



Public Utility Transfers and Water Charges Act 1988

CHAPTER 15

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Public Utility Transfers and Water Charges Act 1988

1988 CHAPTER 15

An Act to confer powers on water authorities, electricity boards and the Electricity Council to act in relation to proposals for the transfer of any of the property or functions of water authorities or electricity boards to other bodies corporate; and to make provision for and in connection with the fixing of charges by water undertakers.
[10th May 1988]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Public utility transfers

1.—(1) Where the Secretary of State is at any time proposing that any property or functions of a relevant public utility should be transferred to another body corporate, the functions of the utility and, in the case of a transfer from an electricity board in England and Wales, the functions of the Electricity Council shall include the power to do anything which in the opinion of the utility or, as the case may be, that Council is appropriate for the purpose of—

- (a) facilitating the implementation of the proposal for the transfer; or
- (b) facilitating the implementation of, or securing a modification of, any related proposals of the Secretary of State.

(2) The proposals which are to be treated for the purposes of this section as related to a proposal of the Secretary of State for the transfer of anything from a relevant public utility to a body corporate shall include any proposal relating to, or to any matter connected with—

- (a) any of the utility's property, rights or liabilities which would be affected by the transfer, or any such property, rights or liabilities after their proposed transfer;

Power to act in relation to proposals for privatisation etc.

- (b) the exercise, whether before or after the transfer, of any function which it is proposed to transfer to or otherwise vest in that body corporate; or
- (c) the establishment or formation, flotation, control, finances or employees of that body corporate or of any other body corporate which is, or in pursuance of any proposal of the Secretary of State may become, a member of the same group as that body corporate.

(3) Any power of a relevant public utility or of the Electricity Council to do anything under this section in relation to a proposal for the transfer of any property or functions, or in relation to any related proposals, shall include power to do that thing with a view to promoting the interests of—

- (a) any body corporate to which it is proposed to transfer the property or functions; or
- (b) any body corporate which is, or in pursuance of any proposal of the Secretary of State may become, a member of the same group as a body corporate to which it is proposed to transfer the property or functions.

(4) The powers conferred by this section in relation to any proposal shall be exercisable whether or not Parliament has given any approval on which the implementation of the proposal depends and shall be without prejudice to any power conferred otherwise than by virtue of this section.

(5) For the purposes of this section a body corporate is a member of the same group as another body corporate if it is a holding company or subsidiary of that other body corporate or if it is another subsidiary of that other body corporate's holding company; and in this subsection "holding company" and "subsidiary" have the same meanings as in the Companies Act 1985.

1985 c. 6.

(6) References in this section to a body corporate shall include references to a body corporate which has not been established or formed but which may be established or formed in pursuance of a proposal of the Secretary of State.

(7) In this section—

1947 c. 54.

"electricity board" means the Central Electricity Generating Board, an Area Board, within the meaning of the Electricity Act 1947, the North of Scotland Hydro-Electric Board or the South of Scotland Electricity Board; and

"relevant public utility" means a water authority in England and Wales or an electricity board;

and, in relation to a water authority, references in this section to a proposal of the Secretary of State shall include references to a proposal of the Minister of Agriculture, Fisheries and Food.

Water charges

2.—(1) Subject to the provisions of this Act and to section 2 of the Water Act 1981 (exemption from charges for water for fire fighting), a statutory water company shall have power—

Charges by statutory water companies. 1981 c. 12.

- (a) to fix such charges for the services performed, facilities provided or rights made available by the company (including separate charges for separate services, facilities or rights or combined charges for a number of services, facilities or rights) as the company thinks fit; and
- (b) to demand, take and recover charges fixed under this section from persons for whom the company performs the services, provides the facilities or makes the rights available.

(2) A statutory water company may fix any of its charges by means of a scheme under section 31 of the 1973 Act (charges schemes) or by agreement with any person; and accordingly the said section 31 shall have effect as if references in subsections (1) to (5) of that section to a water authority included references to a statutory water company.

(3) Nothing in this section or in any charges scheme made by virtue of subsection (2) above shall affect any power of a statutory water company to fix its charges under any power conferred otherwise than by virtue of this section.

3.—(1) The following provisions of this section shall apply in relation to the exercise by any means whatever of any power conferred on any water undertakers by section 2 above or section 30 of the 1973 Act (water charges by water authorities) to fix their charges for any services, facilities or rights.

Provisions regulating the charges of all water undertakers.

(2) Except in so far as this Act otherwise provides, the water undertakers may fix the charges by reference to such matters, and may adopt such methods and principles for the calculation and imposition of the charges, as appear to the undertakers to be appropriate; and, subject to subsection (3) below, they may make different charges for the same service, facility or right in different cases.

(3) Subject to section 4(5) below, it shall be the duty of the water undertakers in fixing the charges for any services, facilities or rights—

- (a) to have regard to the cost of performing those services, providing those facilities or making those rights available; and
- (b) to ensure that no undue preference is shown to, and that there is no undue discrimination against, any class of persons.

(4) The water undertakers shall comply with any directions given by the Secretary of State to them, or to water undertakers of any relevant description or water undertakers generally—

- (a) as to the matters by reference to which any charges are to be fixed; or
- (b) as to the methods and principles to be adopted under subsection (2) above;

and in giving a direction for the purposes of this subsection the Secretary of State shall have regard to the duties imposed by subsection (3) above.

(5) Subsection (6) of section 12 of the 1973 Act (right of statutory water company to reasonable return) shall apply in relation to the giving by the Secretary of State of a direction under subsection (4) above to a statutory water company as it applies to the settlement or variation of arrangements under that section.

(6) Charges 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, facilities or rights performed, provided or made available after he has ceased to be the occupier of the premises; but such a person shall not be made so liable except where—

- (a) he fails to inform the undertakers 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 undertakers 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 them;
 - (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 undertakers that he has become the new occupier of the premises.

(7) In subsection (6) above the references to two working days are references 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.

1971 c. 80.

(8) Nothing in any enactment passed before this Act shall operate in relation to the water undertakers so as to oblige them to fix separate charges for separate services, facilities or rights; but 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, facility or right.

Metering trials schemes.

4.—(1) This section applies to any charges scheme made by any water undertakers under section 31 of the 1973 Act which—

- (a) contains a statement that it is made for the purpose of enabling the undertakers to conduct a trial of fixing charges in relation to premises by reference to volume; or
- (b) amends or revokes any charges scheme containing such a statement or any charges scheme to which this section applies by virtue of this paragraph.

(2) Subject to the following provisions of this section, water undertakers shall not make a scheme to which this section applies unless—

- (a) they have submitted a proposed scheme to the Secretary of State for his approval;

- (b) the Secretary of State has approved the proposed scheme, either unconditionally or subject to such conditions (including conditions requiring modifications of the proposed scheme) as may, after consultation with the undertakers, be specified by him in the approval; and
- (c) the scheme made by the undertakers complies with any conditions specified in the approval and, subject to that, is the same as the proposed scheme.

(3) In determining whether to give an approval for the purposes of subsection (2) above to any proposed scheme, or whether to make any such approval subject to any conditions, the Secretary of State shall have regard, in particular—

- (a) to the interests of any persons on whom charges are imposed by the scheme; and
- (b) to whether provision which appears to him to be appropriate has been, or is to be, made with respect to the matters specified in subsection (4) below;

but, in the case of a proposed scheme submitted after 1st April 1989, the Secretary of State shall be entitled, without having regard to those matters, to refuse his approval on the grounds only that the scheme has been submitted to him after that date.

(4) The matters mentioned in subsection (3) above are—

- (a) the methods by which and principles on which any charges fixed in relation to any premises by the scheme are calculated and imposed;
- (b) the selection and identification for the purposes of the scheme of the locality in which those premises are situated and of those premises within that locality;
- (c) the period during which any charges fixed by the scheme in relation to those premises are imposed;
- (d) the consultations about the proposal or, as the case may be, about the implementation, effect or operation of the scheme which have been or are to be conducted with persons who are likely to be, or have been, affected by the scheme and with any bodies representing the interests of those persons;
- (e) the handling of any representations about the implementation, effect or operation of the scheme; and
- (f) the supply to the Secretary of State of such information about the matters specified in paragraphs (a) to (e) above or otherwise about the implementation, effect or operation of the scheme as the Secretary of State may from time to time require.

(5) Subsections (3) and (4) of section 3 above and subsection (3) of section 31 of the 1973 Act (directions of the Secretary of State) shall not apply in relation to the exercise of any power to fix charges by means of a scheme to which this section applies; but the Secretary of State may have regard to the matters mentioned in subsection (3) of section 3 above when he is considering, for the purposes of subsection (3) above, whether appropriate provision has been made with respect to the methods by which and principles on which any charges are calculated and imposed.

(6) The Secretary of State shall not be required to consider whether to give an approval for the purposes of subsection (2) above to any proposed scheme unless the undertakers who submitted the scheme to him supply him with such information as he may require for the purpose of enabling him to determine whether to give his approval and to what conditions, if any, his approval should be subject.

(7) If it appears to the Secretary of State appropriate to do so for any reason whatever he may give a direction to any undertakers who have made a scheme to which this section applies requiring them—

- (a) to amend or revoke the scheme; or
- (b) to comply with any provision made by or for the purposes of the scheme with respect to any matter specified in subsection (4)(d), (e) or (f) above;

and subsection (2) above shall not apply to the making of any scheme to give effect to a direction under this subsection.

(8) Where any water undertakers fail to comply with a direction under subsection (7) above—

- (a) the Secretary of State may, instead of enforcing the direction by mandamus, himself exercise any power of the undertakers to amend or revoke the scheme in question or, as the case may be, to secure compliance with the provision in question; and
- (b) any expenses which the Secretary of State certifies were incurred by him in the exercise of any power under paragraph (a) above shall, on demand, be paid to him by the undertakers.

(9) Any administrative expenses incurred by the Secretary of State in consequence of this section shall be paid out of money provided by Parliament.

Provisions relating
to meters etc.

5.—(1) Schedule 1 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 Act, as appears to him to be 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 undertakers 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 specified in the regulations and for a reading from a meter to be such evidence as may be so specified 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 water undertakers to include with any demand for payment such information about the fixing of their charges as may be specified in the regulations;
- (f) require persons other than water undertakers to pay the expenses incurred by water undertakers in doing anything under the regulations or to pay contributions towards those expenses;
- (g) provide for the payment of compensation in respect of anything done by water undertakers under the regulations;
- (h) require disputes arising under the regulations to be referred to arbitration.

(4) Regulations under subsection (2) above—

- (a) may make different provision for different cases, including different provision in relation to different persons, circumstances or localities;
- (b) may contain such incidental, consequential and transitional provisions as appear to the Secretary of State to be appropriate; and
- (c) without prejudice to the preceding provisions of this section or to section 6(2) below, may repeal or otherwise modify any local statutory provision.

(5) The power to make regulations under subsection (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Supplemental

6.—(1) The enactments mentioned in Schedule 2 to this Act shall have effect subject to the amendments specified in that Schedule (being amendments consequential on the previous provisions of this Act).

Consequential amendments and repeals.

(2) If it appears to the Secretary of State to be appropriate to do so for purposes connected with the exercise by any water undertakers of any power to fix charges in relation to any premises by reference to volume, he may by order repeal or otherwise modify any local statutory provision.

(3) An order under subsection (2) above—

- (a) may make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
- (b) may contain such incidental, consequential and transitional provisions as appear to the Secretary of State to be appropriate.

(4) The power to make an order under subsection (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(5) The enactments mentioned in Schedule 3 to this Act (which include enactments that are spent) are hereby repealed to the extent specified in the third column of that Schedule.

- 1945 c. 42.
1978 c. 30.
- (6) Any reference in Schedule 3 to this Act to a provision of Schedule 3 to the Water Act 1945 shall have effect, without prejudice to section 20(2) of the Interpretation Act 1978 (references to enactments to include references to enactments as amended, extended or applied), as including a reference to that provision as applied, with or without modifications, by any local statutory provision; but the repeal by this Act of subsection (1)(a) of section 82 of Schedule 3 to the said Act of 1945 shall not affect the operation of section 12(2) of the Local Government (Miscellaneous Provisions) Act 1976 (which applies section 82 to certain services provided by local authorities).
- 1976 c. 57.
- Interpretation.
1973 c. 37.
- 7.—(1) In this Act, except in so far as the context otherwise requires—
 “the 1973 Act” means the Water Act 1973;
 “effluent” means any liquid, including any particles of matter in suspension in the liquid;
 “information” includes accounts, estimates and returns;
 “local statutory provision” and “statutory water company” have the same meanings as in the 1973 Act;
 “meter” means any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises;
 “modifications” includes additions, alterations and omissions, and cognate expressions shall be construed accordingly;
 “water undertakers” means any water authority or statutory water company.
- (2) References in this Act to the fixing of charges in relation to any premises by reference to volume are references 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.
- Short title,
commencement
and extent.
- 8.—(1) This Act may be cited as the Public Utility Transfers and Water Charges Act 1988.
- (2) Sections 2 to 6 above and the Schedules to this Act shall not come into force until such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be so appointed for different provisions or for different purposes.
- (3) This Act does not extend to Northern Ireland and sections 2 to 6 above and the Schedules to this Act extend to England and Wales only.

SCHEDULES

SCHEDULE 1

Section 5.

PROVISIONS RELATING TO METERS ETC.

Power to impose conditions of new supply

1.—(1) Where at any time on or after the coming into force of this paragraph any water undertakers are required, for the purpose of enabling them to furnish a supply of water for domestic purposes to any premises, to connect to any main or service pipe, any pipe which has not previously been so connected, they may make it a condition of complying with that requirement either—

- (a) that a meter for use in determining the amount of any charges which have been or may be fixed in relation to those premises by reference to volume has been installed and connected either by the undertakers or in accordance with specifications approved by them; or
- (b) that the plumbing of the premises is in accordance with specifications approved by the undertakers for the purpose of ensuring that it will be reasonably practicable for such a meter to be so installed and connected.

(2) The power conferred on water undertakers by this paragraph shall be exercisable in relation to any premises even if the undertakers have no immediate intention, when the power is exercised, of fixing charges in relation to those premises by reference to volume.

(3) Specifications approved by any water undertakers under this paragraph may be approved in relation to particular premises or, by being published in such manner as the undertakers think appropriate, in relation to premises generally or to any description of premises.

(4) Nothing in this paragraph shall entitle any water undertakers to require the alteration or removal of any plumbing installed before the coming into force of this paragraph.

(5) In this paragraph—

“main”, “service pipe” and “a supply of water for domestic purposes” have the same meanings as in Schedule 3 to the Water Act 1945; and

1945 c. 42.

“plumbing” includes any supply pipe within the meaning of that Schedule.

Power to carry out works and enter premises

2.—(1) Subject to the following provisions of this paragraph, where—

- (a) any water undertakers have fixed any charges in relation to any premises by reference to volume or have given notice of their intention of so fixing any charges within the period specified in the notice; and
- (b) there is either—
 - (i) a service pipe which is connected with the undertakers’ main and by which a supply of water is or could be provided to those premises or to any building in which those premises are contained; or
 - (ii) a drain or private sewer which connects those premises with a public sewer,

the undertakers shall have power to carry out any works specified in sub-paragraph (2) below, and any person authorised by the undertakers may enter those premises for any of the purposes specified in sub-paragraph (3) below.

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- (2) The works mentioned in sub-paragraph (1) above are, in relation to any premises—
- (a) works consisting in the installation and connection of any meter for use in determining the amount of any charges which have been or may be fixed in relation to the premises;
 - (b) where the premises consist of a house which is one of two or more houses to which the supply of water is by a single service pipe, works consisting in the installation and connection, for any purpose connected with the installation or connection of such a meter, of a separate service pipe, or part of a service pipe, for that house;
 - (c) works for the purpose of maintaining, repairing, disconnecting or removing any meter which has been installed on those premises for use in determining the amount of any charges which have been or may be fixed in relation to the premises or of maintaining, repairing, disconnecting or removing any pipes or apparatus installed in the course of any works specified in this paragraph; and
 - (d) any other works appearing to the undertakers to be necessary or expedient for any purpose connected with the carrying out of any works specified in paragraph (a), (b) or (c) above, including the installation and connection of any pipes or other apparatus on the premises and the alteration or removal of any of the plumbing of the premises.
- (3) The purposes mentioned in sub-paragraph (1) above are, in relation to any premises—
- (a) the carrying out on those premises of any survey for the purpose of ascertaining—
 - (i) whether the carrying out of any works by virtue of paragraph (a) or (b) of sub-paragraph (2) above is practicable;
 - (ii) whether it is necessary or expedient for any purpose connected with the carrying out of any works by virtue of either of those paragraphs for any other works to be carried out; or
 - (iii) how any works specified in that sub-paragraph should be carried out;
 - (b) the carrying out of any works so specified;
 - (c) the inspection, examination or testing of any meter on those premises or of any pipes or apparatus installed in the course of any works carried out for any purpose connected with the installation, connection, testing, maintenance or repair of any meter on the premises;
 - (d) the ascertainment from any meter of the volume of water supplied to, or of effluent discharged from, those premises.
- (4) A notice given for the purposes of sub-paragraph (1)(a) above may relate to particular premises or to any description of premises and shall be given—
- (a) by publishing the notice in the locality in which the premises to which it relates are situated in such manner as appears to the undertakers appropriate for bringing it to the attention of the persons likely to be affected by it; and
 - (b) by sending a copy of the notice to the Secretary of State.
- (5) Without prejudice to any power exercisable by virtue of a warrant under paragraph 3 below, no person shall make an entry into any premises by virtue of this paragraph except—
- (a) at a reasonable time and after seven days' notice of the intended entry has been given to the occupier of the premises; and
 - (b) on production of a duly authenticated document showing that person's authority.

(6) An authorised person who exercises any power in relation to any premises by virtue of this paragraph or of a warrant under paragraph 3 below—

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- (a) may take with him such other persons as may be necessary; and
- (b) on leaving any premises which he has entered in or for the purpose of exercising that power, shall leave them as effectually secured against trespassers as he found them.

(7) A person shall be treated for the purposes of sub-paragraph (6)(b) above, and for the purposes of paragraphs 4(1) and 6(4) below, as exercising a power in relation to any premises by virtue of this paragraph notwithstanding that he, or the person he accompanies, has failed (whether by virtue of the waiver of the requirement by the occupier of the premises or otherwise) to comply with any requirement imposed by virtue of sub-paragraph (5) above.

(8) In this paragraph—

“drain” and “public sewer” have the same meanings as in the Public Health Act 1936 and “private sewer” shall be construed accordingly; 1936 c. 49.

“house”, “main” and “service pipe” have the same meanings as in Schedule 3 to the Water Act 1945; and 1945 c. 42.

“plumbing” includes any supply pipe within the meaning of that Schedule.

(9) Without prejudice to the power of any water undertakers to impose a condition under paragraph 1 above in a case where they have exercised their power under section 42 of the said Schedule 3 to require the provision of a separate service pipe, nothing in that paragraph shall be construed as authorising any water undertakers to impose any such condition where they are required to connect any pipe installed under this paragraph to a main or service pipe.

Entry in execution of a warrant

3.—(1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

- (a) that there are reasonable grounds for the exercise in relation to any premises of a power conferred by paragraph 2 above on a person authorised by any water undertakers; and
- (b) that one or more of the conditions specified in sub-paragraph (2) below is satisfied in relation to those premises,

the justice may by warrant authorise the undertakers, by any authorised person, to exercise the power in relation to those premises in accordance with the warrant and, if need be, by force.

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(2) The conditions mentioned in sub-paragraph (1)(b) above are—

- (a) that the exercise of the power in relation to the premises has been refused;
- (b) that such a refusal is reasonably apprehended;
- (c) that the premises are unoccupied;
- (d) that the occupier is temporarily absent from the premises;
- (e) that the case is one of urgency; or
- (f) that an application for admission to the premises would defeat the object of the proposed entry.

(3) A justice of the peace shall not issue a warrant under this paragraph by virtue only of being satisfied that the exercise of a power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless he is also satisfied—

- (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises; or
- (b) that the giving of such a notice would defeat the object of the proposed entry.

(4) Every warrant under this paragraph shall continue in force until the purposes for which the warrant was issued have been fulfilled.

Offence of disclosing information by person exercising powers

4.—(1) Subject to sub-paragraph (2) below, if any person who has made an entry into any premises by virtue of paragraph 2 above, or of a warrant under paragraph 3 above, discloses to any other person—

- (a) any information obtained by him on those premises with regard to the water supplied to, or effluent discharged from, those premises; or
- (b) where those premises consist in a factory or workplace, any information obtained by him on the premises with regard to any manufacturing process or trade secret,

he shall be guilty of an offence.

(2) Sub-paragraph (1) above shall not apply to a disclosure of any information which is made by any person—

- (a) in the performance of his duties; or
- (b) in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings or of any arbitration.

(3) A person guilty of an offence under this paragraph shall be liable—

- (a) on conviction on indictment, to a fine;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

Obstruction of person exercising power

5. Any person who intentionally obstructs a person who is exercising any power by virtue of paragraph 2 above, or of a warrant under paragraph 3 above, to carry out any works or enter any premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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Expenses of installation etc.

6.—(1) Subject to sub-paragraphs (2) and (3) and to paragraph 7(6) below, where any meter is installed on any premises by or at the request of any water undertakers, then, notwithstanding any agreement to the contrary between the undertakers and any other person, the undertakers shall bear—

- (a) the expenses of installing and connecting the meter;
- (b) any expenses incurred in maintaining, repairing or removing the meter in accordance with any requirements of the undertakers; and
- (c) any expenses incurred in carrying out any works for purposes connected with the installation and connection of the meter or with the maintenance, repair or removal of the meter in accordance with any such requirements.

(2) Sub-paragraph (1) above shall not require any water undertakers to bear, or prevent any water undertakers from recovering from any other person—

- (a) any expenses incurred for the purpose of enabling a condition imposed under paragraph 1 above to be satisfied;
- (b) any sums to which they are entitled by virtue of subsection (4) of section 42 of Schedule 3 to the Water Act 1945 (owner of premises to bear cost of provision of separate service pipe required by undertakers); 1945 c. 42.
- (c) any expenses incurred in consequence of the exercise by the occupier of any premises of any option to be charged by the undertakers in relation to any premises by reference to volume rather than by reference to other matters,

except, in the case of expenses falling within paragraph (a) above, where the condition could not have been imposed but for the exercise by the undertakers of their power by virtue of paragraph (a), (b) or (d) of section 4(1) of the Water Act 1981 (separation of common water service pipes) to require the provision of a separate service pipe to any premises. 1981 c. 12.

(3) The occupier of any premises where any water undertakers install or have installed a meter shall in all cases bear so much of the expenses referred to in sub-paragraph (1) above as is attributable to compliance with a request made by him in accordance with any regulations under section 5(2) of this Act for the positioning, in a place other than that reasonably proposed by the undertakers, either of the meter or of any pipe or apparatus installed for the purpose of facilitating the use of the meter.

(4) Without prejudice to the preceding provisions of this paragraph, where a person authorised by any water undertakers carries out any works or enters any premises by virtue of paragraph 2 above, or of a warrant under paragraph 3 above, the undertakers shall make good, or pay compensation for, any damage caused by that person or by any person accompanying him, by or in connection with the carrying out of the works or the entry or with the performance of any duty to secure the premises against trespassers.

Offences of tampering with meters etc.

7.—(1) If any person—

- (a) so interferes with a meter used by any water undertakers in determining the amount of any charges fixed in relation to any premises as intentionally or recklessly to prevent the meter from showing, or from accurately showing, the volume of water supplied to, or of effluent discharged from, those premises; or

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- (b) carries out any works which he knows are likely to affect the operation of such a meter or which require the disconnection of such a meter,

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person shall not be guilty of an offence under sub-paragraph (1) above in respect of anything done by him with the consent of the undertakers who use the meter.

(3) Where an application is made to any water undertakers for a consent for the purposes of sub-paragraph (2) above the undertakers—

- (a) shall give notice of their decision with respect to the application as soon as reasonably practicable after receiving it; and
- (b) may make it a condition of giving any consent that they themselves should carry out so much of any works to which the application relates as is specified in the notice of their decision;

but on such an application the undertakers shall not refuse their consent, or impose any such condition as is mentioned in paragraph (b) above, unless it is reasonable to do so.

(4) Where any water undertakers have given a notice to any person imposing any such condition as is mentioned in sub-paragraph (3)(b) above, then, unless that person notifies the undertakers that the carrying out of the works to which the condition relates is no longer required, the undertakers—

- (a) shall carry out those works as soon as reasonably practicable after giving the notice; and
- (b) may recover from that person any expenses reasonably incurred by them in doing so.

(5) Any person who suffers any loss or damage in consequence of any failure by any water undertakers—

- (a) to comply with any obligation imposed on them by this paragraph; or
- (b) to exercise reasonable care in the performance of the duty imposed by sub-paragraph (4)(a) above,

shall be entitled to recover compensation from the undertakers.

(6) Water undertakers who carry out any works made necessary by the commission of an offence under sub-paragraph (1) above shall be entitled to recover the reasonable expenses of carrying out those works from the person who committed the offence.

Duty of undertakers to inform other undertakers of meter readings

8.—(1) Where—

- (a) different services, facilities or rights are performed, provided or made available in relation to the same premises by different water undertakers;
- (b) one of those undertakers has obtained a reading from a meter used in determining the amount of any charges fixed in relation to those premises;
- (c) the charges in relation to those premises of another of those water undertakers are fixed by reference to any matter to which the reading is relevant; and
- (d) those other undertakers have agreed to bear a reasonable proportion of the expenses of obtaining the reading together with the reasonable expenses of the disclosure of the reading to them,

it shall be the duty of the undertakers who obtained the reading to disclose the reading to the other undertakers.

(2) Any water undertakers who suffer any loss or damage in consequence of any breach of the duty imposed by sub-paragraph (1) above shall be entitled to recover compensation from the undertakers whose breach caused the loss or damage.

SCH. 1

Arbitration

9. Any dispute between any water undertakers and any person—
- (a) as to the imposition of a condition under paragraph 1 above;
 - (b) as to the exercise of any power under paragraph 2 above to carry out any works;
 - (c) as to whether the undertakers or that person should bear any expenses under paragraph 6 or 7 above;
 - (d) as to the terms to be contained in any agreement for the purposes of paragraph 8(1)(d) above or as to the construction of any such agreement;
 - (e) as to whether the undertakers should pay any compensation under paragraph 6, 7 or 8 above; or
 - (f) as to the amount of any expenses to be borne by any person under paragraph 6 or 7 above or under any such agreement or as to the amount of any such compensation,

shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertakers and that person or, in default of agreement, by the Secretary of State.

SCHEDULE 2

Section 6.

CONSEQUENTIAL AMENDMENTS

The Water Resources Act 1963 (c. 38)

1. In section 63 of the Water Resources Act 1963 (special charges in respect of spray irrigation), after subsection (11) there shall be inserted the following subsection—

“(12) References in this section to Part III of the Water Act 1973 shall include references to section 3 of the Public Utility Transfers and Water Charges Act 1988.” 1973 c. 37.

The Control of Pollution Act 1974 (c. 40)

2. In section 52(1) of the Control of Pollution Act 1974 (application of charging provisions in relation to trade and sewage effluent)—

- (a) after the words “the Water Act 1973” there shall be inserted the words “and section 3 of the Public Utility Transfers and Water Charges Act 1988”; and
- (b) for paragraph (a) there shall be substituted the following paragraph—
 - “(a) provide that, in the said section 3 as applied by the order, paragraph (a) of subsection (3) (under which regard is to be had to the cost of providing facilities in fixing charges for the facilities) and the reference in subsection (4) to the duty imposed by virtue of that paragraph shall be omitted; and”.

SCH. 2

The Land Drainage Act 1976 (c. 70)

3. In section 62 of the Land Drainage Act 1976 (power to make water charges option orders)—

- (a) in subsection (2), for the words “sections 29 to 32 of the Water Act 1973” there shall be substituted the words “sections 29 to 31 of the Water Act 1973 and sections 3 to 5 of and Schedule 1 to the Public Utility Transfers and Water Charges Act 1988”; and
- (b) in subsection (3), for the words “sections 29 to 32 of the Water Act 1973” there shall be substituted the words “sections 29 to 31 of the Water Act 1973 or sections 3 to 5 of or Schedule 1 to the Public Utility Transfers and Water Charges Act 1988”.

The Water Act 1981 (c. 12)

4. In section 2(1) of the Water Act 1981 (exemption from charges for water for fire fighting), after the words “the Water Act 1973” there shall be inserted the words “, in or in any charges scheme made by virtue of section 2 of the Public Utility Transfers and Water Charges Act 1988”.

Section 6.

SCHEDULE 3

REPEALS

Chapter	Short title	Extent of repeal
8 & 9 Geo. VI c. 42.	The Water Act 1945.	In Schedule 3, sections 59, 66, 69 and 82(1)(a).
1973 c. 37.	The Water Act 1973.	In section 30, subsections (3) to (10). Section 32.

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