

# Review of the Water And Sewerage Charges Exemption Scheme

**MARCH 2018**



**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

# CONTENTS

	page
<b>INTRODUCTION</b>	3
<b>PRINCIPLES UNDERPINNING THE SCHEME</b>	4
<b>RULES OF THE SCHEME</b>	4
<b>COSTS AND BENEFITS OF THE SCHEME</b>	5
<b>MEMBERS OF THE SCHEME</b>	5
<b>APPROACH TO THE REVIEW</b>	5
<b>WHAT DID THE CORRESPONDENCE SAY</b>	6
<b>WHAT DID THE RESPONDENTS TO THE SCVO SURVEY SAY</b>	6
<b>ANALYSIS OF THE ISSUES RAISED</b>	7
<b>Issue 1: Umbrella Organisations</b>	7
<b>Issue 2: Data Errors</b>	7
<b>Issue 3: Eligible Organisations</b>	8
<b>Issue 4: Annual Applications</b>	8
<b>Issue 5: Income Thresholds and Capital Grants</b>	9
<b>Issue 6: Alcohol Licence Restriction</b>	10
<b>Issue 7: Retail Activities</b>	10
<b>Issue 8: Organisations connected via a shared supply or occupiers of serviced buildings</b>	11
<b>Issue 9: Operational Issues</b>	11
<b>Issue 10 – Commercial lets</b>	12
<b>Issue 11 – Scottish Charitable Incorporated Organisations</b>	12
<b>Issue 12 – Emergency and short term Care Sector</b>	13
<b>RECOMMENDATIONS FOR CHANGE</b>	14

# **Review of the Water and Sewerage Charges Exemption Scheme**

## **Introduction**

1. The first water and sewerage charges exemption scheme was brought into existence in 2002 when the Government confirmed its intention that all non-domestic premises should be brought into charge. The scheme was, initially, a transitional measure recognising that small voluntary organisations would require time to adjust to paying for water and sewerage charges. However following representation from the third sector, and in recognition of the very small incomes that support the operation of many charitable and voluntary organisations, the scheme was extended in 2005 and again in 2009.

2. Following numerous representations about the previous scheme, in particular about the Scheme's restriction to admit only organisations that were in operation in 1999, a consultation was launched on 22 November 2013. Ministers announced the new scheme in August 2014, the detailed terms of which were published in the Ministers' Principles of Charging for 2015-21 on 1 October 2014.

## **Purpose of the Review**

3. The purpose of this review is to ensure that the Exemption Scheme, as introduced on 1 April 2015, is operating as originally intended and to make recommendations in relation to improvements that could be made to ensure that the Scheme continues to target small charities.

## **Timetable**

4. Ministers have requested that the Scheme be reviewed in Summer 2017 and that the outcome of the review, together with recommendations, be provided to them in Autumn 2017.

## Principles underpinning the Exemption Scheme

5. The Scheme, as introduced on 1 April 2015, was designed to strike a balance between charities needing support with the payment of water and sewerage charges and the businesses and taxpayers that provide the financial assistance. It sought to apply 3 key principles which reflected the learning points from the previous Scheme:

*Principle 1: Make the Scheme simple and clear for applicants.*

The Scheme was designed to be simple administratively and in particular for applicants. During the preparatory work for the Scheme it became evident that the records held about the organisations for which exemption had been granted were incomplete and/or inaccurate. The application process for the current scheme therefore requires applicants to provide the minimum amount of information necessary to process applications and to ensure that contact details held by the water industry are up to date.

*Principle 2: Ensure fairness to all customers.*

This reflects that business customers pay for the Scheme and therefore need reassurance that there are robust arrangements for applications to the Scheme so that only eligible organisations can apply.

*Principle 3: Prevent unfair competition between charities and small businesses.*

It is recognised that many charities provide similar services, for example cafés and retail outlets, that are also provided by small businesses. It was therefore important to ensure that the Scheme does not enable unfair competition between those two sectors.

## Rules of the Scheme

6. The Water and Sewerage Charges Exemption scheme was introduced on 1 April 2015. It offers assistance to organisations registered with the Scottish Charity Regulator (OSCR) as a charity or prescribed by HMRC as a Community Amateur Sports Club (CASC) operating in Scotland provided:

- the gross annual income is less than £300,000 for partial exemption and £200,000 for full exemption;
- the premises is not in possession of a permanent alcohol licence under Part 3 of the Licensing (Scotland) Act 2005, other than an occasional permission granted under that Act;
- the premises is not a charity shop or used for the retailing of new or second hand merchandise (either directly or via mail order);
- the premises is not used as a café which is open to the public and operated on a regular basis to generate income; and
- the organisation is not a Local Authority or an Arms-Length External Organisation (ALEO).

7. Transition arrangements were put in place. These provided reductions of 100% and 50% in 2015-16 and 2016-17 respectively to those organisations that were due to lose exemption as they no longer met the criteria of the new Scheme.

### Costs and benefits of the Scheme

8. The Scheme is now fully funded by business customers. The costs since the Scheme was introduced on 1 April 2015 are set out in table 1.

Year	No properties for which exemption is claimed at 100%	No properties for which exemption is claimed at 50%	Total cost (£m)
2015/16	7763	207	4.22
2016/17	6218	2411	3.48
2017/18(forecast)	6100	400	3.8

Table 1

9. Administration costs incurred by Licensed Providers and Scottish Water represent some 5% of the total cost.

### Members of the Scheme

10. The year on year reduction in the number of properties/charities receiving exemption was expected and is a consequence of larger or otherwise ineligible charities transitioning out of the Scheme under the transition rules agreed at the outset. In total, applications for 4,384 properties included in the old Scheme have now been received. In the same period, there were 1,631 organisations in 2015-16 and 837 in 2016-17 which gained entry to the Scheme. The new exemptions granted relate to charities which were created since 1999 and which were excluded under the terms of the old scheme.

### Approach to the review

11. This review is being undertaken using correspondence regarding the exemption scheme received by Scottish Water, and the Scottish Government. This has been supplemented with a survey commissioned by the SCVO which closed on 29 September 2017, a submission from OSCR and a submission from Voluntary Action Shetland. The table below shows the volume of correspondence considered.

Organisation	2015	2016	2017 (to Sept 17)
Scottish Government	44	96	28
Scottish Water	5	8	10
SCVO survey			1250

Table 2: Correspondence received by year and organisation

## What did the Correspondence Say?

12. The Scottish Government correspondence covered a wide range of issues. Of the total number received, some 40 were requests for information about the new Scheme or legacy issues arising with the old Scheme. A further 40 related to religious groups that operate under an umbrella charity and data issues arising from incomplete records about connected premises, their owners and occupiers. The remaining correspondence related to the specific eligibility criteria.

## What did the Responses to the SCVO survey say?

13. The SCVO survey was designed to seek further feedback on the operation of the Scheme and whether any further improvements could be made. 1,250 responses were received. The responses are available on the [SCVO's website](#). Analysis of the results show that:

Overall:

- Of the 1,250 respondents, 79% receive full exemption, 7% partial exemption and 14% do not receive exemption;
- 71% of the respondents said that the Scheme is working well, 12% said that it is not working well and the remainder had no view. Some commented that the charities would not be able to exist if such support was not available; and
- Over 85% agree that the criteria are clear and simple.

Of the 79% of those receiving full exemption:

- Over 80% agreed that the scheme is working well;
- 10% noted that the annual application process is too onerous; and
- 9% noted issues with the application process via Licensed Providers.

Of the 7% of those receiving partial exemption:

- Over 45% agreed that the scheme is working well;
- 11 said that the application process was complex;
- 9 respondents said that the thresholds are too low; and
- 8 respondents said that there was requirement for clearer guidance.

Of the 14% not receiving exemption:

- Less than 20% agreed that the scheme is working well
- 30 respondents said that the thresholds were too low;
- 27 respondents said that the guidance was not clear;
- 16 respondents said that the Scheme should be available to a wider range of voluntary organisations; and
- 13 respondents said that the eligibility criteria in relation to the permanent alcohol licence should be removed.

Analysis of the 29% of responses which noted that the Scheme is not working well shows that:

- 34 respondents noted that the annual application is too onerous;
- 84 respondents said that the application process is difficult;
- 9 respondents said that they had not received confirmation of their exemption; and
- 8 respondents said that clearer guidance was required.

## **Analysis of the Issues raised**

### **Issue 1: Umbrella Organisations**

14. 'Umbrella' organisations that are registered as one charity with OSCR but encompass a number of individual (and largely autonomous) groups noted that they were no longer eligible for the Scheme. This situation arose because the income submitted to OSCR is for the single entity rather than individual properties.

It was noted that religious organisations, in particular, could be formed as lots of individual charities or grouped together under a single charity. In order to ensure parity of treatment, it was agreed that such charities operating an umbrella type structure could benefit from exemption provided a breakdown can be provided showing the audited income for each part of the constituent group, the associated properties together with confirmation that the other criteria have been met. Exemption has been granted for those parts of the groups which fall below the relevant thresholds and meet all other criteria.

*It is recommended that the criteria and associated guidance should make clear the treatment of such organisations and how exemption should be sought from Licensed Providers. This would improve transparency. (Principle 1)*

### **Issue 2: Data Errors**

15. As noted previously, the absence of communication and, in particular, any application procedure for the previous scheme meant that records about the charities, their Trustees and the properties that they manage was poor. This resulted in a number of charities not receiving notification of the new Scheme and, in many cases, receiving a large and unexpected bill. Evidence would suggest that these data errors have now been addressed. The time and effort spent by charities and the water industry underlines the need to ensure that accurate data is maintained. OSCR also send information about the Scheme to all charities that have a recorded email address.

*It is recommended that efforts are made to ensure that data quality is maintained so that businesses and charities can have confidence in the Scheme (Principle 2)*

### **Issue 3: Eligible Organisations**

16. Concerns were raised about the Scheme being restricted to Charities registered with OSCR and Scottish CASCs rather than a wider grouping of voluntary/third sector organisations. As highlighted in the response to the consultation undertaken in 2014, there is no universally accepted definition or list of voluntary organisations. Furthermore it was recognised that the regulatory regime operated by OSCR ensures that businesses can have confidence that exemption is provided to organisations that provide public benefit. In response to the feedback from village halls, particularly in the Scottish Borders and Dumfries and Galloway Council areas, OSCR and the SCVO provided additional information and guidance to help these organisations consider charitable status.

Since that consultation, no further information has become available in relation to a universally accepted definition of a voluntary organisation that would enable the Scheme to made available a wider set of third sector organisations.

*It is therefore recommended that no change is made to the categories of organisations that are able to apply to the Scheme.*

### **Issue 4: Annual Applications**

17. The survey noted concerns about the requirement for organisations to apply annually, and in particular, that this was unnecessary as in many cases the information had not changed. Others, however, commented that correspondence about the Scheme, and in particular reapplication reminders, had been sent to the wrong person owing to a change in Trustees.

The combination of these comments, taken together with the data errors noted under Issue 2, clearly reflects that a balance needs to be struck between the efforts required of Trustees to apply for exemption and the need for the water industry to keep accurate records about the premises which are connected to services and their occupants.

The consultation in 2014 sought views on the requirement for an annual application. It noted that given the sums of money involved – typically an exemption valued at some £800 for a small charity – it was reasonable to expect charities to have to apply annually. Furthermore it noted that given that other businesses fund the scheme there is a duty to ensure that those in receipt of the exemption continue to comply with the criteria.

*It is recommended that no change be made to the requirement for an annual application but that the water industry continue to make every effort to ensure that the application process is simple and that timely reminders are issued. There will also be efforts to work with licensed providers to continue streamlining the application process and make changes to the system where necessary.*



## Issue 5: Income Thresholds and Capital Grants

18. Correspondence and survey responses have suggested that alterations should be made to income thresholds and, furthermore, that these thresholds should not take account of capital grants received from other funding bodies such as the Heritage Lottery. Respondents made the point that an award from a funding body does not alter the regular income of the charity and that often during construction/refurbishment the income streams are reduced as the facility has to be closed.

It is recognised that charities receive income from numerous sources of which some may be restricted to certain uses. In many cases the restrictions are not clearly set out in the accounts and require charities to supply additional information. In order to simplify the Scheme so that organisations would not need to supply, and Scottish Water consider, information relating to these awards or restricted income more generally, the income thresholds were increased in 2014 from £65,000 for the old Scheme to £200,000 and £300,000 for full and partial exemption. It is recognised that the new thresholds will not cover every instance where restricted income is received. It is therefore important that, when making large grant applications, charities include the costs of water, sewerage and drainage.

Data published by tBIS<sup>1</sup> has also been analysed to establish the average income of Scottish small businesses to establish the average income and the proportion of the business sector. This shows that the average turnover for a business in Scotland in 2016 was, on average, £713,580 whilst that for small businesses employing less than 50 people was, on average, £211,840. Small businesses employing less than 50 people made up 99.1% of the total number of businesses in Scotland in 2016.

Data held by Scottish Water about charities in receipt of exemption has also been analysed. This shows that the average income for exempt charities is typically under £70,000.

Businesses fund the current exemption scheme. Given that small businesses make up the vast majority of the business sector and they have relatively small average turnovers, there would not appear to be a reasonable justification for raising the income threshold. The threshold should however be reviewed periodically to take account of factors such as inflation.

*It is therefore recommended that no change is made to the current income thresholds but that these should be reviewed periodically.*

In relation to restricted income, there may be a justification for enabling charities to retain exemption where a charity is in receipt of a large capital grant for major repairs on the grounds that the charity's normal income is depressed owing to facilities being closed. However, making such a change would mean the total costs of the Scheme would need to rise to cover Scottish Water's administration costs involved in assessing these criteria and ensure that the restricted income does relate to a capital grant. On balance, preserving the simplicity of the current scheme (which includes

---

<sup>1</sup> <https://www.gov.uk/government/statistics/business-population-estimates-2016>

much higher thresholds than previously) is to be preferred. Furthermore it should be recognised that the requirement to apply annually ensures that if a charity is ineligible in one financial year it will not be prevented from applying in the future.

## **Issue 6: Alcohol Licence Restriction**

19. Correspondence and survey responses noted that the exclusion of charities from the Scheme because they possess a permanent alcohol licence was unfair. Voluntary Action Shetland noted that the 51 halls (of which 36 possess permanent alcohol licences) play valuable roles in rural community life and should be supported through the Scheme. Similar comments were also received from Scottish Sports Association on behalf of their members. It highlighted that revenues from bars support the on-going costs of the facilities provided. Loss of exemption is having a serious impact on the operation of these charities.

The Government is also clear that, as a nation Scotland's relationship with alcohol is unbalanced and that the levels of alcohol consumption per adult are too high. It is therefore clear that measures should not be put in place that facilitates or lowers the costs of alcohol sales. On the basis that the exemption lowers the costs of operating licensed premises, the exemption scheme should not be extended to charities which possess permanent alcohol licences.

The Scottish Licensed Trade Association were contacted for their views. They confirmed their support for the rules of the current Scheme. They agreed that the Scheme should not have the potential to give rise to unfair competition between licensed premises.

*It is therefore recommended that no changes are made. This aligns the Scheme with Ministers' Alcohol Policy and the requirement to prevent unfair competition.*

## **Issue 7: Retail Activities**

20. Correspondence and survey responses have raised concerns about the removal of exemption for those charities that operate (or accommodate third parties) retail outlets including cafés and shops. Similar to the comments received about alcohol licences, correspondents argued that these activities provide necessary income streams to support their activities.

Many correspondents noted that the rules regarding shops and cafes that do not open on a regular basis or open only for a small part of normal opening hours are not easily accessible or clear.

Whilst it is accepted that retail activities provide essential income to support the activities of charities and CASCs, it is recognised that the Exemption Scheme should not enable, or be seen to enable, unfair competition between charities and small businesses. It is accepted that activities such as jumble sales, coffee mornings and other types of activities that are part of the services provided by the charity should not mean the loss of exemption. It is therefore recommended that rules relating to incidental and part-time retail activities should be made clearer. Consideration

should also be given as to whether a separate threshold should be set in relation to levels of income that can be generated through these means.

The Federation of Small Businesses (FSB) were contacted for their views. They confirmed their support for this rule as it prevents unfair competition with small businesses, particularly in retail environments such as high streets.

*It is recognised that rules relating to incidental and part-time retail activities should be clearer and more widely available to the applicant. It is therefore recommended that comprehensive guidance should be made available to provide greater clarity in this regard.*

### **Issue 8: Organisations connected via a shared supply or occupiers of serviced buildings**

21. Some correspondents noted that charities that operate from serviced accommodation or receive services as part of a wider metered supply cannot apply for exemption.

Charities and CASCs seeking exemption must be customers of a Licensed Provider and be responsible for paying the bill. Where they are connected indirectly to public services and pay for these via a third party, exemption cannot be given.

Where there is the agreement of all property owners connected to the shared supply, it may be possible to bill the occupiers of each of the connected premises separately. The owner of the property responsible for paying the water and sewerage bill should contact their Licensed Provider for further information.

*It is recognised that the information and guidance for charities that are not customers of Licensed Providers and that pay a third party for the costs of services should be clearer.*

### **Issue 9: Operational Issues**

22. Concerns were raised about the administration of the Scheme by Licensed Providers in relation to:

- Clarity of bills where there is only a partial reduction.
- Lack of confirmation when exemption had been awarded.
- Lack of information regarding the period for which exemption had been given.
- Lack of clear information about how to apply for the Scheme.
- Lack of clear information when a charity moves premises or changes Trustees.
- The amount of information that has to be supplied with each application.
- Threatening letters issued by debt collectors where bills have not been paid but an application for exemption has been submitted.
- Lack of clear information where the charity owns/occupies two or more properties.

Business Stream is the main Licensed Provider serving Charities and CASCs which are members of the Exemption Scheme. However, the survey shows that all Licensed Providers can improve the services that they provide.

Business Stream was contacted for its views. It noted that:

- There had been a number of issues arising from the poor data quality in relation to properties and charities in 2015 when the new Scheme came into operation. It is confident that these have now been addressed.
- It recognised that it should not pursue debts where a charity has applied for the exemption scheme and approval from Scottish Water is pending. Modifications have been made to ensure that this does not happen.
- A number of reminders are issued every year. In future the reminders will be targeted at those charities and CASCs that have failed to reapply to the Scheme.
- Improvements will be made in relation to information and advice regarding partial exemption, those charities that own/occupy more than one property and notification of a change of Trustees. This information will be placed on the website.

It is clear that after two years of operation, improvements have been made to ensure that Scheme remains simple and clear for Charities and CASCs. *Further guidance and information will be produced in the next few months to further support the ease of use of the scheme. It should be noted that good practice for debt recovery will form part of the non-domestic Code of Practice.*

### **Issue 10 – Commercial lets**

23. Scottish Water also highlighted that some charities provide commercial lets such as holiday accommodation, offices, art studios etc. Whilst it is accepted such commercial lets provide essential income to support the activities of charities and CASCs, it is recognised that the Exemption Scheme should not enable, or be seen to enable, unfair competition between charities and small businesses.

*It is therefore recommended that such activities should be considered as retail and therefore these charities should not be eligible for exemption. Detailed guidance on identifying 'retail' activities will be published.*

### **Issue 11 – Scottish Charitable Incorporated Organisations**

24. OSCR has noted that charities which change their legal form to become a SCIO may lose exemption. This is because the SCIO is a new charity and in most cases the previous body will transfer all assets and liabilities to the new body. In the first year, the total income recognises the income transferred which may be over the threshold. Given that the charity has changed its legal status rather than the nature of its business, OSCR has advised that exemption should be maintained.

*It is recommended that the change of status to a SCIO should not mean the loss of exemption. In such instances it will be necessary for the Trustees of the SCIO to provide details of the previous Charity including the charity number. OSCR has confirmed that the records for the previous charity will remain on its register and a*

*link between the two bodies is acknowledged in the notes section of their register entry.*

## **Issue 12 – Emergency and short term Care Sector**

25. Concerns have been raised by a small number of charities in the emergency care sector, about the income thresholds and the burden of water charges on their finances. Many of these charities have incomes in excess of the stated thresholds and are therefore not eligible for the Scheme. They have suggested that the scheme should be extended to cover the care facilities for which they are responsible for on the grounds that neither the charity nor those seeking supported accommodation are able to afford the costs of the water and sewerage charges.

It is recognised that charities in the emergency care sector as with all charities, provide vital services to the communities they serve and to the public more widely. In order to support the services that they provide, access to water and sewerage is required. It is noted that whilst provision of specialist accommodation is a vital service, it is also recognised that many other charities provide vital services to the most vulnerable in society.

The case for exempting a defined set of larger charities was considered and whether this was consistent with the principles underpinning the Scheme. It was concluded that:

- It is difficult to select certain charities for exemption on the grounds that all charities provide public benefit and meet the tests as administered by OSCR.
- The Scheme was specifically designed to assist small charities and CASCs which operate on small incomes and for which water and sewerage charges would be a high percentage of turnover.
- The income thresholds are broadly in line with the average income of small businesses. To increase the thresholds would mean that businesses with much smaller turnovers are funding the exemption of charities with much larger turnovers.

Whilst it is recognised that charities with incomes of greater than the thresholds may face difficulties in paying bills including water charges, it is necessary to draw a line on income grounds and to ensure that line is held across all charity types and purposes. When grant funders in particular are assessing grant support levels we would encourage them to consider factoring in an allowance for water charges.

*It is recognised that all charities provide “public benefit”. For this reason there is no case for the selection of certain charities for exemption on the basis of the services provided.*

## Recommendations for change

26. This review has considered whether the Exemption Scheme that was introduced in April 2015 is operating as originally intended. Based on the correspondence received and survey undertaken by the Scottish Council for Voluntary Organisations, the Scheme does provide vital support for small charities and CASCs and does meet the three key principles that were set out when the Scheme was designed.

Those who are in receipt of exemption are supportive of the Scheme but noted that some improvements could be made to ensure that remains simple and clear for applicants. Those who do not receive exemption suggested that the criteria should be changed particularly in relation to the income thresholds, nature of qualifying organisations and retail/alcohol criteria.

The following recommendations are made:

Issue 1: **Umbrella Organisations** - Criteria and associated guidance should make clear the treatment of such organisations and how exemption should be sought from Licensed Providers. (Principle 1)

Issue 2: **Data Errors** – Resolved but vigilance is required to ensure that scheme is properly managed. (Principle 2)

Issue 3: **Eligible Organisations** – No change as no further information has become available in relation to a universally accepted definition of a voluntary organisation. (Principle 1)

Issue 4: **Annual Applications** - No change recommended. Annual applications are required to ensure data quality and to ensure that only those eligible are in receipt of exemption. (Principle 2)

Issue 5: **Income Thresholds and Capital Grants** – No change recommended on the grounds that income thresholds were increased substantially in 2015 to cater for restricted income. Any change would add complexity to the Scheme. (Principle 1)

Issue 6: **Charities with Permanent Alcohol Licences** - No change recommended. This aligns the Scheme with Ministers' Alcohol Policy and the requirement to prevent unfair competition. (Principle 3)

Issue 7: **Retail Activities** - Rules relating to incidental and part-time retail activities should be clearer and more widely available to the applicant. (Principle 1)

Issue 8: **Organisations connected via a shared supply or occupiers of serviced buildings** – Guidance for charities that are not customers of Licensed Providers and pay a third party for the costs of services should be clearer. (Principle 1)

Issue 9: **Operational Issues** – Improvements are required to ensure that the scheme remains simple and clear for charities and CASCs. (Principle 1)

Issue 10: **Commercial Lets** - Such activities should be clearly defined and considered as retail and therefore these charities should not be eligible for exemption. (Principle 3)

Issue 11: **SCIOs** – A change of status from an unincorporated to an incorporated organisation should not mean the loss of exemption. (Principle 2)

Issue 12: **Care Sector** – there is no case for selecting charities for exemption on the grounds of the nature of their activities. (Principle 2)