respect of a period specified under section 29B(2), and
  - (b) by reference to such economic or other factors as they consider relevant,
- issue to Scottish Water and the Commission a statement of policy regarding charges under a charges scheme.
- (2) A statement under subsection (1) is to include provision with respect to harmonisation of charges (that is to say, provision with a view to ensuring that a charges scheme does not fix different charges for similar services provided to persons of a similar category).
- (3) A statement under subsection (1) may (so far as is consistent with the provision described in subsection (2)) include provision with respect to—
- (a) the funding of particular services by charges for services as a whole,
  - (b) the proportion of the amount of income requiring to be raised by charges fixed by a charges scheme to be contributed by each category of person to whom Scottish Water provides services,
  - (c) the fixing of levels of charges by reference to—
    - (i) different categories of person to whom Scottish Water provides services, or
    - (ii) liability for council tax under Part II (Council tax: Scotland) of the Local Government Finance Act 1992 (c. 14), and

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- (d) such other matters as the Scottish Ministers think fit.
- (4) In preparing a statement under subsection (1), the Scottish Ministers must have regard to Scottish Water's duty under section 51(1).
- (5) Before issuing a statement under subsection (1), the Scottish Ministers must consult—
- (a) the Commission,
  - [<sup>F6</sup>(aa) every water services provider and sewerage services provider,]
  - (b) [<sup>F7</sup>[<sup>F8</sup>Citizens Advice Scotland] ,]
  - (c) Scottish Water.

**Annotations:**

**Amendments (Textual)**

- F1** Ss. 29-29G substituted for s. 29 (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), ss. [21\(1\)](#), [37\(2\)](#) (with s. 36); S.S.I. 2005/351, art. 2, sch. 2
- F6** S. 29D(5)(aa) inserted (15.8.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), ss. [130\(5\)](#), [134\(7\)\(8\)](#); S.S.I. 2011/278, art. 2(b)
- F7** S. 29D(5)(b) substituted (15.8.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. [134\(7\)\(8\)](#), [sch. 2 para. 11](#); S.S.I. 2011/278, art. 2(d)
- F8** Words in s. 29D(5)(b) substituted (1.4.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(3), [Sch. 1 para. 15\(9\)](#) (with Sch. 1 para. 28, Sch. 2 paras. 13-15)

**29E Departure from certain charges**

- (1) Scottish Water may, in any particular case, apply to the Commission for its consent to depart from a charges scheme in respect of charges to be paid for services provided to a water services or sewerage services provider.
- (2) The Commission may consent to a departure from a charges scheme only if satisfied that—
- (a) a customer of the provider has done, or has agreed to, something which reduces or increases the costs incurred by Scottish Water in providing the services to the provider, and
  - (b) the departure is otherwise justified in the circumstances of the case.
- (3) Where the Commission consents to a departure, it may do so subject to such reasonable conditions as it considers are appropriate in the case.
- (4) Where the Commission withholds its consent to a departure, it must give its reasons for doing so.
- (5) The Commission is to make provision in writing which specifies—
- (a) the procedure to be followed for the purposes of determining applications made under subsection (1), and
  - (b) any matters to be taken into account and the criteria to be applied in—
    - (i) determining whether a departure from a charges scheme is justified, and

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- (ii) the fixing, by Scottish Water, of lower or (as the case may be) higher charges to be paid for the services in question where it is determined that a departure is justified.
- (6) The Commission may from time to time revise the provision.
- (7) In preparing or revising the provision, the Commission must consult—
  - (a) the Scottish Ministers and Scottish Water, and
  - (b) such other persons as it thinks fit,
 as to the procedure to be followed in considering applications made under subsection (1).
- (8) The Commission must send a copy of the provision to—
  - (a) the Scottish Ministers,
  - (b) Scottish Water, and
  - (c) every water services and sewerage services provider.
- (9) Scottish Water must publish details of every departure from a charges scheme.

**Annotations:**

**Amendments (Textual)**

**F1** Ss. 29-29G substituted for s. 29 (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), ss. [21\(1\)](#), [37\(2\)](#) (with s. 36); S.S.I. 2005/351, art. 2, sch. 2

**29F Review of determinations and charges**

- (1) This subsection applies where, since the making of a determination under section 29B(1)(a), there has been or is likely to be material change to—
  - (a) Scottish Water's income from charges for services provided in the exercise of its core functions,
  - (b) the amount of—
    - (i) any grants paid to it under subsection (1) of section 42,
    - (ii) money it may borrow under subsection (3) of that section, or
    - (iii) any other resources reasonably available to it,
 for the purposes of the exercise of those functions, or
  - (c) the expenditure required for the effective exercise of those functions.
- (2) Where subsection (1) applies, Scottish Water—
  - (a) may of its own accord,
  - (b) must, if the Commission requests it to do so,
 send to the Commission proposals for revising the maximum amounts of charges determined under section 29B(1)(a).
- (3) The Commission—
  - (a) must, after receipt of the proposals, review those amounts, and
  - (b) may revise those amounts to such extent as it thinks fit.
- (4) In reviewing those amounts, the Commission must take into account all matters affecting the resources available to Scottish Water for the purposes of the exercise of its core functions.

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- (5) Before revising those amounts, the Commission must—
  - (a) intimate to the Scottish Ministers that revision of those amounts is under consideration,
  - (b) invite (by way of advertisement or otherwise) representations as regards revision of those amounts by such time as the Commission may specify, and
  - (c) have regard to any representations made to the Commission by virtue of paragraph (a) or (b).
- (6) The Commission must give its reasons for deciding whether or not to revise those amounts.
- (7) Where the Commission revises those amounts, it must send to Scottish Water written notice which specifies the revised amounts.
- (8) Scottish Water—
  - (a) may, after receipt of the notice, revise any charges fixed by the charges scheme by reference to the revised amounts specified in the notice, and
  - (b) if it does so, must send written notice of the revised charges to the Commission for approval.
- (9) The Commission may approve any revised charges with or without modifications.
- (10) If the Commission approves any revised charges with modifications, it must give its reasons for doing so.
- (11) When revised charges are approved by the Commission, Scottish Water must publish a summary of the revised charges and the date from which they have effect.
- (12) The date from which the revised charges have effect is to be determined by the Commission.

**Annotations:**

**Amendments (Textual)**

- F1** Ss. 29-29G substituted for s. 29 (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(1), 37(2)** (with [s. 36](#)); [S.S.I. 2005/351](#), [art. 2](#), [sch. 2](#)

**29G Effective exercise of core functions**

For the purposes of sections 29C(5) and 29F(1), Scottish Water is to be taken to be exercising its core functions effectively if (in discharging its statutory duties and contractual obligations relating to the exercise of those functions) it makes such use of its resources that, year on year, it—

- (a) achieves the objectives contained in any directions given by reference to section 56A, and
- (b) does so at the lowest reasonable overall cost.]



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**Annotations:**

**Amendments (Textual)**

- F1** Ss. 29-29G substituted for s. 29 (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(1), 37(2)** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2

**30 Maximum charges for services provided with help of Scottish Water**

- (1) [<sup>F9</sup>A charges scheme must also] fix maximum charges which a person other than Scottish Water may recover from another such person in respect of the supply of water to, the provision of sewerage to, or the disposal of sewage for that other person with the help of services provided by Scottish Water.
- (2) For the purposes of this section, water is supplied to, sewerage provided to, or sewage disposed of for a person with the help of services provided by Scottish Water if—
- a facility for that person to have access to a supply of water provided by Scottish Water in pipes, or to make use of sewerage which is, or facilities for the disposal of sewage which are, provided by Scottish Water is made available to that person otherwise than by Scottish Water,
  - that person is provided with a supply of water in pipes by a person to whom the water is supplied, directly or indirectly, by Scottish Water, or
  - that person is provided with sewerage, or with facilities for the disposal of sewage, by a person who, for the purposes of providing the sewerage or facilities, makes use of sewerage or of such facilities provided, directly or indirectly, by Scottish Water.
- (3) [<sup>F10</sup>In relation to maximum charges fixed by virtue of subsection (1), the charges scheme] may make different provision in relation to different persons, circumstances or localities and may fix a maximum charge either by specifying the maximum amount of the charge or by specifying a method of calculating that amount.
- (4) Where a person pays a charge in respect of anything to which [<sup>F11</sup>, by virtue of subsection (1), a charges scheme] relates and the amount paid exceeds the maximum charge fixed by the [<sup>F12</sup>scheme], the amount of the excess is recoverable by that person from the person to whom the charge was paid.

**Annotations:**

**Amendments (Textual)**

- F9** Words in s. 30(1) substituted (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(2)(a), 37(2)** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2
- F10** Words in s. 30(3) substituted (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(2)(b), 37(2)** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2
- F11** Words in s. 30(4) substituted (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(2)(c)(i), 37(2)** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2
- F12** Word in s. 30(4) substituted (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(2)(c)(ii), 37(2)** (with s. 36); S.S.I. 2005/351, art. 2, sch. 2

**<sup>F13</sup>31 Charges schemes**

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**Annotations:**

**Amendments (Textual)**

**F13** Ss. 31-34 repealed (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(3)**, 37(2) (with s. 36); [S.S.I. 2005/351](#), **art. 2**, sch. 2 (with art. 3(1)(3))

**F13 32 Approval of charges schemes**

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**Annotations:**

**Amendments (Textual)**

**F13** Ss. 31-34 repealed (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(3)**, 37(2) (with s. 36); [S.S.I. 2005/351](#), **art. 2**, sch. 2 (with art. 3(1)(3))

**F13 33 Commissioner's advice on charges**

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**Annotations:**

**Amendments (Textual)**

**F13** Ss. 31-34 repealed (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(3)**, 37(2) (with s. 36); [S.S.I. 2005/351](#), **art. 2**, sch. 2 (with art. 3(1)(3))

**F13 34 Publication of summary of charges scheme**

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**Annotations:**

**Amendments (Textual)**

**F13** Ss. 31-34 repealed (1.7.2005) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(3)**, 37(2) (with s. 36); [S.S.I. 2005/351](#), **art. 2**, sch. 2 (with art. 3(1)(3))

**35 Liability of occupiers etc. for charges**

- (1) Supplies of water provided by Scottish Water to any premises and the provision and maintenance by Scottish Water of communication pipes and supply pipes for the purposes of such supplies are to be treated for the purposes of this Act as services provided to the occupier for the time being of those premises.
- (2) The provision of sewerage, and the disposal of sewage, provided by Scottish Water are to be treated for the purposes of this Act as provision to, or as disposal for, the occupier for the time being of any premises which—
  - (a) are drained by a sewer or drain connecting, either directly or through an intermediate sewer or drain, with a public sewer provided for foul water or surface water or both, or

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- (b) are premises the occupier of which has, in respect of the premises, the benefit of facilities which drain to a sewer or drain so connecting.
- (3) Subject to subsection (5), in relation to any period during which premises referred to in subsection (1) or (2) are unoccupied, references to the occupier in the subsection in question are to be construed as references to the owner of the premises.
- (4) Subsections (1) to (3) do not apply so far as provision to the contrary is made by any agreement to which Scottish Water is a party.
- (5) Charges which, under section 29, are fixed in relation to any premises by reference to volume may be imposed so that a person remains liable, in relation to those premises, to pay charges for—
- (a) a supply of water, and
  - (b) provision of sewerage or disposal of sewage,
- provided by Scottish Water after the person has ceased to be occupier of the premises.
- (6) A person is liable by virtue of subsection (5) for any charges fixed in relation to any premises by Scottish Water only where that person fails to inform Scottish Water of the ending of that person's occupation of the premises at least 48 hours before that person ceases to occupy them.
- (7) The charges for which a person may be liable by virtue of subsection (5) are charges in respect of a period ending no later than whichever of the following first occurs after the person ceases to occupy the premises—
- (a) where the person informs Scottish Water of the ending of that person's occupation, the 28th day after informing Scottish Water,
  - (b) any day on which any meter would normally have been read in order for the amount of the charges to be determined,
  - (c) any day on which any other person informs the authority that that other person has become the new occupier of the premises.
- (8) In calculating the period of 48 hours referred to in subsection (6) any time falling on—
- (a) a Saturday or Sunday,
  - (b) Christmas Day or Good Friday, or
  - (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971 (c.80),
- is to be disregarded.
- (9) In subsection (1), “communication pipes” and “supply pipes” have the same meanings as in the 1980 Act.
- [<sup>F14</sup>(10) This section does not apply to or in relation to any services provided by Scottish Water under section 16 of the Water Services etc. (Scotland) Act 2005 (asp 3) except where the provision of the service is continued under section 17(1) or 20(1) or (3) of that Act.]

#### Annotations:

#### Amendments (Textual)

- F14** S. 35(10) added (7.9.2006) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(4), 37(2)** (with s. 36); [S.S.I. 2006/445](#), art. 2, sch.

### **[<sup>F15</sup>35A Charges for services arranged by licensed providers**

- (1) Supplies of water provided to any premises by Scottish Water under subsection (2) of section 16 of the Water Services etc. (Scotland) Act 2005 (asp 3) are to be treated, for the purposes of sections 29 to 29F, as services provided solely to the water services provider who made the related request under subsection (1) of that section in respect of the premises.
- (2) The provision of sewerage to, and disposal of sewage from, any premises by Scottish Water under subsection (5) of that section of that Act are to be treated, for the purposes of sections 29 to 29F, as services provided solely to the sewerage services provider who made the related request under subsection (4) of that section in respect of the premises.
- (3) But—
  - (a) where the supplies of water provided to the premises are continued under subsection (1) of section 17 of that Act, subsection (1) does not apply,
  - (b) where the provision of sewerage to, or disposal of sewerage from, the premises is continued under subsection (1) or (3) of section 20 of that Act, subsection (2) does not apply.]

#### **Annotations:**

#### **Amendments (Textual)**

- F15** S. 35A inserted (7.9.2006) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), **ss. 21(5), 37(2)** (with [s. 36](#)); [S.S.I. 2006/445](#), [art. 2](#), [sch.](#)

### **36 Section 35: meaning of “occupier”**

- (1) In the application of section 35 to services which are the subject of a determination under section 37(1)(a), references in section 35(1) and (2) to the occupier of premises are references to the person—
  - (a) who is liable under or by virtue of sections 75 to 77 of the Local Government Finance Act 1992 (c.14) to pay council tax (within the meaning of section 70(1) of that Act) in respect of the premises, or
  - (b) who would be so liable but for the premises being an exempt dwelling (within the meaning of Part II of that Act).
- (2) Without prejudice to subsections (3) and (4) of section 35, the Scottish Ministers may, after consulting such persons as they think fit, by order make provision, in relation to such premises or description of premises as the order may specify, as to the persons who are, for the purposes of subsections (1) and (2) of that section, to be treated as being, or as not being, occupiers of the premises.
- (3) Section 35(3) and subsection (2) of this section do not apply in a case to which subsection (1) of this section applies.

### **37 Collection of charges by local authority**

- (1) The Scottish Ministers may by order determine—

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- (a) that as respects specified services provided, within a financial year specified in the order, by Scottish Water to dwellings, or to such description of dwellings as the order may specify—
    - (i) within the area of a local authority, or
    - (ii) within such part of that area as the order may specify,
 the authority and not Scottish Water is to demand and recover charges payable for those services under a charges scheme, and
  - (b) that the authority is, at such intervals as may be so specified, to make such payments to Scottish Water (to which no other amount is to be payable under the charges scheme for the services provided) as may be so specified or as may be determined in accordance with the provisions of the order.
- (2) In subsection (1), “specified services” means services specified, or of a description specified, in the order.
- (3) An order under subsection (1) may include provision as to—
- (a) forms and procedures which the local authority is to adopt in demanding payment,
  - (b) circumstances in which a customer of Scottish Water who is aggrieved by a decision or calculation of the local authority may appeal—
    - (i) except in a case specified by virtue of sub-paragraph (ii), to a valuation appeal committee (constituted under section 29 of the 1994 Act), or
    - (ii) in such cases as the order may specify, to a body constituted under the order (or under a previous such order) to consider appeals as respects any such case,
  - (c) procedures to be followed in any appeal by virtue of paragraph (b),
  - (d) the provision, for the purposes of this section, of information by Scottish Water to the local authority,
  - (e) the keeping by the local authority of accounts and records as respects their functions by virtue of this section and the exhibition of, or of copies of, such accounts and records to Scottish Water.
- (4) Schedule 4 makes provision about recovery by a local authority of unpaid charges.
- (5) In this section and section 38, “dwelling” has the same meaning as in Part II of the Local Government Finance Act 1992 (c.14).

### **38 Suspension of collection of charges by local authority**

- (1) This section applies in relation to any dwellings to which Scottish Water provides services which are the subject of a determination under section 37(1)(a).
- (2) Where, in relation to any such dwellings, Scottish Water serves a notice under this subsection on the relevant local authority, the services which are the subject of the determination, so far as provided to dwellings to which the notice relates, are to be treated for so long as the notice remains in force as if they were not subject to the determination.
- (3) A notice under subsection (2) may be withdrawn in whole or in part by Scottish Water by serving a further notice on the relevant local authority.
- (4) The Scottish Ministers may by regulations make provision as to—

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*Changes to legislation: There are currently no known outstanding effects for the Water Industry (Scotland) Act 2002, Cross Heading: Charges. (See end of Document for details)*

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- (a) the form and content of a notice under subsection (2) or (3),
  - (b) when such a notice comes into force,
  - (c) (either or both) the maximum and minimum numbers of dwellings to which such a notice may relate,
  - (d) such other matters in relation to such a notice as the Scottish Ministers think necessary or expedient.
- (5) Regulations under subsection (4) may also make provision for the payment by Scottish Water to the relevant local authority of a sum, specified in or calculated in accordance with the regulations, in respect of any reasonable administrative expenses incurred by the authority in consequence of the service of a notice under subsection (2) or (3).
- (6) In this section, “the relevant local authority” means the local authority which—
- (a) is, by virtue of the determination under section 37(1)(a), responsible for demanding and recovering charges payable for services provided by Scottish Water to the dwellings to which the notice under subsection (2) or (3) relates and which are the subject of the determination, or
  - (b) was, until the notice came into force, so responsible.

### **39 Primacy of duty to maintain domestic water supply etc.**

Sections 29(1) and 37 are without prejudice to—

- (a) the duties of Scottish Water under section 6 of the 1980 Act (which include the duty to maintain a supply of wholesome water provided to meet a requirement for domestic purposes),
- (b) the entitlements of any person under section 12 of the 1968 Act (which include the entitlement of an occupier of premises to drain into public sewers to which the drains or private sewers of the owner of the premises are connected).

### **F16 40 Reduced charges**

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#### **Annotations:**

#### **Amendments (Textual)**

- F16** S. 40 repealed (22.7.2012) by [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#), s. 37(2), [sch. 5 para. 7\(5\)](#) (with s. 36); [S.S.I. 2012/192](#), art. 2

**Changes to legislation:**

There are currently no known outstanding effects for the Water Industry (Scotland) Act 2002,  
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