

Measures in support of the retail market in light of the current pandemic

9 July 2021

The ongoing coronavirus (COVID-19) outbreak is presenting unprecedented challenges to businesses and the wider economy in Scotland. Mindful of its statutory duties to promote the interests of customers, the Commission has consulted on measures in support of non-household customers affected by the pandemic and to ensure that licensed providers are financially robust.

This document summarises responses received to the Commission's consultation on the proposed revisions to the standard licence conditions to support the implementation of the measures and sets out the final standard licence conditions. The amendments to SLC A9 on level playing field and SLC B2 on customer prepayments will apply to all licensed providers and come into effect on 30 July 2021.

This document has been sent to:

- All Licensed Providers;
- Scottish Water;
- The Central Market Agency Limited;
- The Scottish Government; and
- Citizens Advice Scotland.

This document is also available on the Commission's website: www.watercommission.co.uk

1. Background

In April 2021, the Commission published a [consultation](#) on the introduction of a new deferral scheme in support of customers affected by the pandemic and new measures to ensure licensed providers are financially resilient.

In May 2021, the Commission issued a response [document](#) setting out the Commission's decision relating to the implementation of these measures. As part of this document the Commission decided to introduce new voluntary licence conditions that would require licensed providers to:

- Support customers affected by the pandemic through a new deferral scheme; and
- Demonstrate their financial resilience to Scottish Water and the Commission.

As part of this, the Commission set out specific changes to the level and the timing of the re-introduction of wholesale pre-payments due to Scottish Water by licensed providers depending on whether licensed providers commit to the new voluntary licence conditions.

In May 2021, the Commission also consulted and issued a response [document](#) setting out the Commission's decision on the new directions in support of these measures. The Commission also [consulted](#) on [proposed revisions](#) to the standard licence conditions in support of these measures and invited stakeholders to provide responses by 23 June 2021.

The next section summarises the comments received and sets out the Commission's response.

2. Representations received

The Commission has received three responses to the consultation on standard licence conditions. The Commission would like to thank stakeholders for responding to the consultation.

The table below summarises the comments received from stakeholders and sets out the Commission’s response.

Issue	Issues	The Commission’s response
SLC A9	One respondent raised concerns that Standard Licence Condition (SLC) A9 would appear to require licensed providers (LPs) to have (and demonstrate) operational independence between their Scottish and English retail activities.	Whilst the Commission is not requiring LPs to introduce operational separation between their Scottish and English activities, it expects LPs to demonstrate that customers in Scotland are not unduly disadvantaged as a result of the activities undertaken in the English retail market.
	One respondent raised concerns that paragraph 5 of SLC A9 may also refer to other activities carried out by a LP in other utility sectors such as telecoms and energy. The respondent asked the Commission to amend SLC A9 to clarify this.	The Commission confirms that paragraph 5 of SLC A9 only refers to the Scottish and English water and sewerage related activities. We do not intend to make any additional wording change to the SLCs.
	One respondent explained that the wording “appropriate financial structure” is unclear.	It is not appropriate for the Commission to prescribe the appropriate financial structure for a retail business. It is the LPs’ responsibility to have, retain and demonstrate a financial structure that allows them to operate and to be seen to operate on a financially sustainable basis.
	One respondent asked to clarify whether May 2023 is the implementation date for any change to wholesale credit term arrangements or whether it is a backstop date by which all relevant changes must be made.	The Commission agrees that May 2023 is a backstop date – if LPs can demonstrate their financial strength ahead of May 2023 they should be able to agree revised credit terms with Scottish Water in line with the published financial framework.
SLC B2	One respondent proposed that the definition of prepayment arrangements should be amended to refer to charges for water usage only and exclude ancillary charges.	The limits on prepayments only refer to water and sewerage charges. We do not plan to make any additional wording change in light of this clarification.
SLC B4	One respondent asked whether the ‘Financial Resilience Statement’ that LPs would be asked to commit to, will be consistent with the draft proposal ‘Licensed Provider Deferral Cap, Credit Security and Financial Resilience Policy’ published by Scottish Water on 30th April 2021.	The Commission understands that Scottish Water is still engaging with LPs on its financial framework to assess LPs’ creditworthiness and will publish a final version in due course.

Issue	Issues	The Commission's response
SLC B5	Two respondents suggested that SLC B5 should only refer to 'eligible customers' and not 'all customers' to take account of the eligibility criteria outlined as part of the operational principles of the new deferral scheme.	The Commission agrees that SLC B5 refers only to those customers that are eligible to receive support (e.g. customers on 25mm meter etc) consistent with the operational principles of the new deferral scheme. The Commission has made a change to the wording of SLC B5 to clarify this (see Appendix 1 of this document).
	One respondent raised concerns that the proposed wording of clause 2(b) of SLC B5 could lead to perverse incentives by allowing customers who cannot receive any support to switch to a new LP without penalty, irrespective of whether the incoming LP has opted in to SLC B5.	The Commission does not plan to make any further change to the SLCs but will clarify in its proposed change to the Market Code that customers should be able to switch to a new LP with no penalty or additional sundry charges only if the incoming LP has opted into SLC B5.
Other	One respondent suggested that the Commission should publish its review of Business Stream's Governance Code for transparency.	The Commission will review and publish Business Stream's Governance Code in due course.

3. Next steps

The amendments to SLC A9 on level playing field and SLC B2 on customer prepayments will apply to all licensed providers and come into effect on 30 July 2021. All other modifications will come into effect on 9 July 2021.

The Commission has already received several confirmations from licensed providers about their commitment to the additional voluntary SLC B4 on financial resilience and SLC B5 on measures in support of customers affected by the pandemic. If the Commission receives no formal response confirming a licensed provider's commitment by 16 July 2021, the Commission will deem those licensed providers as not opting into the additional licence conditions on customer support measures and financial resilience.

The Appendix to this document contains a tracked changed version of the standard licence conditions in light of the comments raised and a clean version.

The Commission will continue to work alongside Scottish Water and the Central Market Agency on the implementation of the measures set out in this document.