

**EXPLANATORY MEMORANDUM TO**  
**THE WATER INDUSTRY (CHARGES) (VULNERABLE GROUPS)**  
**(AMENDMENT) REGULATIONS 2005**

**2005 No.59**

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 These Regulations amend the Water Industry (Charges) (Vulnerable Groups) Regulations 1999 ('the 1999 Regulations') following the Government's review of those Regulations. The main purpose of the amendments is to expand the classes of people entitled to assistance with water bills under the 1999 Regulations.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

None.

**4. Legislative Background**

4.1 Sections 143A and 213(2) of the Water Industry Act 1991 provide a power to make regulations regarding charges for services by water and sewerage undertakers. These powers were used to make the 1999 Regulations, which require water and sewerage undertakers to provide assistance to metered customers in receipt of certain state benefits who need large amounts of water either because of a medical condition or because they have a large family. The form of assistance is a cap on water and sewerage bills at the average charge.

4.2 The 1999 Regulations were amended in 2000 to give assistance to households needing extra water for a child suffering from a medical condition, and in 2003 to take account of changes made to the benefits and tax credits system.

**5. Extent**

5.1 This instrument applies to water and sewerage undertakers whose area is wholly in England, and those whose area is mainly in England and partly in Wales.

**6. European Convention on Human Rights**

6.1 Not applicable.

## **7. Policy Background**

7.1 The aim of the 1999 Regulations is to help people who might otherwise not use the full amount of water that they need – possibly compromising their and others’ health – because of worries about affording their bill. To qualify under the 1999 Regulations (as amended), a customer must have a water meter and be eligible to receive certain benefits or tax credits **and either** be responsible for three or more children under 16 **or** have (or have a child that has) a specified medical condition which requires the use of large amounts of water.

7.2 A consultation paper was published in February 2003 inviting views on proposals for amending the 1999 arrangements. The Government received 30 responses from a range of organisations. The responses gave support to the broad principles of the original 1999 scheme and the Government has concluded that these should remain the guiding principles when introducing changes. Following consideration of the responses, the Government has decided, by these Regulations, to expand eligibility for assistance in a number of ways including to extend assistance to customers with three or more children under 19, and make Crohn’s disease and ulcerative colitis qualifying medical conditions as well as other medical conditions requiring the use of extra water where this is certified by a doctor. The Government believes that these changes will introduce greater fairness into water charging. The Government is also considering other measures which might be introduced to further promote affordability of water bills.

7.3 These Regulations come at a time when there is considerable interest in water prices from the Efra Select Committee, the media and the public. The revisions are politically rather than legally significant.

## **8. Impact**

8.1. A Regulatory Impact Assessment is attached to this memorandum.

## **9. Contact**

Stephen Ryman at the Department for Environment, Food and Rural Affairs, Tel: 020 7082 8330 or e-mail: [Stephen.ryman@defra.gsi.gov.uk](mailto:Stephen.ryman@defra.gsi.gov.uk) can answer any queries regarding the instrument.

## Regulatory Impact Assessment

Changes that will be made to the Water Industry (Charges) (Vulnerable Groups) Regulations 1999 (SI 1999/3441) to ensure vulnerable customers continue to be protected from excessive water bills.

### The issues

1. Most household water consumers pay for the water they use on the basis of a charge related to the rateable value of their property. About one in five customers pay on the basis of a measured charge based on readings from a meter installed at the property.
2. The Government introduced the Water Industry (Charges) (Vulnerable Groups) Regulations 1999 (SI 1999/3441) to protect groups of vulnerable customers, who have a high essential use of water and could face hardship or a health risk if required to pay on a measured basis.
3. The Vulnerable Groups Regulations were designed to limit the bills of metered households on income related benefits who need to use a lot of water because they have three or more children, or because someone in the household has a prescribed medical condition. These households cannot switch to an unmeasured charge because many are in new dwellings and there is no rateable value on which to base the bill. The regulations work by capping the bill at the average for that water company area, so that however much water the household uses, the bill cannot go above the average figure.
4. To qualify under the original regulations households must be in receipt of a qualifying benefit/Tax Credit<sup>1</sup>, and have either:
  - three or more children under the age of sixteen (for whom Child Benefit is being paid); or
  - a prescribed medical condition.<sup>2</sup>
5. The Regulations were reviewed to ensure that vulnerable customers have adequate, equitable and affordable protection under the Regulations.
6. The qualifying benefits and tax credits were change in April 2003 through The Water Industry (Charges)(Vulnerable Groups)(Amendments) Regulations 2003, when new Tax Credits were introduced. The new Tax Credits are:

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<sup>1</sup> Up to 1 April 2003 these were: council tax benefit; housing benefit; income support; disabled person's tax credit; working families tax credit; and income-based job-seeker's allowance under section 1(4) of the Jobseekers Act 1995. These were revised following changes made to the benefits and tax credits system in April 2003.

<sup>2</sup> In the current regulations these are: desquamation (flaky skin disease); weeping skin disease; incontinence; abdominal stoma; renal failure requiring dialysis at home

- Working Tax Credit (which replaced Working Families Tax Credit and Disabled Persons Tax Credit);
  - Child Tax Credit which brings together all the child 'elements' from other benefits; and
  - Pension Credit.
7. Separate consultations on these changes to the Tax Credit Regime were carried out in 2002, with their own Regulatory Impact Assessments. Irrespective of the other decisions discussed in the consultation response, these changes have brought an estimated 12,000 households in England into the scope of the Vulnerable Groups Regulations under the current rules. This adds an average 1.3p to other customers' bills assuming each of the 12,000 households applies for a reduction and saves an average of £50.

### **Risk assessment**

8. The Regulations need to strike a balance between protecting vulnerable customers without placing an undue burden on other customers, and on water companies.
9. If the criteria are too tightly drawn, then genuine cases may not be eligible for protection, leading to hardship and even risk to health if customers attempt to minimise their water use.
10. If the criteria are too broad, then it will appear unfair to other customers who will resent the burden of the cross-subsidy. The scheme would also be expensive for companies to administer, and if this cost were passed back to customers there would be another upward pressure on bills. At worst, these pressures on bills could lead to non-payment. Wide eligibility criteria would also mean that the scheme would be difficult and costly to audit. Fraudulent claims could go undetected, and might lead to censure from the National Audit Office.

### **Options/issues of equity and fairness**

11. The regulations were designed to offer protection to those who could face hardship or compromise their health if forced to pay on a measured basis. The cost of this is borne by other customers. Issues of fairness revolve largely around the balance between subsidising one group of customers at the cost of another. Where eligibility is tightly drawn, costs are low, and this is unlikely to be an issue. The more eligibility is extended, the more costs rise and other customers are likely to perceive the arrangements as unfair.
12. OFWAT undertook some research<sup>3</sup> into this area which found:
- a minority of customers rejected the basic principle of subsidising vulnerable customers;

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<sup>3</sup> Protection for Vulnerable Customers Report July 2000

- another minority of customers supported the principle, but they objected to bearing the cost;
- a substantial minority supported the principle of helping vulnerable customers but did not want to know how such help was delivered;
- the majority of customers support the principle with caveats. There was concern that those who qualified for help were legitimate and not exploiting the rules.

The consultation exercise has provided some further evidence of customer views.

13. A range of options were proposed in the consultation paper issued in February 2003. As a result of that consultation exercise, the measures to be taken forward are:

- (i) Changing the definition of child to include 16 to 18 year olds for whom child benefit is still payable. Under the original Regulations only children aged 0-16 are counted, and eligibility ceases when the oldest child reaches 16. In many cases, the young person remains in full time education and household circumstances do not change.
- (ii) More help for single person households with qualifying medical conditions. It is likely that single people do not benefit from a bill capped at the average because their bill does not rise above the average, even with additional water use. It is fairer to this group to cap bills at less than the average, to better reflect the type of bill they might expect were it not for their additional water use.
- (iii) Dropping the requirement that a person applying on medical grounds should be receiving treatment. As there may not always be treatment available for medical conditions which require significant use of water.
- (iv) Extending the list of medical conditions. The consultation provided evidence that there are conditions which should be added to the list. Although under the new regulations the list will not be exhaustive, it seems fairer, and more customer-friendly to publish a fuller list.
- (v) Extend eligibility to those customers whose doctors certify that they have a chronic condition requiring use of a lot of water. In these circumstances the published list will provide information and guidance for customers, companies, and doctors.

### **Benefits**

14. Estimated costs and benefits of these revisions have been summarised in the table at A. The costs and benefits are based on a range of assumptions, and should not be regarded as firm estimates. Costs and benefits are based on full take-up of the scheme. However this is very unlikely ever to be achieved. Current take-up is very low – just 4716 cases were reported by water companies to 2003, an average instance of about 1 reduction per 1000 metered households.

### **Compliance costs for business**

15. The business sector affected by changes to the regulations is the public water supply undertakers, and sewerage undertakers. Most of these are large businesses.
16. The charging arrangements for businesses who use water will be unaffected by the changes, which are aimed at domestic premises.
17. Water companies will face additional costs if large additional numbers of households are brought into the scheme. This would have been a particular issue if the government had decided to extend the Regulations to unmeasured customers. As this option has been discarded, the most likely cause of large take up will be on medical grounds through the doctors certification scheme.
18. Under the original Regulations numbers for any individual water company are low, and administration is relatively straightforward. If take up were to increase appreciably under the revised Regulations, administration costs would also rise. Given that assistance will not be extended to unmeasured households this is unlikely but numbers may still rise significantly under the doctors certification scheme and companies may need to engage and train additional staff.
19. There will also be a degree of additional burden on medical practitioners, mainly GPs, growing from both the extended list of conditions, where companies may request that GPs verify an application, and from the Doctors Certification scheme. GPs can be reimbursed up to £20 a time for issuing a verification of a medical condition. Where this request for verification comes from water companies, the companies pay initially and ultimately the cost is borne by the customer base. Where the customer is asking a doctor to issue a certificate to allow them access to the scheme, the cost will be borne by the individual customer.
20. The costs of compliance will depend very much on continued take-up of the scheme. Even with the measures designed to tackle low take-up, compliance costs should be relatively modest for all options as they will cover only measured customers.

### **Impact on small businesses**

21. Only one water supply company has less than 1,500 customers. The impact of these proposals on water companies will be proportionate to the number of their customers, and the recovery of costs will be spread across customer base – it should not impact on smaller companies.

### **Any other costs**

22. There will be costs involved in auditing applications for fraud detection purposes. Although this will be initiated by companies, as part of their administrative processes, there will also be costs for medical practitioners. or for Government

Departments or their agencies administering benefits Again as options are extending only to the measured base, they will involve only modest resources; extending to all households on benefits would have been much more onerous.

### **Declaration**

23. I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed: *Elliot Morley*

Date: *16<sup>th</sup> January 2005*

ELLIOT MORLEY

Minister of State, Department for Environment, Food and Rural Affairs

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**Table showing costs and benefits of each decision**

<b>Decisions</b>	<b>Cost/benefits</b>	<b>Those affected</b>
(i) The definition of child will be extended to include 16-18 year olds.	This measure might increase the number of qualifying families by around 10%. Costs under current take-up, and without other changes, are negligible.	Metered families on benefits with 3 + children aged 0-18, who will be brought back into the scheme.
(ii, iii, iv)- The list of medical conditions will be extended / Introduction of the doctor certification scheme/drop the requirement that person must be receiving treatment	We would expect this to increase the number of metered households eligible for a capped bill. We can only make broad assumptions about the numbers of households that might be eligible for a reduction following this decision.  If 1% of metered households on benefits were to have a qualifying medical condition, then 11,000 households might be brought within the scope of the regulations. 5% delivers 54,000 households. The cost to other customers, assuming full take-up, and assuming each household saves £50, would be: 2p a year if 11,000 households benefit, and 12p if 54,000 households benefit.	Doctors would be required to verify many more cases for companies and would be required to issue certificates under the Doctor Certification Scheme.