

The Water Services (Wholesale Services Amendment) Directions 2017

DIRECTIONS ISSUED TO:

SCOTTISH WATER
ANGLIAN WATER BUSINESS (NATIONAL) LIMITED
THREE SIXTY WATER SERVICES LIMITED
SEVERN TRENT SELECT LIMITED
THAMES WATER COMMERCIAL SERVICES LIMITED
UNITED UTILITIES WATER SALES LIMITED
VEOLIA WATER PROJECTS LIMITED
WATER 2 BUSINESS LIMITED
SCOTTISH WATER BUSINESS STREAM LIMITED
NWG BUSINESS LIMITED
SOURCE FOR BUSINESS LIMITED
SUEZ INDUSTRIAL WATER LIMITED
SUTTON AND EAST SURREY WATER SERVICES LIMITED
SSWB LIMITED
AIMERA LIMITED
CLEAR BUSINESS WATER LIMITED
COBALT WATER LIMITED
CASTLE WATER LIMITED
COMMERCIAL WATER SOLUTIONS LIMITED
BLUE BUSINESS WATER LIMITED
REAL WATER (EDINBURGH) LIMITED
EVERFLOW LIMITED
PURE (CGV) LIMITED
BRIGHTWATER SERVICES LTD AND
REGENT WATER LIMITED

BY

THE WATER INDUSTRY COMMISSION
FOR SCOTLAND

UNDER SECTION 11(2) OF THE WATER SERVICES ETC (SCOTLAND) ACT 2005; PARAGRAPH 8B OF THE WATER SERVICES (CODES AND SERVICES) DIRECTIONS 2007 AND PARAGRAPH 6 OF STANDARD LICENCE CONDITION A7 OF THE LICENCES GRANTED UNDER SECTION 6 OF THE WATER SERVICES ETC (SCOTLAND) ACT 2005.

22 January 2017

1. **Statutory background to the directions**

- A. Under section 11(2) of the Water Services etc. (Scotland) Act 2005, the Commission may give directions of a specific or general nature to Scottish Water or licenced providers in order to secure the participation of licensed providers in the provision of water and sewerage services in an orderly manner and in a manner which is not detrimental to the exercise of Scottish Water's core functions.
- B. The Water Services (Codes and Services) Directions 2007 were made by the Commission under section 11(2) of the 2005 Act and require Scottish Water to comply with various provisions set out in those 2007 directions. This includes paragraph 8B of the 2007 directions, which enables the Commission to issue further directions providing that any wholesale services agreement to which Scottish Water is party shall have effect with, or subject to, such modifications as are specified in those directions.
- D. Section 6 of the 2005 Act authorises the Commission to grant water services or sewerage services licenses. All licenced providers have been granted, and are required to comply with, such licences which include the standard conditions determined by the Commission under paragraph 2(2) of schedule 2 to the 2005 Act. Standard condition A7(6) also enables the Commission to issue directions providing that any wholesale services agreement to which the licensed provider is party shall have effect with or subject to such modifications as are specified in such directions.
- E. In exercise of its powers and functions under section 11(2) of the 2005 Act; paragraph 8B of the 2007 directions and standard condition A7(6) and having consulted generally and in particular with Scottish Water, the Central Market Agency and each licenced provider, the Commission now makes these directions for the purposes of securing the participation in an orderly manner and in a manner that is not detrimental to the exercise of Scottish Water's core functions, of licensed providers in the provision of licensed services.
- F. In issuing these directions the Commission is not prevented from issuing further directions, of a general or specific nature, to Scottish Water or any other person on the same subject matter as these directions or on any other matter which the Commission considers appropriate in accordance with its powers and functions.

2. **Citation, commencement and interpretation**

- A. These directions may be cited as The Water Services (Wholesale Services Amendment) Directions 2017.
- B. These directions will come into force on 23 January 2017.
- C. Except as otherwise provided in these directions, words and expressions used shall have the same meaning as defined for the purposes of The Water Services etc (Scotland) Act 2005; The Water Services (Codes and Services) Directions 2007 and/or the standard conditions of water services and/or sewerage services licences granted under section 6 of the 2005 Act
- D. In these directions, the following words and expressions shall have the following meanings:

| Word/Expression | Meaning |
|------------------------|---|
| 2005 Act | The Water Services etc (Scotland) Act 2005 |
| 2007 Directions | The Water Services (Codes And Services) Directions 2007 |

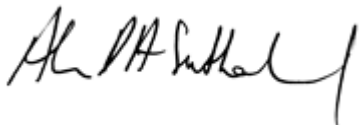
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| standard conditions | means the standard conditions determined by the Commission under paragraph 2(2) of schedule 2 to the 2005 Act and as in force from time to time. |
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3. Directions in respect of wholesale services agreements

- A. Save as otherwise directed by the Commission, from 9 March 2017, the following modifications shall have effect in any wholesale services agreement:
- a. Those modifications shown in the schedule to these directions other than modifications to clause 3.4; or
 - b. Subject to paragraph 3C below, such equivalent modifications as are required, in light of the particular terms of a wholesale services agreement, in order to give effect to the Commission decision on counterparty risk and credit terms published on 22 January 2017
- B. Subject to paragraph 3C below and save as otherwise directed by the Commission, from 9 March 2017 any wholesale services agreement shall have effect subject to any further modifications which are consequential on the modifications made under paragraph 3A.
- C. Following consultation with the relevant licenced provider, Scottish Water shall notify the Commission of any equivalent or consequential modifications which are required for any particular wholesale services agreement by 28 February 2017 or such other date as may be agreed by the Commission, together with details of its engagement with the licenced provider in respect of those modifications.
- D. Scottish Water shall prepare a consolidated version of every wholesale services agreement to which it is a party and provide the relevant licenced provider and the Commission with a copy of that consolidated version by 10 March 2017 or such other date as may be agreed by the Commission.
- E. Scottish Water and each licenced provider who is a party to an escrow agreement with Scottish Water shall agree and make arrangements for any balance to be transferred to the licenced provider on or by 3 April 2017 or such other date as may be agreed by the Commission and shall make arrangements for the escrow agreement to be terminated and the escrow account closed if Scottish Water and the licenced provider agree to such termination and closure.

Done at Stirling, 22 January 2017

For and on behalf of the Water Industry Commission for Scotland



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Alan DA Sutherland, Chief Executive

SCHEDULE

TEMPLATE WSA SHOWING MARK UP

Provided as a separate file.