



Water Services etc. (Scotland) Act 2005

2005 asp 3

PART 1

WATER INDUSTRY COMMISSION AND CUSTOMER PANELS

1 Water Industry Commission for Scotland

- (1) For section 1 (Water Industry Commissioner for Scotland) of the 2002 Act” there is substituted—

“1 Water Industry Commission for Scotland

- (1) There is established a body to be known as the Water Industry Commission for Scotland (referred to in this Act as “the Commission”).
- (2) The Commission has the general function of promoting the interests of persons (taken as a whole) whose premises—
- (a) are connected to the public water supply system or the public sewerage system (within the meaning of Part 2 of the Water Services etc. (Scotland) Act 2005 (asp 3)) or both, or
 - (b) might reasonably become connected to either or both of those systems,
- relating to the provision to them of water and sewerage services.
- (3) The Scottish Ministers may, after consulting the Commission, give the Commission directions of a general or specific character as to the financial management or administration of the Commission; and the Commission must comply with any such directions.
- (4) Schedule A1 makes further provision about the Commission.”.
- (2) In section 4 (power of the Commissioner to require information) of that Act, for subsection (2) there is substituted—
- “(2) Subsection (1) does not authorise the Commission to require the disclosure of anything which a person would be entitled to refuse to disclose on grounds of confidentiality in proceedings in the Court of Session.

Status: This is the original version (as it was originally enacted).

- (3) Where Scottish Water considers that it is entitled to withhold information from the Commission—
- (a) because it is not reasonably sought, or
 - (b) by virtue of subsection (2),
- it must intimate that fact to the Commission in writing.”.
- (3) In section 5 (annual reports by the Commissioner etc.) of that Act, at the end there is added—
- “(4) The Scottish Ministers must lay before the Parliament a copy of each report submitted to them under subsection (1)(a).”.
- (4) Schedule 1 inserts schedule A1 into that Act.

2 **Dissolution of office of Commissioner**

The office of Water Industry Commissioner for Scotland is dissolved on such date as the Scottish Ministers may by order appoint.

3 **Customer Panels**

- (1) In section 2 (Water Customer Consultation Panels) of the 2002 Act”, for subsections (3) to (5) there is substituted—
- “(3) Each Customer Panel is, in relation to the provision of services by Scottish Water in the exercise of its core functions, to have the general function of representing the views and interests of persons whose premises are in the Panel’s area and—
- (a) are connected to the public water supply system or the public sewerage system (within the meaning of Part 2 of the Water Services etc. (Scotland) Act 2005 (asp 3)) or both, or
 - (b) might reasonably become connected to either or both of those systems.
- (4) A Customer Panel—
- (a) must publish reports on any matter it considers relevant to the interests of those persons in relation to such provision,
 - (b) may make recommendations to the Commission as to the promotion of the interests of those persons in relation to such provision, either generally or in relation to any specific matter,
 - (c) may make recommendations, on any matter it considers relevant to the interests of those persons to—
 - (i) the Scottish Ministers,
 - (ii) the Drinking Water Quality Regulator for Scotland, and
 - (iii) the Scottish Environment Protection Agency,

in connection with such of their functions as are exercisable in relation to such provision, and
 - (d) may make recommendations to Scottish Water on any matter it considers relevant to the interests of those persons in relation to such provision.

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- (5) Scottish Water must have regard to—
 - (a) any representations made to it by a Customer Panel, and
 - (b) any recommendations made to it under subsection (4).
 - (5A) Any other persons to whom—
 - (a) any representations are made by a Customer Panel, or
 - (b) any recommendations are made under subsection (4),must, in exercising functions in relation to Scottish Water, have regard to the representations or (as the case may be) recommendations.
 - (5B) A Customer Panel—
 - (a) must publish a summary of any representations it makes under subsection (3) and of any recommendations it makes under subsection (4), and
 - (b) may do so by including the summary in a report.
 - (5C) Any persons to whom recommendations are made under subsection (4) must, within 6 months of receipt, publish a summary of their responses to the recommendations.
 - (5D) Two or more Customer Panels may exercise their functions under subsections (4) and (5B) jointly.”.
- (2) In section 3 (functions of the Commissioner) of that Act, subsections (1) to (5) are repealed.
- (3) After section 6 (funding of the Commissioner) of that Act there is added—

“6A Convener of Customer Panels to investigate complaints

- (1) The Convener of the Water Customer Consultation Panels (referred to in this Part as the “Convener”) must investigate any complaint made to the Convener, a Customer Panel or the Commission as respects any of Scottish Water’s core functions by any person whose premises—
 - (a) are connected to the public water supply system or the public sewerage system (within the meaning of Part 2 of the Water Services etc. (Scotland) Act 2005 (asp 3)) or both, or
 - (b) have been, or might reasonably become, connected to either or both of those systems.
- (2) Where any such complaint is made to a Customer Panel or the Commission, the Panel or (as the case may be) the Commission must refer the complaint to the Convener.
- (3) The Convener need not investigate a complaint under subsection (1) if—
 - (a) the complainer has not pursued the matter with Scottish Water, or
 - (b) it appears to the Convener that the complaint is vexatious or frivolous.
- (4) The Convener may, on behalf of the complainer in a complaint investigated under subsection (1), make representations to Scottish Water about any matter—
 - (a) to which the complaint relates, or

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- (b) which appears to the Convener to be relevant to the subject matter of the complaint.
- (5) Where the Convener investigates a complaint referred under subsection (2), the Convener must send to the Panel or (as the case may be) the Commission a report of the investigation.
- (6) Where the Convener decides not to investigate such a complaint, the Convener must send to the Panel or (as the case may be) the Commission a statement of the reasons for not investigating the complaint.
- (7) Scottish Water must, on being requested to do so by the Convener, provide the Convener with such information held by it as the Convener may reasonably seek in the exercise of the Convener’s functions relating to complaints under subsection (1).
- (8) Where Scottish Water and the Convener cannot agree as to whether information is sought reasonably, either of them may refer the matter to the Scottish Ministers, whose decision is final.

6B Annual reports and information regarding Customer Panels

- (1) The Convener must—
 - (a) as soon as practicable after the end of each financial year, submit to the Scottish Ministers, and publish, a report on the exercise of—
 - (i) the Customer Panels' functions during that year, and
 - (ii) the Convener’s functions under section 6A, and
 - (b) provide the Scottish Ministers with such information regarding the exercise of those functions as they may require.
- (2) The Scottish Ministers must lay before the Parliament a copy of each report submitted to them under subsection (1)(a).

6C Co-operation between the Commission and Customer Panels

- (1) The Commission and the Convener (as appropriate, representing the Customer Panels as a whole) must together make arrangements with a view to securing—
 - (a) co-operation and the exchange of information—
 - (i) between the Commission and Customer Panels,
 - (ii) between the Commission and the Convener, and
 - (b) the consistent treatment of matters which affect—
 - (i) both the Commission and Customer Panels,
 - (ii) both the Commission and the Convener.
- (2) The Commission and the Convener—
 - (a) must set out the arrangements in a memorandum,
 - (b) must keep the arrangements under review, and
 - (c) may from time to time revise the arrangements.
- (3) A copy of the memorandum, and of any revised memorandum, must be sent jointly by the Commission and the Convener to the Scottish Ministers.”.