

SCHEDULE 3

(introduced by section 21(6))

CERTAIN PRE-EXISTING AGREEMENTS AS TO CHARGES

- 1 (1) In this schedule, a “relevant agreement” is an agreement—
- (a) between Scottish Water and another person (a “relevant customer”) in respect of eligible premises (within the meaning of Part 2)—
 - (i) by virtue of any of the provisions referred to in sub-paragraph (3) or otherwise; and
 - (ii) which makes provision as to the charges to be paid (other than under a charges scheme) by the relevant customer for services provided by Scottish Water in the exercise of its core functions; and
 - (b) extant on the coming into force of this schedule.
- (2) For the purposes of sub-paragraph (1)—
- (a) an agreement between Scottish Water and another person includes an agreement with the other person to which Scottish Water has become party in consequence of a transfer, by virtue of any enactment or contractual arrangements, of obligations to Scottish Water; and
 - (b) an agreement which makes provision as to the charges to be paid for services provided by Scottish Water does not include an agreement by virtue of which there is an obligation to which section 47 of the 1980 Act applies.
- (3) For the purposes of sub-paragraph (1)(a)(i), the provisions are—
- (a) sections 29(2)(b) and (4) and 31(6) of the 2002 Act” (as they had effect immediately before their repeal by this Act);
 - (b) section 29(3)(j) of the 1968 Act (as it had effect immediately before its repeal by this Act).
- 2 (1) Scottish Water must, within one month of the coming into force of this schedule, send to the Commission written details of every relevant agreement.
- (2) The Commission must, following receipt of those details, in each case—
- (a) assess the charges payable under the relevant agreement (the “relevant charges”) during any period to which a charges scheme applies; and
 - (b) having regard to—
 - (i) any costs which reasonably require to be met from the charges fixed in accordance with sub-paragraph (6)(b); and
 - (ii) such other matters as the Commission considers appropriate, determine, for the purposes of sub-paragraph (6)(a), an amount less than the relevant charges.
- (3) The Commission must, in each case—
- (a) give the relevant customer written notice of the assessment and determination under sub-paragraph (2); and
 - (b) send a copy of the notice to—
 - (i) Scottish Water; and
 - (ii) every water services and sewerage services provider,by such date as the Scottish Ministers may direct.

(4) The Commission must publish details of every determination under sub-paragraph (2)(b).

Status: This is the original version (as it was originally enacted).

- (5) This sub-paragraph applies in any case where a water or sewerage services provider makes arrangements for the provision of any services to which relevant charges apply and is accordingly entitled to demand and recover charges from a relevant customer for that provision.
- (6) Where sub-paragraph (5) applies—
- (a) Scottish Water may, in relation to that provision, demand and recover from the provider charges which must not exceed the amount determined under sub-paragraph (2)(b); and
 - (b) the charges which the provider may, in relation to that provision, demand and recover from the relevant customer concerned must not exceed the amount of the relevant charges.
- (7) Any financial disadvantage to Scottish Water arising as a consequence of differences between—
- (a) the amounts determined under sub-paragraph (2)(b); and
 - (b) the charges which would be recoverable by Scottish Water under a charges scheme in relation to the services to which the determinations apply,
- is to be borne by Scottish Water.
- (8) Scottish Water is—
- (a) in any case where sub-paragraph (5) does not for the time being apply; or
 - (b) in any case where that sub-paragraph ceases to apply,
- to demand and recover relevant charges from the relevant customer for services provided by it to the customer.
- 3 (1) A charges scheme does not apply in relation to any services to which relevant charges apply except where the relevant agreement concerned expires or is terminated.
- (2) For the purposes of sub-paragraph (1), the making of arrangements by a water services or sewerage services provider for the provision of any services to which relevant charges apply does not of itself cause the relevant agreement concerned to expire or terminate.
- (3) A relevant agreement may not be renewed on its expiry or termination, nor may its term be extended at any time.