



Water Act 2014

2014 CHAPTER 21

PART 1

WATER INDUSTRY

CHAPTER 2

WATER AND SEWERAGE UNDERTAKERS

Relevant undertakers' charges

16 Charges schemes

- (1) In section 143 of the Water Industry Act 1991 (charges schemes), for subsections (6) to (9) (charges scheme not to take effect until approved by the Water Services Regulation Authority, etc), there is substituted—

“(6) If the Authority considers that a relevant undertaker’s charges scheme does not comply with—

- (a) subsection (2), (3) or (5),
- (b) regulations under section 143A,
- (c) rules under section 143B, or
- (d) section 144A(9), (10) or (11)(a),

the Authority may give the undertaker a direction to do, or not to do, a thing specified in the direction.

- (6A) The Authority must issue rules (and, if it revises rules it has issued, must issue revised rules) about consulting the Council about proposed charges schemes.
- (6B) The rules must require a relevant undertaker that proposes to make a charges scheme to consult the Council about its proposed scheme.

Status: This is the original version (as it was originally enacted).

- (6C) If the Authority considers that a relevant undertaker has not complied with those rules, it may give the undertaker a direction to do, or not to do, a thing specified in the direction.
- (6D) It is the duty of a relevant undertaker to comply with a direction under subsection (6) or (6C), and this duty is enforceable by the Authority under section 18.”

(2) After section 143A there is inserted—

“143B Rules about charges schemes

- (1) The Authority may issue rules about charges schemes under section 143.
- (2) Rules under this section may in particular—
 - (a) make provision about the types of charges that may be imposed;
 - (b) make provision about the amount or maximum amount, or the methods for determining the amount or maximum amount, of any type of charge;
 - (c) make provision about the principles for determining what types of charges may or may not be imposed;
 - (d) make provision about principles for determining the amount of any charge that may be imposed;
 - (e) require particular schemes of charges to be available in specified cases;
 - (f) make provision about the timing of payment of charges;
 - (g) require charges schemes to be published;
 - (h) make provision about how charges schemes are to be published.
- (3) The rules may provide for the reduction of charges under a charges scheme where conditions specified by the rules are satisfied.
- (4) Rules made by virtue of subsection (3) may in particular specify conditions about—
 - (a) taking steps for the purpose of reducing or managing water consumption;
 - (b) taking steps for the purpose of reducing or managing the discharge of matter from premises;
 - (c) taking steps for the purpose of reducing the volume of surface water entering public sewers or the rate at which it does so.
- (5) The provisions of charges schemes must comply with rules issued under this section.
- (6) The rules may make different provision for different cases, including different provision in relation to different, or different descriptions of, persons, circumstances or localities.
- (7) The power to make rules under this section may not be exercised for the purpose of limiting the total revenues of relevant undertakers from charges fixed by or in accordance with charges schemes.

Status: This is the original version (as it was originally enacted).

- (8) The Authority may from time to time revise rules issued under this section and issue revised rules.
- (9) The Authority must issue revised rules if—
 - (a) guidance is issued under section 143E, and
 - (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.
- (10) Revised rules may include provision for applying any of their revisions to charges schemes under section 143 made before the revised rules come into effect.

143C Rules under section 143B: procedure

- (1) The Authority must have regard to guidance issued under section 143E in making rules under section 143B (as well as to any guidance issued under section 43 or 44 of the Flood and Water Management Act 2010).
- (2) Before issuing rules under section 143B, the Authority must—
 - (a) prepare a draft of the proposed rules, and
 - (b) consult the relevant persons about the draft.
- (3) The relevant persons are—
 - (a) the Secretary of State;
 - (b) the Welsh Ministers;
 - (c) the Council;
 - (d) any relevant undertakers likely to be affected by the rules;
 - (e) such other persons as the Authority thinks appropriate.
- (4) The Authority must specify the period (“the consultation period”) within which a person may make representations about the proposed rules.
- (5) Before rules under section 143B prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.
- (6) In subsection (5) “the Minister” means—
 - (a) the Secretary of State, so far as the rules in question affect relevant undertakers whose areas are wholly or mainly in England;
 - (b) the Welsh Ministers, so far as the rules in question affect relevant undertakers whose areas are wholly or mainly in Wales.
- (7) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules prepared by the Authority may not be issued before that period of 28 days has expired.
- (8) This section is subject to section 143D.

143D Rules under section 143B: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue revised rules under section 143B and, in the view of the Authority, the revision or each of the revisions proposed to be made is—

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- (a) a revision for which consultation is unnecessary, or
 - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 143C does not apply to the proposed revised rules.
- (3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.
- (4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.
- (5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—
- (a) that period of 14 days expires, or
 - (b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,
- whichever is the sooner.
- (6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—
- (a) the issuing of the revised rules, and
 - (b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.
- (8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.
- (9) In this section “the Minister” has the meaning given by section 143C.

143E Rules under section 143B: guidance

- (1) The Minister may issue guidance as to the content of rules under section 143B.
- (2) Before issuing the guidance, the Minister must—
- (a) prepare a draft of the proposed guidance;
 - (b) consult the relevant persons about the draft.
- (3) The relevant persons are—
- (a) the Secretary of State;
 - (b) the Welsh Ministers;
 - (c) such other persons as the Minister thinks appropriate.
- (4) The Minister may from time to time revise the guidance and issue revised guidance.
- (5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.

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- (6) The Minister must arrange for the publication of guidance issued under this section.
- (7) In this section “the Minister” means—
 - (a) the Secretary of State, in relation to relevant undertakers whose areas are wholly or mainly in England;
 - (b) the Welsh Ministers, in relation to relevant undertakers whose areas are wholly or mainly in Wales.”

17 Rules about charges for connections etc

After section 144 of the Water Industry Act 1991 there is inserted—

“Rules about undertakers’ charges

144ZA Rules about charges for connections etc

- (1) The Authority may issue rules about charges that may be imposed by a relevant undertaker under—
 - (a) section 42(2)(a) (provision of new water main);
 - (b) section 45(6) (connections with water main);
 - (c) section 46(7)(b) (ancillary works for domestic connection);
 - (d) section 99(2)(a) or (2A)(a) (provision of public sewer or lateral drain);
 - (e) section 101B(3) (lateral drains);
 - (f) section 107(3)(b)(i) (communications with public sewers);
 - (g) section 185(5) (moving of pipes etc).
- (2) Rules under this section may in particular—
 - (a) make provision about the types of charges that may be imposed;
 - (b) make provision about the amount or maximum amount, or the methods for determining the amount or maximum amount, of any type of charge;
 - (c) make provision about the principles for determining what types of charges may or may not be imposed;
 - (d) make provision about the principles for determining the amount of any charge that may be imposed;
 - (e) provide for charges to be payable over a period;
 - (f) make provision about publication of the charges that may be imposed.
- (3) The charges that may be imposed by a water undertaker under section 42(2)(a) for the provision of a new water main may include charges for—
 - (a) providing such other infrastructure, including other water mains, as it is necessary to provide in consequence of the provision of the new water main;
 - (b) doing works to increase the capacity of an existing water main, or procuring the doing of such works, where the use of that increased capacity is a consequence of the provision of the new water main.
- (4) The charges that may be imposed by a sewerage undertaker under section 99(2)
 - (a) for the provision of a new public sewer may include charges for—

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- (a) providing such other infrastructure, including other public sewers, as it is necessary to provide in consequence of the provision of the new public sewer;
 - (b) doing works to increase the capacity of an existing public sewer, where the use of that increased capacity is a consequence of the provision of the new public sewer.
- (5) The rules may make provision as to—
- (a) the amount of security that may be required by a relevant undertaker under section 42(1)(b), 47(2)(a), 99(1)(b), 101B(3A), 107(3)(b)(ii) or 185(4);
 - (b) the type of security that may be required;
 - (c) the payment of interest on a sum deposited with a relevant undertaker by way of security.
- (6) If the Authority considers that a relevant undertaker is not acting as required by rules under this section, the Authority may give the undertaker a direction to do, or not to do, a thing specified in the direction.
- (7) It is the duty of a relevant undertaker to comply with a direction under subsection (6), and this duty is enforceable by the Authority under section 18.
- (8) The rules may make—
- (a) different provision for different persons or different descriptions of person;
 - (b) different provision for different powers to impose charges or different descriptions of such powers.
- (9) The Authority may from time to time revise rules issued under this section and issue revised rules.
- (10) The Authority must issue revised rules if—
- (a) guidance is issued under section 144ZD, and
 - (b) the Authority, having regard to that guidance, considers that it is appropriate to revise the rules.

144ZB Rules under section 144ZA: procedure

- (1) The Authority must have regard to guidance issued under section 144ZD in making rules under section 144ZA.
- (2) Before issuing rules under section 144ZA, the Authority must—
- (a) prepare a draft of the proposed rules, and
 - (b) consult the relevant persons about the draft.
- (3) The relevant persons are—
- (a) the Secretary of State;
 - (b) the Welsh Ministers;
 - (c) the Council;
 - (d) any relevant undertakers likely to be affected by the rules;
 - (e) any water supply or sewerage licensees likely to be affected by the rules;

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- (f) such other persons as the Authority thinks appropriate.
- (4) The Authority must specify the period (“the consultation period”) within which a person may make representations about the proposed rules.
- (5) Before rules under section 144ZA prepared by the Authority are issued, the Minister may direct the Authority not to issue the rules.
- (6) In subsection (5) “the Minister” means—
 - (a) the Secretary of State, so far as the rules in question affect relevant undertakers whose areas are wholly or mainly in England;
 - (b) the Welsh Ministers, so far as the rules in question affect relevant undertakers whose areas are wholly or mainly in Wales.
- (7) A direction under subsection (5) must be given within the period of 28 days beginning with the day after the end of the consultation period, and rules prepared by the Authority may not be issued before that period of 28 days has expired.
- (8) This section is subject to section 144ZC.

144ZC Rules under section 144ZA: minor or urgent revisions

- (1) This section applies if the Authority proposes to issue revised rules under section 144ZA and, in the view of the Authority, the revision or each of the revisions proposed to be made is—
 - (a) a revision for which consultation is unnecessary, or
 - (b) a revision that it is necessary or desirable to make without delay.
- (2) Section 144ZB does not apply to the proposed revised rules.
- (3) Before issuing the revised rules, the Authority must give notice to the Minister of its intention to issue revised rules.
- (4) Before the revised rules are issued, the Minister may direct the Authority not to issue the revised rules.
- (5) A direction under subsection (4) must be given within the period of 14 days beginning with the day after the day on which notice is given under subsection (3), and the Authority may not issue the revised rules in question before—
 - (a) that period of 14 days expires, or
 - (b) the Minister notifies the Authority that no direction under subsection (4) will be given in relation to the revised rules,whichever is the sooner.
- (6) Once the Authority has issued the revised rules, it must give notice as soon as reasonably practicable of—
 - (a) the issuing of the revised rules, and
 - (b) as regards each revision contained in them, whether in the view of the Authority the revision falls within paragraph (a) or (b) of subsection (1).
- (7) Notice under subsection (6) is to be given to such persons as the Authority considers appropriate.

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- (8) Unless the Authority gives notice that a revision in revised rules is in the view of the Authority a revision falling within subsection (1)(a), the revision ceases to have effect at the end of the period of six months beginning with the day after that on which the revised rules are issued.
- (9) In this section “the Minister” has the meaning given by section 144ZB.

144ZD Rules under section 144ZA: guidance

- (1) The Minister must issue guidance as to the content of rules under section 144ZA.
- (2) Before issuing the guidance, the Minister must—
- (a) prepare a draft of the proposed guidance;
 - (b) consult the relevant persons about the draft.
- (3) The relevant persons are—
- (a) the Secretary of State;
 - (b) the Welsh Ministers;
 - (c) such other persons as the Minister thinks appropriate.
- (4) The Minister may from time to time revise the guidance and issue revised guidance.
- (5) Subsections (2) and (3) apply to revised guidance as they apply to the original guidance.
- (6) The Minister must arrange for the publication of guidance issued under this section.
- (7) In this section “the Minister” means—
- (a) the Secretary of State, in relation to relevant undertakers whose areas are wholly or mainly in England;
 - (b) the Welsh Ministers, in relation to relevant undertakers whose areas are wholly or mainly in Wales.”

18 Charges for providing a water main etc

- (1) The Water Industry Act 1991 is amended as follows.
- (2) In section 42 (financial conditions for compliance with the duty in section 41 to provide a water main)—
- (a) in subsection (1)(b) (condition as to providing security), for the words from “such security” to “reasonably required” there is substituted “such security as charging rules allow and the undertaker may have required”;
 - (b) in subsection (2) (undertaking to pay), for paragraph (a) there is substituted—
 - “(a) bind the person or persons mentioned in that subsection to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules, and”;
 - (c) subsections (4) and (5) (interest on sums deposited by way of security) are repealed;

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- (d) in subsection (6) (reference of disputes to Water Services Regulation Authority), in paragraph (b), after “the amount” there is inserted “or amounts by way of charges”.
- (3) In section 45 (duty to make domestic connections to a water main)—
- (a) in subsection (2) (the nature of the duty), the words “, at the expense of the person serving the notice,” are repealed;
 - (b) for subsection (6) there is substituted—
 - “(6) Where a water undertaker carries out any works which it is its duty under this section to carry out, the person serving the notice is liable to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules.”;
 - (c) in subsection (6A) (reference of disputes to Authority), for “as to whether the expenses were incurred reasonably” there is substituted “as to the payments required to be made”.
- (4) In section 46 (duty to carry out ancillary works for the purpose of making a domestic connection under section 45)—
- (a) in subsection (1) (the nature of the duty), the words “, at the expense of the person serving the notice,” are repealed;
 - (b) in subsection (7), in paragraph (b), for “under this section at another person’s expense” there is substituted “as its duty under this section”;
 - (c) in subsection (7), in the words after paragraph (b), for “under that section at another person’s expense” there is substituted “as its duty under that section”;
 - (d) in subsection (9) (consequences of exercising power under section 46(8) to lay a water main rather than a service pipe), paragraph (b) (maximum expenses recoverable) and the “but” preceding it are repealed.
- (5) In section 47 (conditions of connection with water main)—
- (a) in subsection (2)(a) (requirement to give security for amounts to be paid), for the words from “such security” to “reasonably require” there is substituted “such security as charging rules allow and the undertaker requires”;
 - (b) in subsection (3B) (reference of disputes to Authority), in the opening words, “whether” is repealed;
 - (c) in subsection (3B), for paragraph (a) there is substituted—
 - “(a) the security required to be provided by a condition imposed under subsection (2)(a),”;
 - (d) in subsection (3B)(b), at the beginning there is inserted “whether”;
 - (e) in subsection (3B)(c), after “particular case,” there is inserted “whether”.

19 Charges for providing a public sewer etc

- (1) The Water Industry Act 1991 is amended as follows.
- (2) In section 99 (financial conditions for compliance with the duty in section 98 to provide a public sewer or lateral drain)—
- (a) in subsection (1)(b) (condition as to providing security), for the words from “such security” to “reasonably required” there is substituted “such security as charging rules allow and the undertaker may have required”;
 - (b) in subsection (2) (undertaking to pay in respect of public sewer), for paragraph (a) there is substituted—

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- “(a) bind the person or persons mentioned in that subsection to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules, and”;
 - (c) in subsection (2A) (undertaking to pay in respect of lateral drain), for paragraph (a) there is substituted—
 - “(a) bind the person or persons mentioned in that subsection to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules, and”;
 - (d) subsections (4) and (5) (interest on sums deposited by way of security) are repealed;
 - (e) in subsection (6) (reference of disputes to the Water Services Regulation Authority), in paragraph (b), after “the amount” there is inserted “or amounts by way of charges”.
- (3) In section 101B (power to provide lateral drain following provision of public sewer)—
 - (a) in subsection (3) (obligation to pay for drain requested), for “the costs reasonably incurred in or in connection with providing that drain” there is substituted “such charges as the undertaker may impose in accordance with charging rules”;
 - (b) after subsection (3) there is inserted—
 - “(3A) The sewerage undertaker may require the person making a request under this section to provide such security for the payment of the charges as charging rules allow.”;
 - (c) in subsection (4) (reference of disputes to Authority), for paragraph (b) there is substituted—
 - “(b) the amount of any charge imposed.”;
 - (d) in subsection (4), after paragraph (b) there is inserted “or
 - (c) the security required to be provided.”.
- (4) In section 107 (right of a sewerage undertaker to undertake the making of a communication with a public sewer)—
 - (a) in subsection (3)(b)(i) (no obligation for undertaker to act until paid an estimated cost of the work in advance), for “the cost of the work” there is substituted “the amount by way of charges that the undertaker may impose in accordance with charging rules for making the connection”;
 - (b) in subsection (3)(b)(ii) (no obligation for undertaker to act until given security for payment), for “such security” to the end there is substituted “such security for the payment of that amount as charging rules allow and it may have required.”;
 - (c) for subsection (4), there is substituted—
 - “(4) If a payment to a sewerage undertaker under subsection (3) exceeds the charges that may, in the event, be imposed in accordance with charging rules for making the connection in question, the excess is to be repaid by the undertaker; and, if and so far as those charges are not covered by a payment under subsection (3), those charges are to be paid by the person for whom the work was undertaken.”;
 - (d) in subsection (4A) (reference to disputes to Authority), in paragraph (a), for “of the cost of works” there is substituted “of the amount of charges”;

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- (e) in subsection (4A), for paragraph (b) (and the “or” following it) there is substituted—
 - “(b) the security required by the undertaker, or”;
 - (f) in subsection (4A), for paragraph (c) there is substituted—
 - “(c) whether any excess is repayable, or any charges are payable, under subsection (4), or the amount of any such excess or charges.”.
- (5) In section 146 (connection charges etc, and charges for highway drainage), in subsection (5)(a), after “expenses incurred by it in” there is inserted “, or charges imposed by it for”.

20 Charges for moving pipes

In section 185 of the Water Industry Act 1991 (duty to move pipes etc in certain cases), in subsection (5) (recovery of undertaker’s expenses), for the words from “the undertaker” to the end there is substituted “the person serving the notice is liable to pay to the undertaker such charges as the undertaker may impose in accordance with charging rules”.