

## SCHEDULE 2 LICENCES AND COMPLIANCE: FURTHER PROVISION

### *Penalties for contravention of licence*

- 11 (1) Where it appears to the Commission that a water services provider or a sewerage services provider has contravened a term or condition of the licence held by the provider, the Commission may impose on the provider a financial penalty of such amount as it considers reasonable in the circumstances of the case.
- (2) The Commission—
- (a) is to prepare a statement of policy with respect to the imposition of penalties under sub-paragraph (1) and the determination of their amount;
  - (b) is to keep the statement under review and may revise the statement;
  - (c) in preparing the statement (and any revised statement), is to consult such persons as it considers appropriate; and
  - (d) is to publish the statement (and any revised statement) in such manner as it considers appropriate.
- (3) Before imposing a penalty under sub-paragraph (1), the Commission is to serve on the provider a notice of its intention to impose the penalty; and the notice must specify the date by which the provider may make representations to the Commission with respect to the penalty.
- (4) In imposing a penalty under sub-paragraph (1), the Commission is to have regard to—
- (a) the statement of policy under sub-paragraph (2) as published at the time of the contravention to which the penalty relates; and
  - (b) any representations made by virtue of sub-paragraph (3).
- (5) A provider on whom a penalty is imposed under sub-paragraph (1) may, by summary application made within 14 days of the date on which the penalty was imposed, appeal to the sheriff against the imposition of the penalty or the amount of the penalty; and the penalty is not recoverable until the appeal is withdrawn or finally determined.
- (6) In an appeal under sub-paragraph (5), the sheriff may make such order as the sheriff thinks fit; and the decision of the sheriff in the appeal is final.
- (7) Any penalty imposed under sub-paragraph (1) is recoverable, from the person on whom it was imposed, by the Commission—
- (a) by civil diligence; and
  - (b) whether or not that person continues to hold the licence in relation to which the penalty was imposed.
- (8) Any sums received by the Commission by virtue of this paragraph must be paid into the Scottish Consolidated Fund.