

2008 No. 594

WATER INDUSTRY, ENGLAND AND WALES

The Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008

<i>Made</i>	- - - -	<i>4th March 2008</i>
<i>Laid before Parliament</i>		<i>10th March 2008</i>
<i>Laid before the National Assembly for Wales</i>		<i>10th March 2008</i>
<i>Coming into force</i>	-	<i>1st April 2008</i>

The Secretary of State, in relation to water undertakers and sewerage undertakers whose areas are not wholly or mainly in Wales, and the Welsh Ministers, in relation to water undertakers and sewerage undertakers whose areas are wholly or mainly in Wales^(a), make these Regulations in exercise of the powers conferred by sections 38(2) to (4), 95(2) to (4) and paragraphs (2)(d) and (e), (2A)(a), (b) and (c), and (2B) of section 213, of the Water Industry Act 1991^(b) (“the WIA”).

The Water Services Regulation Authority (“the Authority”), acting pursuant to sections 39(1A) and 96(1A) of the WIA, has arranged for such research as it considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected by these Regulations, and has considered the results.

The Authority has made written applications complying with sections 39(2) and 96(2) of the WIA to the Secretary of State and the Welsh Ministers.

The Secretary of State and the Welsh Ministers are satisfied that the Authority has served copies of the applications on every water undertaker and sewerage undertaker specified in the applications and on persons or bodies appearing to them to be representative of persons likely to be affected by these Regulations.

The Secretary of State and the Welsh Ministers have allowed such period as they consider appropriate for any affected water or sewerage undertaker or person or body on whom a copy of an application has been served to make representations or objections with respect to the Authority’s proposals.

(a) The functions under sections 38 and 95 of the Water Industry Act 1991 in relation to water undertakers and sewerage undertakers whose areas are wholly or mainly in Wales were conferred on the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, article 2(a), Schedule 1 (as amended by the National Assembly for Wales (Transfer of Functions) Order 2000, SI 2000/253, article 4, Schedule 3(e)). By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), functions conferred on the National Assembly for Wales are now exercisable by the Welsh Ministers.

(b) 1991 c.56.

The Secretary of State and the Welsh Ministers have considered a written summary of the results of the research carried out, the Authority's reasons for its proposals and every representation or objection duly made with respect to those proposals and not withdrawn.

The only provisions of these Regulations (other than provisions representing the consolidation of the Water Supply and Sewerage Services (Customer Service Standards) Regulations 1989(a)) are the provisions proposed by the Authority in its applications.

Citation

1. These Regulations may be cited as the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008.

Commencement

2. These Regulations come into force on 1st April 2008.

Extent

3. These Regulations extend to England and Wales only.

Interpretation

4.—(1) In these Regulations—

“customer” includes—

- (a) a potential customer; and
- (b) an occupier of premises whose supply of water or sewerage services is the subject of a separate charge for which a person other than the occupier is liable,

but does not include a customer of a licensed water supplier;

“domestic premises” means premises used wholly or partly as a dwelling or intended for that use;

“outbuilding” means a shed, garage or similar building that is not attached to any other building other than another outbuilding;

“the WIA” means the Water Industry Act 1991(b); and

“working day” means any day that is not a Saturday, a Sunday, Christmas Day, Good Friday nor a bank holiday under the Banking and Financial Dealings Act 1971(c).

(2) For the purposes of these Regulations, a licensed water supplier is not a customer of a water undertaker that supplies water to it.

Exclusions

5.—(1) Nothing in these Regulations requires a relevant undertaker(d)—

- (a) to give notice to more than one person in respect of the same premises; or
- (b) to make a payment to more than one person in respect of any one claim.

(2) Nothing in these Regulations, and nothing done by a relevant undertaker in consequence of these Regulations, determines who is beneficially entitled to a payment made under these Regulations, or in respect of any one act or omission relating to the same premises.

(a) S.I. 1989/1159.

(b) 1991 c. 56.

(c) 1971 c. 80.

(d) “relevant undertaker” is defined in section 219 of the WIA to mean a water undertaker or a sewerage undertaker.

Keeping of appointments

6.—(1) This regulation applies if a representative of a relevant undertaker is to visit a customer's premises in connection with the provision of water supply services or sewerage services.

(2) If the representative requires access to the premises, or it would otherwise be reasonable to expect the customer or a person acting on the customer's behalf to be on the premises, the undertaker must—

- (a) consult the customer orally or in writing to try to agree on a day to attend the premises; and
- (b) give the customer notice, orally or in writing, of when the representative will attend the premises.

(3) The undertaker's notice must specify—

- (a) the premises;
- (b) the date that the representative will attend them;
- (c) either—
 - (i) if the customer so requests, a period of two hours during which the visit will be made; or
 - (ii) otherwise, whether the visit will be made during the morning or the afternoon; and
- (d) if the notice specifies that the visit will be made during the morning or afternoon, at what times the undertaker regards the morning or the afternoon, as the case requires, as beginning and ending.

(4) Subject to paragraph (6), the undertaker must pay the customer £20 if—

- (a) the undertaker gives a notice that is not in accordance with paragraph (3);
- (b) a representative does not attend the premises on the date specified in the notice; or
- (c) a representative does attend the premises on that date, but—
 - (i) if the notice specified a two-hour period for the attendance, the representative does not attend during the specified period; or
 - (ii) if the notice specified that the representative would attend during the morning or afternoon, the representative does not attend during the period specified in the notice as being the period of the morning or the afternoon, as the case requires.

(5) No application by the customer for the payment is necessary.

(6) However, the undertaker need not pay the customer under paragraph (4) if—

- (a) the customer cancels the appointment;
- (b) the undertaker cancels the appointment by giving the customer at least 24 hours' notice, orally or in writing, of the cancellation; or
- (c) it became impracticable, for a reason mentioned in paragraph (7), for the representative to keep the appointment, and the undertaker could not reasonably have so foreseen in time to enable it—
 - (i) to cancel the appointment giving 24 hours' notice; or
 - (ii) to make other suitable arrangements for a representative to attend the premises at the arranged time.

(7) The reasons are—

- (a) severe weather;
- (b) industrial action by employees of the undertaker; and
- (c) the act or default of a person who is not—
 - (i) an officer, employee or agent of the undertaker; or
 - (ii) a person acting on behalf of the undertaker or of an agent of the undertaker.

(8) The representative of an undertaker who attended a customer's premises may make and sign a written record stating that the representative attended the premises and the time and date of attendance.

(9) Unless the customer establishes that the record is incorrect, it is taken to confirm that the representative attended the premises as stated in the record.

Complaints, account queries and requests about payment arrangements

7.—(1) This regulation applies where a customer of a relevant undertaker—

- (a) complains in writing about the supply of water or the provision of sewerage services by the undertaker;
- (b) queries, in writing, the correctness of an account for the supply of water or the provision of sewerage services; or
- (c) asks, in writing, for a change to payment arrangements.

(2) The undertaker must provide a substantive reply to the customer—

- (a) in the cases of a reply to a complaint or a query, within 10 working days; or
- (b) if the request is for a change to payment arrangements and the request cannot be met, within 5 working days.

(3) The first day of the period for reply is the day after the day when the undertaker receives the complaint, query or request.

(4) Subject to paragraph (6), if the undertaker does not comply with paragraph (2), it must pay the customer £20.

(5) No application by the customer for the payment is necessary.

(6) However, the undertaker need not pay the customer under paragraph (4) if—

- (a) the address that the customer wrote to was not a notified address of the undertaker for a complaint, query or request of that kind;
- (b) the customer does not wish to pursue the complaint, query, or request and has so informed the undertaker;
- (c) it was impracticable for the undertaker to send a reply within the required period because of—
 - (i) industrial action by employees of the undertaker; or
 - (ii) the act or default of a person who is not—
 - (aa) an officer, employee or agent of the undertaker; or
 - (bb) a person acting on behalf of the undertaker or of an agent of the undertaker; or
- (d) in the case of a reply to a complaint or query—
 - (i) the complaint or query was frivolous or vexatious; or
 - (ii) the undertaker reasonably considered that a visit was necessary before replying, and severe weather made that visit impracticable.

(7) For the purposes of paragraph (6)(a), an address of an undertaker is a notified address of the undertaker for a complaint, query or request of a particular kind if the undertaker has notified that address to its customers as the appropriate address for a complaint, query or request of that kind by—

- (a) publishing it in a telephone directory;
- (b) notifying it on the undertaker's website; or
- (c) showing it on the undertaker's publicity material.

(8) For the purposes of this regulation—

- (a) “undertaker” includes a service provider that is carrying out sewerage functions on behalf of an undertaker under arrangements entered into, or to be treated as entered into, for the purposes of section 97 of the WIA; and
 - (b) a complaint, query or request to such a service provider is taken, for the purposes of paragraph (2), to have been received by the undertaker on whose behalf the service provider provides services on the date on which the undertaker received it from the service provider.
- (9) In this regulation—
- “payment arrangements” means the arrangements by which a customer makes payments (including instalment payments) to the undertaker; and
- “a change to payment arrangements” includes a change to the frequency of payments (including instalment payments).

Notice of interruption of supply

8.—(1) This regulation applies where a water undertaker exercises its power under section 60(1) of the WIA (disconnections for the carrying out of necessary works).

(2) If under section 60(3) of the WIA the undertaker is required to serve a notice, the undertaker must—

- (a) specify in the notice—
 - (i) the earliest date and time after which the undertaker reasonably expects that the supply will be interrupted or cut off; and
 - (ii) the latest date and time by which the undertaker reasonably expects that the supply will be restored; and
- (b) if the water is to be cut off for more than four hours, give at least 48 hours’ notice before the supply is interrupted or cut off.

(3) Paragraph (4) applies if, because of an emergency, a water undertaker—

- (a) interrupts or cuts off the supply of water to the premises of a customer; and
- (b) is excused from the requirement under section 60(3) of the WIA to serve a notice.

(4) If this paragraph applies the undertaker must, as soon as is reasonably practicable, take all reasonable steps to notify each affected customer—

- (a) that the supply has been interrupted or cut off;
- (b) where an alternative supply can be obtained;
- (c) of the time by which it is proposed the supply should be restored; and
- (d) of the telephone number of an office from which further information may be obtained.

(5) Subject to paragraph (6), if the undertaker fails to comply with paragraph (2)(b), it must pay each customer whose supply of water was disconnected or cut off—

- (a) if the supply is to domestic premises, £20; and
- (b) if the supply is to premises of any other kind, £50.

(6) No application by the customer for the payment is necessary unless the undertaker could not practicably have identified the customer as having been affected.

(7) However, the undertaker need not pay the customer under paragraph (5)—

- (a) if it was impracticable to give notice by the time required because of—
 - (i) industrial action by employees of the undertaker; or
 - (ii) the act or default of a person who is not—
 - (aa) an officer, employee or agent of the undertaker; or
 - (bb) a person acting on behalf of the undertaker or of an agent of the undertaker; or
- (b) if—

- (i) the undertaker could not practicably have identified the customer as having been affected, and
- (ii) the customer does not claim (orally or in writing) a payment under this regulation within the 3 months following the date on which the supply was cut off.

Entitlement to payment or credit where supply not restored as promised

9.—(1) This regulation applies if a water undertaker interrupts or cuts off the supply of water to premises, as described in regulation 8.

(2) However, this regulation does not apply if the undertaker interrupts or cuts off the supply because of drought.

(3) The undertaker must restore the supply—

- (a) by the time and date specified in the notice, if the undertaker has served a notice stating when the supply is to be restored;
- (b) within 48 hours after it first became aware that the supply was interrupted or cut off, if the supply was interrupted or cut off in an emergency because of a leak or burst in a strategic main; or
- (c) within 12 hours after it first became aware that the supply was interrupted or cut off, if the supply was interrupted or cut off in an emergency, but not because of a leak or burst in a strategic main.

(4) Subject to paragraph (6), if the undertaker fails to restore the supply by the time by which the undertaker should, under paragraph (3), have done so, the undertaker must pay the customer—

- (a) where the supply is to domestic premises, £20;
- (b) where the supply is to premises of any other kind, £50; and
- (c) for each subsequent full period of 24 hours during which the supply has not been restored—
 - (i) where the supply is to domestic premises, £10; and
 - (ii) where the supply is to premises of any other kind, £25.

(5) No application by the customer for the payment is necessary unless the undertaker could not practicably have identified the customer as having been affected.

(6) The undertaker need not pay the customer under paragraph (4)—

- (a) if (or, as the case may be, so long as) the undertaker was prevented from restoring the supply by—
 - (i) severe weather;
 - (ii) industrial action by employees of the undertaker; or
 - (iii) the act or default of a person who is not—
 - (aa) an officer, employee or agent of the undertaker; or
 - (bb) a person acting on behalf of the undertaker or of an agent of the undertaker;
- (b) in a case described in paragraph (3)(b) or (c), if the circumstances are so exceptional that it is unreasonable to expect the supply to be restored within the relevant period; or
- (c) if—
 - (i) the undertaker could not practicably have identified the customer as having been affected, and
 - (ii) the customer does not claim (orally or in writing) a payment under this regulation within the 3 months following the date on which the supply was cut off.

(7) In this regulation, “strategic main” means a main that conveys water in bulk to centres of population that have no other supply that can fully meet normal demand.

Pressure standard

10.—(1) A water undertaker must maintain, in a communication pipe serving premises supplied with water, a minimum water pressure of seven metres static head.

(2) If in a period of 28 days the pressure in the communication pipe serving a customer's premises falls below seven metres static head on two occasions each lasting one hour or longer, the undertaker must, except in the circumstances described in paragraph (3), pay the customer £25.

(3) Paragraph (2) does not apply if the pressure falls below seven metres static head in connection with the carrying out of necessary works or because of drought.

(4) No application by the customer for the payment is necessary unless the undertaker could not practicably have identified the customer as having been affected.

(5) However, the undertaker need not pay the customer under paragraph (2) where—

(a) the undertaker has already made a payment under this regulation to the customer in respect of another such failure in the same financial year;

(b) if—

(i) the undertaker could not practicably have identified the customer as having been affected, and

(ii) the customer does not claim (orally or in writing) a payment under this regulation within the 3 months following the date of the second relevant occasion on which the pressure fell below seven metres static head for an hour or more; or

(c) it was impracticable to maintain the pressure referred to in paragraph (1) because of—

(i) industrial action by employees of the undertaker; or

(ii) the act or default of a person who is not—

(aa) an officer, employee or agent of the undertaker; or

(bb) a person acting on behalf of the undertaker or an agent of the undertaker.

(6) In this regulation, “communication pipe” means—

(a) the part of a service pipe between a water undertaker's water main and the boundary of the street in which the water main is laid; or

(b) if the premises supplied with water abut on the part of the street in which the water main is laid, and the service pipe—

(i) enters those premises otherwise than through the outer wall of a building abutting on the street; and

(ii) has a stopcock in those premises as near to the boundary of the street as reasonably practicable;

the part of the service pipe between the water main and that stopcock.

Flooding from sewers—internal flooding of buildings

11.—(1) Effluent from a sewer that is vested in a sewerage undertaker must not enter a customer's building.

(2) Subject to paragraphs (3) and (5), if effluent from a sewer that is vested in a sewerage undertaker enters a building (other than an outbuilding) of a customer, the undertaker must pay the customer, in respect of each incident of such entry, the lesser of—

(a) a sum equal to the sewerage charges payable by the customer to the undertaker for the financial year in which the incident occurs; and

(b) £1,000.

(3) If the amount that an undertaker would be required to pay a particular customer for an incident, worked out in accordance with paragraph (2), would be less than £150, the undertaker must pay the customer £150.

(4) No application by the customer for the payment is necessary unless the undertaker could not practicably have identified the customer as having been affected.

(5) The undertaker need not pay the customer under paragraph (2) if—

(a) the entry of effluent was caused by one or more of the following—

- (i) exceptional weather;
- (ii) industrial action by employees of the undertaker;
- (iii) an action of the customer;
- (iv) a defect, inadequacy or blockage in the customer's drain or sewer; or

(b) if—

- (i) the undertaker could not practicably have identified the customer as having been affected, and
- (ii) the customer does not claim (orally or in writing) a payment under this regulation within the 3 months following the date on which the effluent entered the building.

(6) For the purposes of this regulation—

- (a) in the case of a building that has a suspended floor, the space beneath that floor is part of the building;
- (b) effluent is not taken to have entered a building while it is in a drain or sewer.

Flooding from sewers—external flooding

12.—(1) Effluent from a sewer that is vested in a sewerage undertaker must not enter a customer's land or property.

(2) Subject to paragraphs (3) and (5), if effluent from a sewer that is vested in a sewerage undertaker enters the land or property (including any outbuilding) of a customer, the undertaker must pay the customer, for each incident of such entry, the lesser of—

- (a) a sum equal to 50% of the sewerage charges payable by the customer to the undertaker for the financial year in which the incident occurs; or
- (b) £500.

(3) If the amount that an undertaker would be required to pay a particular customer for an incident, worked out in accordance with paragraph (2), would be less than £75, the undertaker must pay the customer £75.

(4) However, the undertaker need not pay the customer under paragraph (2) if—

(a) the entry of effluent was caused by one or more of the following—

- (i) exceptional weather;
- (ii) industrial action by employees of the undertaker;
- (iii) an action of the customer;
- (iv) a defect, inadequacy or blockage in the customer's drain or sewer;

(b) the undertaker was required, by regulation 11, to make a payment to the same customer in respect of the same incident;

(c) the customer was not materially affected by the incident; or

(d) the customer does not claim the payment in accordance with paragraph (5) within the 3 months following the date on which the effluent entered the customer's land or property.

(5) With the customer's claim for the payment the customer must provide a written statement showing the effect of the entry of effluent on the customer's land or property.

(6) In deciding whether a customer was materially affected by the entry of effluent during an incident of flooding, an undertaker must take into account—

- (a) what parts of the customer's land or property the effluent entered;

- (b) the duration of the flooding;
- (c) the extent of the flooding;
- (d) whether the flooding restricted the access to the land or property;
- (e) whether the flooding restricted the use of the land or property; and
- (f) any other relevant considerations of which the undertaker is aware.

(7) For the purposes of this regulation, effluent is not taken to have entered land while it is in a drain or sewer.

Timing of payments

13.—(1) If regulation 6 or 7 requires a relevant undertaker to make a payment to a customer, the undertaker must make it within 10 working days of its becoming payable.

(2) If the undertaker fails to make the payment in accordance with paragraph (1), the undertaker must pay the customer a further £10 if the customer makes a written claim for payment under this paragraph within 3 months after the payment referred to in paragraph (1) becomes payable.

(3) If regulation 8, 9, 11 or 12 requires a relevant undertaker to make a payment to a customer, the undertaker must make it within 20 working days of its becoming payable.

(4) If the undertaker fails to make the payment in accordance with paragraph (3), the undertaker must pay the customer—

- (a) in the case of a payment in relation to the supply of water to domestic premises, a further £20; and
- (b) in any other case, a further £50.

(5) For the purposes of this regulation, a payment payable under any of regulations 6 to 9, 11 or 12 becomes payable—

- (a) if the customer concerned must make an application for the payment, at the end of the day on which the undertaker receives that application; or
- (b) if no such application is necessary, at the end of the day on which the relevant breach of a service standard occurred.

Means of payment, including where customer is in arrears

14.—(1) Subject to paragraph (2), a customer who is entitled to payment under these Regulations may ask the relevant undertaker concerned to make the payment directly to the customer.

(2) If the customer has not asked for direct payment, the undertaker may make the payment directly to the customer or by credit to the customer's account.

(3) If—

- (a) a customer of a relevant undertaker is entitled to a payment under these Regulations but owes money to the undertaker; and
- (b) at the material time, the customer's debt to the undertaker has been outstanding for more than 6 weeks;

the undertaker must make the payment, or so much of it as does not exceed the amount that the customer owes, by credit to the customer's account.

(4) For the purposes of paragraph (3)(3)(b), "the material time" is—

- (a) if the payment is payable without a written claim being made, the time when it becomes payable; or
- (b) otherwise, the time when the customer makes a written claim for it.

Payments not to affect other legal liabilities

15.—(1) The making of a payment by a relevant undertaker to a customer in consequence of a claim or potential claim for a payment under these Regulations is not an admission by that undertaker of any liability other than an obligation to comply with these Regulations.

(2) The acceptance by a customer of a payment or credit made in consequence of these Regulations does not affect any liability of the undertaker to the customer other than its liability under these Regulations.

Notice of rights to be given to customers

16.—(1) A relevant undertaker must, at least once in every financial year, give every customer to whom it sends an account in that year a detailed statement of the rights provided by these Regulations.

(2) If a relevant undertaker is aware that accounts to a customer cover the supply of water or sewerage services to other customers, it must—

- (a) give the customer enough copies of the statement referred to in paragraph (1) to enable the customer to give a copy to each of those other customers; or
- (b) send a copy of the statement to each of those other customers directly.

Reference of disputes to the Authority

17.—(1) If a dispute arises between a relevant undertaker and a customer as to the right of the customer to a payment or a credit to the customer's account under these Regulations, either party may refer the matter to the Authority for determination.

(2) The parties to a dispute that has been referred to the Authority must give it any evidence or information that it reasonably requires to enable it to determine the dispute.

(3) If the Authority determines the dispute in the customer's favour but the undertaker fails to give effect to the determination, the customer may set off the amount in question against any liability that he has to the undertaker.

Revocation

18. The Regulations set out in the Schedule are revoked.

Signed by authority of the Secretary of State

3rd March 2008

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

Jane Davidson
4th March 2008 Minister for Environment, Sustainability and Housing, one of the Welsh Ministers

THE SCHEDULE

Regulation 18

Regulations revoked

<i>Regulations</i>	<i>References</i>	<i>Extent of revocation</i>
The Water Supply and Sewerage Services (Customer Service Standards) Regulations 1989	S. I. 1989/1159	The whole

<i>Regulations</i>	<i>References</i>	<i>Extent of revocation</i>
The Water Supply and Sewerage Services (Customer Service Standards) (Amendment) Regulations 1989	S. I. 1989/1383	The whole
The Water Supply and Sewerage Services (Customer Service Standards) (Amendment) Regulations 1993	S. I. 1993/500	The whole
The Water Supply and Sewerage Services (Customer Service Standards) (Amendment) Regulations 1996	S. I. 1996/3065	The whole
The Water Supply and Sewerage Services (Customer Service Standards) (Amendment) Regulations 2000	S. I. 2000/2301	The whole

EXPLANATORY NOTE

(This note is not part of the Order)

Sections 38 and 39 of the Water Industry Act 1991 (“the Act”) authorise the Secretary of State to make regulations by statutory instrument setting out service standards that must be met by water undertakers, and sections 95 and 96 make similar provision in relation to sewerage undertakers. The regulations may provide for payments to be made to customers for failure to meet the prescribed standards. The power to make such standards in relation to water undertakers and sewerage undertakers whose areas are wholly or mainly in Wales was devolved to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, article 2(a), Schedule 1 (as amended by the National Assembly for Wales (Transfer of Functions) Order 2000, SI 2000/253, article 4, Schedule 3(e)). By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), functions conferred on the National Assembly for Wales are exercisable by the Welsh Ministers.

The new Regulations revoke the existing Water Supply and Sewerage Services (Customer Service Standards) Regulations 1989. The new Regulations provide a consolidated text, in revised language, of the revoked Regulations, but extend the rights of customers to payments for flooding of customers’ land or property by sewer overflowing. In addition, the standards of performance to be met and the payments to be made by undertakers whose areas are wholly or mainly in England have also now been applied to undertakers whose areas are wholly or mainly in Wales. Formerly there were different standards of performance for, and payments by, undertakers whose areas are wholly or mainly in Wales.

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