

## MARKET CODE

26 ~~25~~-March 2009

This version of the Market Code dated 26 ~~25~~-March 2009 is the latest in a series of updates since the original version dated 1 August 2007 was designated by the Commission as the Market Code for the purposes of the Water Services (Codes and Services) Directions 2007.

Details of changes incorporated in this version are available on the website of the Central Market Agency: [www.cmascotland.co.uk](http://www.cmascotland.co.uk).

## Change History

Version Number	Date of Issue	Reason For Change	Change Control Reference
1	01/08/2007	Designated by the Commission as the Market Code for the purposes of the Water Services (Codes and Services) Directions 2007	
2	01/06/2008	Monthly Read Meters	MCCP002
		Submission of papers to the TP Secretary	MCCP004
		Correction of Errata	MCCP009
		Customer Reads	MCCP010
		Commission originated change to define the process where Scottish Water become aware of a Gap Site	NA
3	15/07/2008	CMA Articles of Association	MCCP003
4	01/08/2008	Amend text concerning CMA Charges	MCCP011
5	08/08/2008	Commission originated change to define the Allocation Process for POLR and gap sites	NA
		Commission originated change to amend the Market Readiness Process	NA
6	24/03/2009	Commission originated Market Code Change	MCCP028-CC
7	25/03/2009	Housekeeping; amend address of the CMA; add change history; amend footer; change Section 18 to Schedule 18	MCCP023
<u>8</u>	<u>26/03/2009</u>	<u>Commission originated change: consultation process for MCCP and OCCP. See Section 8.7.1 and Section 8.8.1</u>	<u>MCCP029-CC</u>

## **Part 1: Commencement, Objectives and Principles**

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### **1.1 Scope**

## **Part 2: CMA Duties**

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### **2.1 Scope**

## **Part 3: Licensed Provider's Duties**

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### **3.1 Scope**

## **Part 4: Scottish Water (Wholesale Business) Duties**

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### **4.1 Scope**

## **Part 5: Market Design**

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### **5.1 Scope**

## **Part 6: Performance Standards, Monitoring and Issues Resolution**

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### **6.1 Scope**

## **Part 7: Cost Recovery**

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### **7.1 Scope**

## **Part 8: Governance**

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### **8.1 Scope**

### **8.2 Membership of the CMA**

### **8.3 Management of CMA**

### **8.4 Role of the CMA Board**

### **8.5 The Technical Panel (TP)**

## 8.6 Market Code Change Process

### 8.6.1 Market Code Change Proposals

- (i) A Market Code Change Proposal may be made by:-
  - (a) any Trading Party;
  - (b) the TP; or
  - (c) the CMA.
- (ii) A Market Code Change Proposal made pursuant to Section 8.7.1(i) will be submitted in writing to the TP Secretary and will contain the following information:-
  - (a) the name of the Proposer;
  - (b) a description (in reasonable but not excessive detail) of the issue or defect which the Market Code Change Proposal seeks to address;
  - (c) a description (in reasonable but not excessive detail) of the Market Code Change Proposal and of its nature and purpose including confirmation of how the Market Code Change Proposal falls within the Market Code Objectives and is consistent with the Market Code Principles;
  - (d) draft legal text for those parts of the Market Code which would require change or would otherwise be affected by the Market Code Change Proposal;
  - (e) where the Proposer considers that the Market Code Change Proposal is urgent, a statement of that fact and an indication of why the Proposer considers this to be the case;
  - (f) where possible, an indication of the impact of the Market Code Change Proposal on the Operational Code, Wholesale Services Agreements, any Licence or any other industry code, agreement or document; and
  - (g) where possible, an indication of the impact of the Market Code Change Proposal on the Central Systems and any interfacing systems used by Trading Parties.

- (iii) No Market Code Change Proposal may purport to change or affect the role, rights or obligations of the Commission under the Market Code.
- (iv) Where a Market Code Change Proposal is received by the TP Secretary more than ten (10) Business Days prior to the next meeting of the TP, the TP Secretary will place the Market Code Change Proposal on the agenda of the next TP meeting, and otherwise will place it on the agenda of the next succeeding TP meeting. The TP Secretary will also send a copy of the Market Code Change Proposal to each TP Member, the TP chairman and the Affiliated Members.
- (v) The TP will consider, evaluate and determine whether or not to approve each Market Code Change Proposal as soon as reasonably practicable, taking due account of its complexity, importance and urgency and having regard to whether or not such proposal is within the Market Code Objectives and consistent with the Market Code Principles.
- (vi) The TP may (but shall not be obliged to) require impact assessments to be conducted to identify, without limitation, potential cost implications and practical issues in adopting any Market Code Change Proposal.
- (vii) The TP may (but shall not be obliged to) determine to conduct a consultation on a Market Code Change Proposal with any such persons who may properly be considered to have an appropriate interest in the Market Code Change Proposal. Any consultation will be conducted by the TP Secretary.
- (viii) Subject to Section 8.7.1(x) a decision of the TP taken in accordance with Section 8.6.15 will constitute approval of the Market Code Change Proposal by the TP. The TP shall recommend in the approval the time and date on which the Market Code Change Proposal is to be implemented, and shall approve draft legal text amending the Market Code.

(ix) The TP Secretary will promptly provide a Final Report in respect of each Market Code Change Proposal to each Code Party and the Commission.

(ix)A Following receipt of the Final Report from the TP under Section 8.7.1(ix), the Commission shall conduct a consultation on a Market Code Change Proposal prior to exercising its rights under Sections 8.7.1(x) and 8.7.1(xi). Such consultation shall be conducted within a period of no less than five (5) Business Days. The Commission shall be entitled to conduct such a consultation notwithstanding that the TP has conducted a consultation under Section 8.7.1(vii) in relation to that Market Code Change Proposal. The Commission shall consult with each Code Party and any such persons who the Commission considers are appropriate in light of the nature of the Market Code Change Proposal. The provisions of this Section 8.7.1(ix) A shall not apply to (i) the process for a Commission Change to the Market Code under Section 8.7.2 or (ii) the process for an Urgent Change to the Market Code under Section 8.9.1.

(x) The Commission shall be entitled to block any TP decision to approve any Market Code Change Proposal taken in accordance with this Section 8.7 if the Commission considers that the decision is not within the Market Code Objectives or is not consistent with the Market Code Principles. Such a decision must be notified to:-

- (a) each TP Member;
- (b) the TP Secretary;
- (c) the TP chairman; and
- (d) the CMA,

within thirty (30) Business Days of the date on which the Commission receives the Final Report relating to any Market Code Change Proposal.

(xi) A Market Code Change Proposal approved by the TP will be an "Approved Change" if and when the Commission either gives its consent in writing to the TP to such Market Code Change Proposal or

the Commission fails to notify its objection in writing to the TP within thirty (30) Business Days of the date on which the Commission received the Final Report in respect of such Market Code Change Proposal.

- (xii) The Market Code will be amended in accordance with the terms of the Approved Change.
- (xiii) Any Change to the Market Code will take effect from the time and date specified in the Approved Change.
- (xiv) The TP Secretary will forthwith notify:-
  - (a) the Affiliated Members;
  - (b) each TP Member; and
  - (c) the TP chairman,of the Change and the effective date of the Change.

#### 8.6.2 **Commission Changes to the Market Code**

- (i) If and to the extent that the Commission considers that making a Change is necessary in the interests of securing the orderly participation of Trading Parties in the provision of Services and would be consistent with the Market Code Principles, the Commission may require that a Change be made to the Market Code (a "Commission Change")
- (ii) The Commission may, at its discretion, consult with the TP and the CMA in advance of requiring a Commission Change where it considers it appropriate to do so.
- (iii) The Market Code will be amended in accordance with the terms of the Commission Change.
- (iv) Any Change to the Market Code will take effect from the time and date specified in the Commission Change.
- (v) The TP Secretary will forthwith notify:-
  - (a) the CMA;
  - (b) each TP Member; and
  - (c) the TP chairman,of the Change and the effective date of the Change.

## 8.7 Operational Code Change Process

### 8.7.1 Operational Code Change Proposal

- (i) An Operational Code Change Proposal may be made by any Trading Party.
- (ii) An Operational Code Change Proposal made pursuant to Section 8.8.1(i) will be submitted in writing to the TP Secretary and will contain the following information:-
  - (a) the name of the Proposer;
  - (b) a description (in reasonable but not excessive detail) of the issue or defect which the Operational Code Change Proposal seeks to address;
  - (c) a description (in reasonable but not excessive detail) of the Operational Code Change Proposal and of its nature and purpose including confirmation of how the Operational Code Change Proposal falls within the Operational Code Objectives and is consistent with the Operational Code Principles;
  - (d) draft legal text for those parts of the Operational Code which would require change or would otherwise be affected by the Operational Code Change Proposal;
  - (e) where the Proposer considers that the Operational Code Change Proposal is urgent, a statement of that fact and an indication of why the Proposer considers this to be the case; and
  - (f) where possible, an indication of the impact of the Operational Code Change Proposal on the Market Code, Wholesale Services Agreements, any Licence or any other industry code, agreement or document.
- (iii) Where an Operational Code Change Proposal is received by the TP Secretary more than ten (10) Business Days prior to the next meeting of the TP, the TP Secretary will place the Operational Code Change Proposal on the agenda of the next meeting of the TP, and otherwise



will place it on the agenda of the next succeeding TP meeting. The TP Secretary will also send a copy of the Operational Code Change Proposal to each TP Member, the TP chairman and the Affiliated Members.

- (iv) The TP will consider, evaluate and determine whether or not to approve each Operational Code Change Proposal as soon as reasonably practicable, taking due account of its complexity, importance and urgency and having regard to whether or not such proposal is within the Operational Code objectives and consistent with the Operational Code Principles.
- (v) The TP may (but shall not be obliged to) require impact assessments to be conducted to identify, without limitation, potential cost implications and practical issues in adopting any Operational Code Change Proposal.
- (vi) The TP may (but shall not be obliged to) determine to conduct a consultation on an Operational Code Change Proposal with any such persons who may properly be considered to have an appropriate interest in the Operational Code Change Proposal. Any consultation will be conducted by the TP Secretary.
- (vii) The TP Secretary will promptly provide a Final Report in respect of each Operational Code Change Proposal to each Code Party and the Commission.
- (viii) Subject to Section 8.8.1(ix), a decision of the TP taken in accordance with Section 8.6.15 will constitute approval of the Operational Code Change Proposal by the TP. The TP shall recommend in the approval the time and date on which the Operational Code Change Proposal is to be implemented, and shall approve draft legal text amending the Operational Code.

(viii)A Following receipt of the Final Report from the TP under Section 8.8.1(vii) the Commission shall conduct a consultation on an Operational Code Change Proposal prior to exercising its rights under Sections 8.8.1(ix) and 8.8.1(x). Such consultation shall be

conducted within a period of no less than five (5) Business Days. The Commission shall be entitled to conduct such a consultation notwithstanding that the TP has conducted a consultation under Section 8.8.1(vi) in relation to that Operational Code Change Proposal. The Commission shall consult with each Code Party and any such persons who the Commission considers are appropriate in light of the nature of the Operational Code Change Proposal. The provisions of this Section 8.8.1(viii) A shall not apply to (i) the process for a Commission Change to the Operational Code under Section 8.8.2 or (ii) the process for an Urgent Change to the Operational Code under Section 8.9.1.

- (ix) The Commission shall be entitled to block any TP decision to approve any Operational Code Change Proposal taken in accordance with this Section 8.8 if the Commission considers that the decision is not within the Operational Code Objectives or is not consistent with the Operational Code Principles. Such a decision must be notified to:-
- (a) each TP Member;
  - (b) the TP Secretary;
  - (c) the TP chairman; and
  - (d) the CMA,
- within thirty (30) Business Days of the date on which the Commission receives the Final Report relating to any Operational Code Change Proposal.
- (x) An Operational Code Change Proposal approved by the TP will be an "Approved Change" if and when the Commission either gives its consent in writing to the TP to such Operational Code Change Proposal or the Commission fails to notify its objection in writing to the TP within thirty (30) Business Days of the date on which the Commission received the Final Report in respect of such Operational Code Change Proposal.

- (xi) The Operational Code will be amended by Scottish Water in accordance with the terms of the Approved Change and a new version will be published by Scottish Water.
- (xii) Any Change to the Operational Code will take effect from the time and date specified in the Approved Change.
- (xiii) The TP Secretary will forthwith notify:-
  - (a) the Affiliated Members;
  - (b) each TP Member; and
  - (c) the TP chairman,of the Change and the effective date of the Change.

#### 8.7.2 **Commission Changes to the Operational Code**

- (i) If and to the extent that the Commission considers that making a Change is necessary in the interests of securing the orderly participation of Trading Parties in the provision of Services and would be consistent with the Operational Code Principles, the Commission may require that a Change be made to the Operational Code (a "Commission Change").
- (ii) The Commission may, at its discretion, consult with the TP and the CMA in advance of requiring a Commission Change where it considers it appropriate to do so.
- (iii) The Operational Code will be amended by Scottish Water in accordance with the terms of the Commission Change and a new version will be published by Scottish Water.
- (iv) Any Change to the Operational Code will take effect from the time and date specified in the Commission Change.
- (v) The TP Secretary will forthwith notify:-
  - (a) the CMA;
  - (b) each TP Member; and
  - (c) the TP Chairman,of the Change and the effective date of the Change.