



## **The Water and Waste Water Exemption Scheme (effective from 1<sup>st</sup> April 2015)**

(Issued May 2015)

### **Introduction**

Many congregations have for a number of years been exempted from paying Water and Waste Water charges in terms of the Exemption Scheme introduced in 2002. This Scheme has now been replaced by one which will – hopefully – be simpler and have fewer inconsistencies.



### **Will our congregation be eligible?**

Unlike the new scheme, only organisations which are charities and community amateur sports clubs can be exempted. Since all congregations are charities, you will therefore automatically be eligible to apply. The complicated provisions in the old scheme – for example the rules that property built after 1999 or with a meter installed earlier than that date could not receive exemption – no longer apply. Metered and new premises will now be eligible for exemption.

However, to secure full exemption, your annual gross income will have to be £200,000 or less. If it is more than £200,000 and less than £300,000, you will be entitled to a discount on your bills of 50% off the wholesale charge. Above £300,000, beyond the transitional period (see below), you will not receive any financial support.

### **What is annual gross income?**

This is the congregation's total annual income from all sources received during the relevant financial year. You are not entitled to deduct any expenditure incurred with regard to the premises concerned nor M & M contributions or donations to other charities. You can no longer divide your total income by the number of buildings you have. When Scottish Water is considering your application, it will find out the congregation's gross income by checking the financial information published by OSCR on the congregation's entry on the Scottish Charity Register. The accounts used for the following exemption year will be those for the most recent financial year with a cut-off date before 30<sup>th</sup> June. The exemption year starts on 1<sup>st</sup> April. For congregations, it will for example be the accounts for the year to 31<sup>st</sup> December 2014 which will be used to assess eligibility for exemption for the exemption year from April 2016 to March 2017.

## Are there any additional qualifications?

All non-residential premises – churches, halls etc. – are eligible although a separate application will require to be submitted for each property. You can also apply with regard to premises which the congregation is renting. A separate application is needed for each set of premises. However, premises will not qualify if:

1. They have a permanent alcohol licence;
2. or they are a charity shop or other premises used for purpose of retailing new, donated or second-hand merchandise to customers either directly or via mail order;

*Having a Fair trade stall on an occasional basis in your Hall or running Bring and Buy or Jumble Sales from time to time would not disqualify the Hall from benefitting from the Scheme as the primary use of the premises will not be the sale of new and/or recycled or donated goods.*

3. or the premises operate as a café which is open to the public and is operated on a regular basis to generate income.

*Many congregations of course provide catering of all sorts in their halls. This may be part of their service to disadvantaged groups and/or part of a project to outreach into the community. The generation of any profit may be an incidental benefit. To clarify how his disqualification would operate, further guidance was accordingly sought from the Scottish Government as to interpretation of what would and would not disqualify. The guidance offered is as follows:*

### Exempt:

- Where the café is an integral part of the charity's service and where food and beverages are not sold for the purposes of making a profit – for example a counselling service or church outreach work
- Where the café is operated on an occasional basis – that is no more than half of any week on average – for example fund-raising coffee mornings, bake-sales etc
- Where the café is provided principally for the benefit of volunteers and beneficiaries of the charity's services – for example kitchens/cafeteria associated with a place of work

### Not Exempt:

- Where the café is open on a full-time basis (that is for more than half of the week on average), is open to the public and where food and beverages are sold for the purposes of making a profit
- A retail unit which sells new or second-hand goods – for example a charity shop or gift shop

*It is suggested that a reasonable interpretation of “more than half of the week” would be a period in excess of 20 hours per week on average although you could argue for longer as many commercial cafes open for more than 40 hours per week. The fact that the café makes a profit would not necessarily disqualify the premises it is run from - if the primary purpose*

*of running the café is for outreach or to assist a particular group of disadvantaged persons – for example elderly people living on their own.*

Those applying will require to confirm on the form that the premises do not fall under the above categories 1 – 3 – and also that the organisation is not a Local Authority or an Arms-Length External Organisation. The latter does not of course apply to a Congregation. Even if one set of premises is “refused”, you can still be exempted for your other buildings.



### **When do I need to apply?**

This depends on whether you were exempted under the old Scheme. If you were, you need take no action at present. You will automatically be exempted (whatever your income or the use of the premises) for 2015-16. Your Licensed Provider (see below) will contact you to confirm this and to explain what and when you need to apply in terms of the Scheme for exemption/reduction of charges for 2016-17. However, if you are not currently exempt or only exempt for some of your premises but they should now qualify, you should contact your Licensed Provider and arrange to apply right away. If your application is accepted, you will then benefit from the new Scheme backdated to April 2015. Any payments you have made for the period from 1<sup>st</sup> April 2015 will be refunded.

### **What is a Licensed Provider?**

In April 2008, a system was introduced in terms of which Scottish Water stopped undertaking “customer facing services” such as the issuing of bills. They charge “wholesale” prices to the Providers who pass these on to their customers with extra for their own costs/profit. Non-domestic customers became entitled to choose the company to supply them with water services, the idea being that this would “widen choice, result in more tailored services, and would lead to lower prices.”. A list of the “Licensed Providers” can be viewed at:

<http://www.scotlandontap.gov.uk/suppliers/>

Most congregations are with Business Stream which is the default provider unless an “active” choice is made.

Some congregations have been receiving letters from Scottish Water stating that they need to appoint a Provider within the next fourteen days. This happens as sometimes a property receiving water services has not been registered correctly, and is consequently not being charged. Scottish Water refer to such property as a ‘gap site’. When Scottish Water identify a gap site, they write to the customer. Quite a few church buildings seem to be ‘gap sites’ where it has been assumed by the congregation that no bills have been received because the building has been exempted albeit that the paperwork confirming this can no longer be found. Unless you are sure that applications for all your premises were submitted and they were exempted under the old Scheme, it is as well to check this. If you were not exempted, an application under the new Scheme should be submitted as quickly as possible via your selected Licensed Provider.

## **What will happen if our premises do not qualify?**

As mentioned above, regardless of circumstances, if the premises were exempted under the old Scheme, this will continue for the year from 1<sup>st</sup> April 2015 to 31<sup>st</sup> March 2016. For the year from 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2017, those with income £300,000 and over will receive support equivalent to 50% off wholesale charges. The following year however full charges will have to be paid. As mentioned above, those with income of more than £200,000 and up to £300,000 will for 2016-17 onwards receive support equivalent to 50% off wholesale charges. If for any reason your premises will not qualify, you should be taking steps to see what can be done to reduce future bills – for example by investigating whether switching to a metered supply would be cheaper and by steps to reduce water consumption – the old brick in the cistern trick.

## **How often will the congregation need to apply?**

It will be necessary to apply every year. There may be years when a congregation does not qualify – for example because major fund raising for a fabric project has been undertaken or a large bequest received. Once the income returns to “normal” levels, the congregation will again be eligible for support from the Scheme. The slight time lag between the accounts and the year to which exemption applies should give time to budget for a future loss of exemption.

## **How long will the Scheme continue?**

The Scottish Government has indicated that it intends to review the operation of the Scheme in 2017-18. It seems likely that thereafter there will be a Scheme but it's unclear what the details of it will be.



## **Where can I get further help/guidance?**

If you run into difficulties whether with your application or any other aspect of the Scheme, please contact us here in the Law Department and we will do our best to assist.

If you wish to learn more about the Scheme, you can look at the various guidance notes which are available online :-

From the Scottish Government:

<http://www.gov.scot/Topics/Business-Industry/waterindustryscot/watercharges/exemptionscheme>

From Scottish Water:

<http://www.scottishwater.co.uk/business/our-services/charities-exemption-scheme/charities-exemption-scheme>

From Business stream:

<http://www.business-stream.co.uk/water-rates-charges/water-charge-exemption-scheme>