

Scotland: The Hydro Nation – Prospectus and proposals for legislation

Response by the Water Industry Commission for Scotland

Possible measures for the Scottish Water Bill

The Water Industry Commission for Scotland (the Commission) welcomes the proposals put forward by the Government in relation to non-domestic customers on page 29 of ‘The Hydro Nation: Prospectus and Proposals for Legislation’ consultation. In relation to the first proposal for clarifying the legal basis upon which certain inherited non-domestic customers are served, the Commission agrees that the contractual relationship between such customers and their new Licensed Provider must be clear to both parties. The Commission also believes there would be merit in considering the costs and benefits of including an obligation on Licensed Providers to draw the existence of such a contract to the customer’s attention (perhaps with each invoice) together with a statement of the fact that the customer continues to have a choice of water and sewerage suppliers.

The Commission also suggests that consideration is given to the following further proposals:

Non-domestic customers in multi-occupancy premises

Under current market arrangements, some non-domestic customers receive two bills; one for water and sewerage and another for drainage. This is often the case where a multi-occupancy premises (such as a shopping centre) is served by a single bulk meter. In this situation water and wastewater are charged to the customer responsible for the meter (usually the landlord of the premises), but each individual unit is charged for its own surface water and roads drainage based on the rateable value of the unit. Customers in each of the individual units therefore receive a bill for water and wastewater from their landlord and a drainage bill from a Licensed Provider. This creates an additional administrative burden on such customers as they receive bills from two different sources that must be reconciled with each other.

Accordingly, the Commission believes that customers occupying units within multi-occupancy premises should be supported to simplify their billing arrangements either through electing to have their landlord administer their entire bill (i.e. the landlord will collect any drainage charges), or by electing to receive one bill from a Licensed Provider for all services they receive. To facilitate this choice the Commission therefore proposes that consideration is given to the Bill including provisions which achieve the following:

- 1) Where the occupier of any eligible premises is a tenant of a multiple occupancy premises, it make arrangements with its Licensed Provider and its landlord whereby it is charged solely either through its landlord or directly by its Licensed Provider;
- 2) The owner of any eligible premises will allow the occupier of that premises (where the owner and occupier are different) to fit a water revenue meter where that installation is physically possible; the costs of that installation to be borne by the party requesting it; and

- 3) Where a water revenue meter cannot be fitted to an eligible premises but that premises is either:
- a) charged for water and wastewater services based on a meter fitted to or shared with another eligible premises; or
 - b) receiving water and/or wastewater services through a connection that is metered at some other point,

there will be an assumption that each eligible premises connected beyond the meter receives an allocated share of the water passing through that meter. The Commission envisages several possible allocation mechanisms which could include equal shares or allocation according to rateable value.

Such an assumption would mean that in cases where no other explicit provision is made, the relevant water and wastewater charges for each eligible premises connected beyond that meter will be calculated and payable according to that assumption until such time as a revenue meter(s) is fitted allowing the consumption of each individual premises to be determined.

A requirement for landlords of non-domestic premises to notify the Licensed Provider of the name of their non-domestic tenant

The Government has indicated that vacant non-domestic premises should be contributing to the maintenance of the water and sewerage system in Scotland by paying both fixed charges and for the drainage services they are utilising.

Effective record management will be vital to ensure that charges for vacant non-domestic premises can be collected effectively for the benefit of all other non-domestic customers. Section 45 of the English and Welsh Floods Management Act 2010 requires domestic landlords to notify water companies with certain information about their tenants. The Commission believes that a similar provision in the Bill would assist Licensed Providers greatly in recovering charges for vacant non-domestic premises as it would reduce the likelihood of 'gaps' in customer details that can often lead to customers receiving unexpected or backdated bills. The Commission therefore proposes that consideration is given to the Bill including provisions which achieve the following:

- 1) The landlord of any eligible premises will be required to provide details of the current occupier, including any change of occupier, within a reasonable time limit.

Removal of the requirement for Scottish Water to obtain the approval of the Commission for the charges schemes which it makes from time to time

The Commission's stated approach is to empower Scottish Water so that it takes full ownership of its business plan and its customers. This includes being immediately accountable for its performance and for the fact that any shortfall in performance would impact on its reputation. Scottish Water must also involve customers in its decision making. Customers will have a view on how services should or could be improved, including any trade-offs that may be required. To that end we have been working with Scottish Water and Consumer Focus Scotland to establish a

Customer Forum. This Forum, which has recently been established, includes representatives of domestic customers, non-domestic stakeholders and the Licensed Providers.

Currently the Commission is required to determine both the maximum amounts Scottish Water may recover through its charges schemes (the Strategic Review of Charges is determined by the Commission every five years, with the current Review lasting from 2010 to 2015¹), as well as the schemes themselves². Scottish Water also has an obligation to ensure that its charges schemes are made “by reference to” the relevant determination by the Commission³.

In circumstances where the Commission is both empowering Scottish Water to take full ownership of its business and the decisions it makes through the use of the Customer Forum and attempting to reduce the regulatory burden on Scottish Water, it seems unduly burdensome for Scottish Water to ask the Commission to approve each charges scheme it makes.

The Commission already has the ability, in framing its Strategic Review of Charges, to set out in advance a methodology with which Scottish Water’s charges schemes should comply. Having done so, and with a continuing legislative requirement on Scottish Water to produce a charges scheme with reference to that determination, Scottish Water could be supported to take further responsibility by downgrading the Commission’s role each year. The Commission therefore proposes that consideration be given to changing the requirement on Scottish Water to send a charges scheme to the Commission for approval to a provision whereby the Commission could comment on such a scheme, within established consultation/notice periods etc.

¹ The Strategic Review of Charges: Final Determination for 2010-15 is available on the Commission’s website: http://www.watercommission.co.uk/view_Determination.aspx

² Respectively, sections 29B and 29A(6) of the Water Industry (Scotland) Act 2002.

³ Section 29A(2) of the Water Industry (Scotland) Act.