



# **Environment and Rural Development Committee Consideration of Water Environment Annual Report and Private Water Supplies Regulations**

## **Submission from the Federation of Small Businesses in Scotland**

### **Introduction**

The Federation of Small Businesses is Scotland's largest direct-member business organisation, representing 19,000 members. The FSB campaigns for an economic and social environment which allows small businesses to prosper.

The FSB has taken a strong interest in policy developments relating to the provision of water services in Scotland and we have submitted comments to the Scottish Executive on various aspects of water services in the past four years including: the development of the Water Services Act and the opening up of the non-domestic market to retail competition; consultations on principles for charging for water and waste water; priorities for investment in the Q&S III programme; the recent draft determination of charges; and, the development of regulations for private water supplies.

The Federation has welcomed many of the recent policy decisions taken by the Scottish Executive in relation to water charges and investment. We were particularly heartened that the Scottish Executive acknowledged our concerns about over-charging non-domestic customers and the resulting subsidy to domestic customers; the need to keep rises in business water bills in line with inflation following the dramatic increases seen in 2003; the move towards a new banded system for surface water drainage charges, and the need to remove rateable value as a measure for charging for water and ensuring that meters are installed for all non-domestic premises. We also welcomed the inclusion of funding to remove development constraints as part of the Q&S III programme.

We now look forward to seeing further detail from Scottish Water and the Scottish Executive about how some of these developments are to be taken forward e.g. will there be a rolling programme of meter installation for non-domestic premises in advance of a new system of charging in 2010? Equally, does Scottish Water hold the relevant information on its customer database to move to a new system of surface water drainage charging in 2010? Lastly, we hear repeated complaints from small businesses about ongoing problems with lack of water and sewage infrastructure in many areas, despite the announcement of new funding.

The Federation is not best-placed to comment on the implementation of the Water Framework Directive in Scotland however we welcome the opportunity to submit comments to the Environment and Rural Development Committee on the Private Water Supplies Regulations. We have limited our comments to brief remarks about the regulations as laid before Parliament, however our

response to the Scottish Executive consultation on the regulations in 2005 is also available if the Committee requires further detail on any aspect of our comments.

## **Preparation for Implementation of the Drinking Water Directive in Scotland**

- In our original response to the Scottish Executive we commented that:

*“We are astonished that in preparing the transposition into Scottish law of the Drinking Water Directive more time has not been spent building up data on a) exactly how many businesses will be affected by these regulations; b) the size of these businesses and the nature of their supply (e.g. volume used, shared with other businesses or domestic?); c) how often these businesses are currently visited (and checked); d) how much businesses are paying in charges; and e) the total income and cost to local authorities of the existing scheme. We understand that this is because most local authorities hold only the most basic information about existing private water supplies.”<sup>1</sup>*

- It is worth noting that the Scottish Executive has welcomed discussion of the implementation of these regulations with stakeholders and we acknowledge some of the changes in emphasis since the draft regulations were written, however we remain disappointed that given the lengthy timescales involved in implementing the Directive more work was not carried out at an earlier stage to provide more robust information on which the development of regulations could be based.

## **Awareness Raising**

- We have stressed the importance of local authorities carrying out a comprehensive awareness-raising exercise with affected premises in advance of the introduction of the new testing regime. As a minimum we would expect each local authority to write to every premises currently on their database (within the next two months) outlining the changes and likely costs. We understand that the Scottish Executive is preparing appropriate material and that guidance for local authorities will accompany this material.

## **Risk-based Approach**

- We welcome the move towards a risk-based approach to testing which should reduce the cost and time burdens on both businesses and local authorities.

## **Regulatory Impact Assessment**

- Whilst we criticised the partial Regulatory Impact Assessment for basing virtually all its cost comparisons on estimates rather than any

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<sup>1</sup> <http://www.fsb.org.uk/documentstore/filedetails.asp?id=279>

firm data, it is nonetheless a relatively comprehensive assessment. We note that the RIA outlines that the greatest cost will fall on smaller businesses and that small supplies are twice as likely as large supplies to fail to reach the required standard – highlighting how important it is to ensure that assistance is properly targeted at small businesses.

### **Definition of ‘Type A’ Supplies**

- This should be more tightly defined in informative material being prepared by the Scottish Executive and a list of ‘FAQs’ prepared. It seems likely there will be a number of queries in relation to the reference to ‘commercial activity’. Does this include, for example, farm workers washing their hands from an outdoor tap (but where the water is technically available for consumption by the workers)?

### **Temporary Departure Applications**

- Application forms should be standardised for all local authorities to ensure that no additional administrative requirements are placed on applicants and to remove the need for local authorities to produce forms.
- We are concerned that Section 8 (4) (b) of the regulations requires every applicant for a Temporary Application to notify every consumer likely to be affected by the departure. There are obvious difficulties with this in relation to tourism businesses. These appear to be addressed in later references to informing consumers where their contact details are ascertainable, however, from our reading of the regulations this caveat does not seem to apply in relation to Temporary Departures which we are unsure about.
- We believe that the requirement for applicants to inform the local Health Board of their application places an unnecessary burden on businesses – the local authority could more easily copy or forward completed applications it receives to the Health Board.

### **Grant Scheme**

- The FSB welcomed the provision of a grant scheme open to business however we felt that a scheme based on a percentage of the total cost of upgrade work, rather than a flat rate grant, would have been more equitable. This is because the (albeit estimated) statistics suggest there will be a number of small businesses for whom the upgrade costs will be significantly above the estimated average cost of around £1200. For these businesses the proposed grant, even at the increased level of £800, still leaves them with a large bill for necessary works.
- Despite our disappointment with the final scheme we welcome the inclusion in the regulations, under Section 8(2) of the Grant Regulations, of a discretionary power for local authorities which

enables them to exceed the maximum £800 grant limit if they believe that the upgrade works could not be completed without hardship.

- We hope that local authorities will be given clear guidance on the awarding (and refusal) of grants to ensure a transparent and consistent system across Scotland.
- A standard grant application form should be used by all local authorities. Again, this ensures that no unnecessary information is required and removes the task of producing forms from local authorities.

### **Costs to Local Authorities**

- The burden of enforcing the new regulations will fall most heavily on a small number of Scotland's councils. It is important that these local authorities are adequately resourced to carry out an effective advisory and enforcement role so that they do not abuse discretion in relation to charges for additional testing.

### **Information Notices**

- The Federation acknowledges the variable quality of private water supplies and has no wish to compromise public health however we do not accept that the provision of information notices for the public in every premises which uses a private supply is necessary. We feel that tourism businesses can be legitimately concerned that such notices do not assist the promotion of Scotland as a location of fresh air, pure water etc. We are not aware of the exact nature of the notices required but we are concerned that the regulations (under Section 36) currently state that local authorities can decide on the nature of these notices. We do not support this approach and would prefer a standardised approach across Scotland.

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For further information on any of the points raised in this submission, please contact Susan Love, Policy Development Officer, on [scotpu.policy@fsb.org.uk](mailto:scotpu.policy@fsb.org.uk) or 01259 723713