



# Water Act 1989

## 1989 CHAPTER 15

### PART II

#### WATER SUPPLY AND SEWERAGE SERVICES

#### CHAPTER IV

##### CHARGING FOR SERVICES ETC. PROVIDED BY UNDERTAKERS

#### **75 Powers of undertakers to charge**

- (1) Subject to the following provisions of this Chapter, the powers of every water undertaker and of every sewerage undertaker shall include power—
  - (a) to fix charges for any services provided in the course of carrying out its functions and, in the case of a sewerage undertaker, charges to be paid in connection with the carrying out of its trade effluent functions; and
  - (b) to demand and recover charges fixed under this section from any persons to whom the undertaker provides services or in relation to whom it carries out trade effluent functions.
- (2) The powers conferred by subsection (1) above shall be exercisable—
  - (a) by or in accordance with a scheme under section 76 below; or
  - (b) by or in accordance with agreements with the persons to be charged;but paragraph (b) above shall have effect in relation to the exercise of those powers with respect to charges in connection with the carrying out of a sewerage undertaker's trade effluent functions only in so far as provision for the fixing, demanding or recovery of such charges may be contained in an agreement entered into in accordance with section 7 of the Public Health (Drainage of Trade Premises) Act 1937.
- (3) Except in so far as this Chapter otherwise provides, a water undertaker or sewerage undertaker may fix charges under this section by reference to such matters, and may adopt such methods and principles for the calculation and imposition of the charges, as appear to the undertaker to be appropriate.

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- (4) The powers in relation to which this section has effect shall not be exercised so as to contravene any local statutory provision which expressly provides that no charge shall be made for a particular service.
- (5) Nothing in subsections (1) to (4) above or in any scheme under section 76 below shall affect any power of a water undertaker or sewerage undertaker to fix charges under any power conferred otherwise than by virtue of this Chapter.
- (6) References in this section to a sewerage undertaker's trade effluent functions are references to its functions under the Public Health (Drainage of Trade Premises) Act 1937, Part V of the Public Health Act 1961 and sections 43 to 45 of the Control of Pollution Act 1974.

## **76 Charges schemes**

- (1) A water undertaker or sewerage undertaker may make a scheme (in this section referred to as a "charges scheme") which does any one or more of the following, that is to say—
  - (a) fixes the charges to be paid for any services provided by the undertaker in the course of carrying out its functions;
  - (b) in the case of a sewerage undertaker, requires such charges as may be fixed by the scheme to be paid to the undertaker where, in the circumstances set out in the scheme—
    - (i) a trade effluent notice is served on the undertaker under the Public Health (Drainage of Trade Premises) Act 1937;
    - (ii) such a consent as is necessary for the purposes of that Act is given by the undertaker; or
    - (iii) a discharge is made in pursuance of such a consent;
 and
  - (c) makes provision with respect to the times and methods of payment of the charges fixed by the scheme.
- (2) The persons who may be required by a charges scheme to pay any charge fixed by virtue of paragraph (b) of subsection (1) above shall be the person who serves the notice, the person to whom the consent is given or, as the case may be, any person who makes a discharge in pursuance of the consent at any time during the period to which, in accordance with the scheme, the charge relates; and a charges scheme which requires the payment of charges where a discharge has been made in pursuance of such a consent as is mentioned in that paragraph may impose—
  - (a) a single charge in respect of the whole period for which the consent is in force;
  - (b) separate charges in respect of different parts of that period; or
  - (c) both such a single charge and such separate charges.
- (3) A charges scheme may—
  - (a) make different provision for different cases, including different provision in relation to different circumstances or localities; and
  - (b) contain supplemental, consequential and transitional provision for the purposes of the scheme;
 and such a scheme may revoke or amend a previous charges scheme.
- (4) Nothing in any charges scheme shall affect—

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- (a) any power of a water undertaker or sewerage undertaker to enter into such an agreement with any person in any particular case as determines the charges to be made for the services provided to that person by the undertaker; or
- (b) the power of a sewerage undertaker to enter into any agreement under section 7 of the Public Health (Drainage of Trade Premises) Act 1937 (agreement as to discharges of trade effluent) on terms that provide for the making of payments to the undertaker.

## **77 Liability of occupiers etc. for charges**

- (1) Subject to the following provisions of this section and except in so far as provision to the contrary is made by any agreement to which the undertaker is a party—
  - (a) supplies of water provided by a water undertaker shall be treated for the purposes of this Chapter as services provided to the occupiers for the time being of any premises supplied; and
  - (b) sewerage services provided by a sewerage undertaker shall be treated for the purposes of this Chapter as provided to the occupiers for the time being of any premises which—
    - (i) are drained by a sewer or drain connecting, either directly or through an intermediate sewer or drain, with such a public sewer of the undertaker as is provided for foul water or surface water or both; or
    - (ii) are premises the occupiers of which have, in respect of the premises, the benefit of facilities which drain to a sewer or drain so connecting.
- (2) Subject to subsection (3) below, charges which, under the preceding provisions of this Chapter, are fixed in relation to any premises by reference to volume may be imposed so that a person is made liable in relation to those premises to pay charges for services provided by a water undertaker or sewerage undertaker after that person has ceased to be the occupier of the premises.
- (3) A person shall not be made liable by virtue of subsection (2) above for any charges fixed in relation to any premises by any water undertaker or sewerage undertaker, except where—
  - (a) he fails to inform the undertaker of the ending of his occupation of the premises at least two working days before he ceases to occupy them; and
  - (b) the charges are in respect of a period ending no later than with whichever of the following first occurs after he ceases to occupy the premises, that is to say—
    - (i) where he informs the undertaker of the ending of his occupation of the premises less than two working days before, or at any time after, he ceases to occupy them, the twenty-eighth day after he so informs the undertaker;
    - (ii) any day on which any meter would normally have been read in order for the amount of the charges to be determined;
    - (iii) any day on which any other person informs the undertaker that he has become the new occupier of the premises.
- (4) Where—
  - (a) any person who is the occupier of any premises to which a supply of water is provided by a water undertaker has served notice on the undertaker for the purposes of section 49(1)(c) above; and

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- (b) that notice is given otherwise than in connection with that person's ceasing to be the occupier of the premises in a case in which provision is made by virtue of subsection (2) above for a person who has ceased to be the occupier of the premises to be made liable for any charges,

then, notwithstanding that that person continues to be the occupier of those premises, he shall not be liable to the undertaker (otherwise than in pursuance of a demand for a supply made since the service of the notice) for any charges in respect of any supply of water to those premises after whichever is the later of the expiry of the notice and the end of the period of two working days beginning with the service of the notice.

(5) In this section—

- (a) any reference to the fixing of charges in relation to any premises by reference to volume is a reference to the fixing of those charges by reference to the volume of water supplied to those premises, to the volume of effluent discharged from those premises, to both of those factors or to one or both of those factors taken together with other factors; and
- (b) any reference to two working days is a reference to a period of forty-eight hours calculated after disregarding any time falling on a Saturday or Sunday or on Christmas Day, Good Friday or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.

## **78 Provisions relating to charging by volume**

- (1) Schedule 10 to this Act shall have effect for the purpose of securing the installation of meters and of making other provision in relation to meters and the premises where they are installed.
- (2) The Secretary of State may by regulations make such provision, supplementing the provisions of this Chapter, as he considers appropriate with respect to the installation of meters, with respect to the connection, disconnection, use, maintenance, authentication and testing of meters and with respect to any related matters.
- (3) Without prejudice to the generality of subsection (2) above, regulations under that subsection may—
- (a) regulate the positioning, whether inside or outside the building or other premises in relation to which the meter is to be used, of any meter or of any pipes or apparatus appearing to any water undertaker or sewerage undertaker to be required for the purpose of facilitating the use of any meter;
- (b) make any other provision which appears to the Secretary of State to be appropriate with respect to any such pipes or apparatus;
- (c) provide for a reading from a meter to be proved in such manner as may be prescribed and for a reading from a meter to be such evidence as may be prescribed of the volume of water supplied to, or of effluent discharged from, any premises;
- (d) fix the method of determining the amount of the charges to be paid where it appears that a meter has given, or may have given, an incorrect reading;
- (e) require a person who is not a water undertaker or sewerage undertaker to pay the expenses incurred by a water undertaker or sewerage undertaker in doing anything under the regulations or to pay contributions towards those expenses;
- (f) provide for the payment of compensation in respect of anything done by a water undertaker or sewerage undertaker under the regulations;
- (g) require disputes arising under the regulations to be referred to arbitration;

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- (h) repeal or amend any local statutory provision.
- (4) In this section “meter” means any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises.

## **79 Restrictions on power to make connection and certain other charges**

- (1) Subject to subsection (2) below, nothing in this Chapter or in any other enactment shall entitle any water undertaker or sewerage undertaker to fix, demand or recover an initial charge for its becoming, or for its taking steps for the purpose of becoming—
  - (a) the person who provides a supply of water for domestic purposes to any premises; or
  - (b) the person who provides sewerage services for the purposes of the drainage for domestic purposes of any premises.
- (2) Subject to subsection (3) below, nothing in subsection (1) above or in any other enactment shall be construed as prohibiting the fixing, demand or recovery by a water undertaker or sewerage undertaker of—
  - (a) a charge for the connection to a water supply of premises which have never at any previous time (whether before or on or after the transfer date) been connected to a supply of water provided for domestic purposes by a water undertaker or by any other authority or body which at that time provided supplies of water in the course of carrying out functions under any enactment; or
  - (b) a charge for the connection to a public sewer of premises which have never at any previous time (whether before or on or after the transfer date) been connected to a sewer used for the drainage for domestic purposes of those premises by a sewerage undertaker or by any other authority or body which at that time provided sewerage services in the course of carrying out functions under any enactment.
- (3) Nothing in this Chapter or in any other enactment or in the terms of any agreement under section 18 of the Public Health Act 1936 (agreements to adopt sewers and works) shall authorise a sewerage undertaker to require any payment to be made to the undertaker in respect of the making by the undertaker of any declaration of vesting under Part II of that Act or in respect of any agreement to make such a declaration.
- (4) Nothing in this Chapter or in any other enactment shall authorise a sewerage undertaker to require any payment to be made to the undertaker by a highway authority in respect of the drainage of any highway or the disposal of the contents of any drain or sewer used for draining any highway.
- (5) The preceding provisions of this section, so far as they restrict the making of certain charges, are without prejudice—
  - (a) to enactments by virtue of which a water undertaker or sewerage undertaker may recover expenses incurred by it in carrying out works; and
  - (b) to the power of any such undertaker, by virtue of section 75(3) above, to fix the amount of any of its other charges by reference to such matters as it thinks appropriate.
- (6) The references in this section to domestic purposes, in relation to the drainage of any premises, shall be construed as references to any of the purposes mentioned in subsection (2)(a) of section 71 above.

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## **80 Prohibition on charging by rateable value**

- (1) Charges and other amounts to which this section applies shall not, by virtue of anything contained in this Chapter, in any local statutory provision, in any scheme under section 76 above or in any agreement entered into on or after the transfer date, be recoverable by a water undertaker or sewerage undertaker from any person if they have been fixed wholly or partly by reference to a rating valuation list or are otherwise determined, whether directly or indirectly, by reference to any value or other amount specified at any time in such a list.
- (2) This section applies to—
  - (a) charges in respect of any services provided at any time after the end of 31st March 2000 by a water undertaker or sewerage undertaker in the course of carrying out its functions; and
  - (b) amounts of any other description which such an undertaker, in exercise of any power conferred by or under any enactment, requires any person to pay in respect of any period ending after that date or in respect of anything done after that date.
- (3) In this section “rating valuation list” means a list which is or has at any time been maintained for the purposes of rating under section 41 or 52 of the Local Government Finance Act 1988, section 67 of the General Rate Act 1967 or any other enactment.

## **81 Exemption from charges for water for fire fighting**

- (1) Notwithstanding anything in section 75 above or in any scheme under section 76 above or in any agreement as to charges in respect of any supply of water, no charge may be made by any water undertaker in respect of—
  - (a) water taken for the purpose of extinguishing fires or taken by a fire authority for any other emergency purposes;
  - (b) water taken for the purpose of testing apparatus installed or equipment used for extinguishing fires or for the purpose of training persons for fire-fighting; or
  - (c) the availability of water for any purpose mentioned in paragraph (a) or (b) above.
- (2) This section shall not prevent the making of charges in respect of work carried out at the request of or for the benefit of any person receiving a supply of water for the purposes mentioned in paragraph (a) or (b) of subsection (1) above.
- (3) This section shall not have the effect, where any water is used or made available for any of the purposes mentioned in paragraph (a) or (b) of subsection (1) above, of requiring a reduction in the charges imposed in respect of the provision for other purposes of the supply from which that water is taken.
- (4) In this section “fire authority” has the same meaning as in the Fire Services Act 1947.

## **82 Fixing maximum charges for services provided with the help of undertakers' services**

- (1) The Director may from time to time by order fix maximum charges which a person who is not a water undertaker or sewerage undertaker may recover from another such person in respect of water supplies or sewerage services provided to that other person with the help of services provided by a water undertaker or sewerage undertaker.

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- (2) For the purposes of this section water supplies or sewerage services are provided to a person with the help of services provided by a water undertaker or sewerage undertaker if—
  - (a) a facility for that person to have access to a supply of water provided by a water undertaker in pipes, or to make use of sewerage services provided by a sewerage undertaker, is made available to that person otherwise than by the undertaker;
  - (b) that person is provided with a supply of water in pipes by a person to whom the water is supplied, directly or indirectly, by a water undertaker; or
  - (c) that person is provided with sewerage services by a person who, for the purpose of providing those services, makes use of sewerage services provided, directly or indirectly, by a sewerage undertaker.
- (3) It shall be the duty of the Director to publish any order under this section in such manner as he considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.
- (4) An order under this section may make different provision for different cases, including different provision in relation to different persons, circumstances or localities, and may fix a maximum charge either by specifying the maximum amount of the charge or by specifying a method of calculating that amount.
- (5) Where a person pays a charge in respect of anything to which an order under this section relates and the amount paid exceeds the maximum charge fixed by the order, the amount of the excess shall be recoverable by that person from the person to whom he paid the charge.