



Water Services etc. (Scotland) Act 2005

2005 asp 3

PART 2

PROVISION OF WATER AND SEWERAGE SERVICES

Scottish Water: services via licensed providers

16 Scottish Water to provide services

- (1) Where a water services provider has made arrangements with the occupier of eligible premises for the supply of water to the premises, the provider may request Scottish Water to supply (or continue to supply) water through the public water supply system to the premises.
- (2) Scottish Water must, so far as is consistent with the exercise of its core functions as respects the supply of water, supply water as so requested subject to agreement between Scottish Water and the provider as to the terms and conditions that are to apply in relation to that supply.
- (3) A duty to supply water under subsection (2)—
 - (a) ceases if—
 - (i) the arrangements mentioned in subsection (1) have come to an end (unless the duty is continued under section 17(1)); or
 - (ii) the supply is discontinued under section 18; and
 - (b) may be superseded by a new duty under subsection (2).
- (4) Where a sewerage services provider has made arrangements with the occupier of eligible premises for the provision of sewerage to, or disposal of sewage from, the premises, the provider may request Scottish Water to provide (or continue to provide) sewerage to, or dispose of (or continue to dispose of) sewage from, the premises through the public sewerage system.
- (5) Scottish Water must, so far as is consistent with the exercise of its core functions as respects the provision of sewerage and disposal of sewage, provide sewerage and dispose of sewage as so requested subject to agreement between Scottish Water and the provider as to the terms and conditions that are to apply in relation to that provision or disposal.

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- (6) A duty to provide sewerage or dispose of sewage under subsection (5)—
 - (a) ceases if the provision or (as the case may be) disposal is discontinued under section 20; and
 - (b) may be superseded by a new duty under subsection (5).
- (7) Where no agreement as is mentioned in subsection (2) or (5) is reached, the Commission, on the application of the provider in question, may determine the terms and conditions that are to apply in relation to the supply or (as the case may be) provision or disposal; and those terms and conditions have effect as if agreed between the provider and Scottish Water.

17 Continuation of water services

- (1) Where—
 - (a) water is supplied to premises by Scottish Water under subsection (2) of section 16; and
 - (b) the arrangements for the supply of water (made between the occupier of the premises and the water services provider who made the related request under subsection (1) of that section in respect of the premises) have come to an end—
 - (i) by reason of the revocation or suspension of the licence held by the provider; or
 - (ii) for any other reason (except where the supply is discontinued under section 18),

the duty of Scottish Water under subsection (2) of section 16 to supply water to the premises continues for the period mentioned in subsection (2).
- (2) The period is 2 months, or such longer period as Scottish Water agrees to, from the date on which the arrangements mentioned in subsection (1)(b) came to an end.
- (3) But the continuation under subsection (1) of a duty to supply water ceases if—
 - (a) it is superseded by a new duty under subsection (2) of section 16; or
 - (b) the occupier of the premises notifies Scottish Water that the supply of water is not required.
- (4) In section 9 (supply of water for non-domestic purposes) of the 1980 Act, after subsection (2), there is inserted—

“(2A) Where a supply of water has been made to premises under subsection (2) of section 16 of the Water Services etc. (Scotland) Act 2005 (asp 3) but—

- (a) the arrangements for the supply (made between the occupier of the premises and the water services provider who made the related request under subsection (1) of that section in respect of the premises) are at an end, or are to come to an end, in consequence of non-payment of charges owed to the provider in relation to the water supplied; or
- (b) the supply is discontinued (or is to be discontinued) under section 18(5) of that Act,

Scottish Water shall not be required to give a supply of water to the premises in accordance with subsection (1) if it is of the opinion that there is no reasonable prospect of recovering the charges (or any significant proportion of the charges) which it would be entitled to recover in relation to that supply of water were it given.

(2B) Where Scottish Water decides, by virtue of subsection (2A), not to give a supply of water to premises, the occupier of the premises may by notice require the Water Industry Commission for Scotland to review that decision.

(2C) In a review under subsection (2B), the Commission may, having regard to any representations made to it by the parties—

- (a) confirm the decision of Scottish Water; or
- (b) direct Scottish Water to give a supply of water to the premises in accordance with subsection (1),

and the determination of the Commission in the review shall be final.”.

18 Discontinuation of water services

- (1) A water services provider may request Scottish Water to discontinue a supply of water to premises made under subsection (2) of section 16.
- (2) At least 14 days before making a request under subsection (1), the provider must serve a notice of the provider’s intention to make such a request on—
 - (a) the occupier of the premises;
 - (b) Scottish Water; and
 - (c) the Commission.
- (3) The notice must be in such form and contain such particulars as the Scottish Ministers may by order prescribe.
- (4) An occupier of premises who has been served with a notice under subsection (2) may, within 10 days of the date of service of the notice, make representations to the provider about the notice; and the provider must have regard to any representations so made.
- (5) Where a request is made under subsection (1), Scottish Water is to discontinue the supply of water made under section 16(2) to the premises if the conditions mentioned in subsection (6) are satisfied.
- (6) The conditions are that—
 - (a) the provisions of the code made under section 19 are complied with; and
 - (b) any supply of water to—
 - (i) the premises for domestic purposes; or
 - (ii) any other premises for any purpose,is not adversely affected by the discontinuation.
- (7) In subsection (6)(b)(i), what is a supply of water for domestic purposes is to be construed in accordance with section 7 (supply of water for domestic purposes) of the 1980 Act.
- (8) Any reasonable costs incurred by Scottish Water in effecting a discontinuation under this section are to be met by the water services provider who made the request under subsection (1) for the discontinuation.
- (9) If there is a dispute between a water services provider and Scottish Water as to reasonable costs incurred in effecting a discontinuation under this section, Scottish Water is to refer the matter to the Commission for determination; and the determination of the Commission in the matter is final.

19 Disconnections code

- (1) For the purposes of subsection (6)(a) of section 18, the Commission must make a code (a “disconnections code”) which contains further provision about discontinuations of supplies of water to premises under that section.
- (2) In particular, a disconnections code may specify—
 - (a) circumstances in which requests under subsection (1) of section 18 may (or may not) be made; and
 - (b) conditions (in addition to the condition mentioned in subsection (6)(b) of that section) which are to be satisfied before Scottish Water is required under subsection (5) of that section to discontinue a supply of water to premises.
- (3) A disconnections code may—
 - (a) make different provision for different cases or types of case;
 - (b) revoke or amend a previous code.
- (4) In making a disconnections code, the Commission must consult—
 - (a) Scottish Water;
 - (b) every water services provider and sewerage services provider;
 - (c) the Convener of the Water Customer Consultation Panels (representing the Panels as a whole);
 - (d) the Drinking Water Quality Regulator for Scotland; and
 - (e) such other persons as the Commission considers appropriate.
- (5) When a disconnections code is made, the Commission must—
 - (a) make arrangements for allowing any person to obtain a copy of the code on payment of such reasonable fee (if any) as the Commission may determine; and
 - (b) publicise those arrangements and publish the code.

20 Continuation and discontinuation of sewerage services

- (1) Where sewerage is provided to, or sewage is disposed of from, premises by Scottish Water under subsection (5) of section 16, Scottish Water is to continue providing sewerage to, or (as the case may be) disposing of sewage from, the premises even if the arrangements for that provision or disposal (made between the occupier of the premises and the sewerage services provider who made the related request under subsection (4) of that section in respect of the premises) have come to an end.
- (2) Subsection (1) does not apply in relation to any trade effluent services.
- (3) Where—
 - (a) trade effluent services are provided to premises by Scottish Water under subsection (5) of section 16; and
 - (b) the arrangements for the provision of the services (made between the occupier of the premises and the sewerage services provider who made the related request under subsection (4) of that section in respect of the premises) have come to an end—
 - (i) by reason of the revocation or suspension of the licence held by the provider; or

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- (ii) for any other reason (except where the services are discontinued under subsection (10)),
the duty of Scottish Water under subsection (5) of section 16 to provide trade effluent services to the premises continues for the period mentioned in subsection (4).
- (4) The period is 2 months, or such shorter period as Scottish Water with the Commission's consent determines, from the date on which the arrangements mentioned in subsection (3)(b) came to an end.
- (5) But the continuation under subsection (3) of a duty to provide trade effluent services ceases if—
- (a) it is superseded by a new duty under subsection (5) of section 16; or
 - (b) the occupier of the premises notifies Scottish Water that the trade effluent services are not required.
- (6) A sewerage services provider may request Scottish Water to discontinue any trade effluent services provided to premises under subsection (5) of section 16.
- (7) At least 14 days before making a request under subsection (6), the provider must serve a notice of the provider's intention to make such a request on—
- (a) the occupier of the premises;
 - (b) Scottish Water; and
 - (c) the Commission.
- (8) The notice must be in such form and contain such particulars as the Scottish Ministers may by order prescribe.
- (9) An occupier of premises who has been served with a notice under subsection (7) may, within 10 days of the date of service of the notice, make representations to the provider about the notice; and the provider must have regard to any representations so made.
- (10) Where a request is made under subsection (6), Scottish Water is to discontinue the trade effluent services provided under section 16(5) to the premises if the conditions mentioned in subsection (11) are satisfied.
- (11) The conditions are that—
- (a) any provision of sewerage to, or disposal of sewage from—
 - (i) the premises for a purpose otherwise than in respect of trade effluent;
or
 - (ii) any other premises for any purpose,
is not adversely affected by the discontinuation; and
 - (b) there is no likely risk to public health arising in consequence of the discontinuation.
- (12) Any reasonable costs incurred by Scottish Water in effecting a discontinuation under this section are to be met by the sewerage services provider who made the request under subsection (6) for the discontinuation.
- (13) If there is a dispute between a sewerage services provider and Scottish Water as to reasonable costs incurred in effecting a discontinuation under this section, Scottish Water is to refer the matter to the Commission for determination; and the determination of the Commission in the matter is final.

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- (14) This section is without prejudice to any provision in Part II of the 1968 Act relating to trade effluent services.
- (15) In this section, “trade effluent services” means the provision of sewerage, or disposal of sewage, in respect of trade effluent.
- (16) In subsection (15), “trade effluent” is to be construed in accordance with section 59(1) (interpretation) of the 1968 Act.