



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART V

#### FINANCIAL PROVISIONS

#### CHAPTER I

#### CHARGES

##### *Manner of fixing charges*

#### **142 Powers of undertakers to charge**

- (1) Subject to the following provisions of this Chapter, the powers of every relevant undertaker shall include power—
  - (a) to fix charges for any services provided in the course of carrying out its functions and, in the case of a sewerage undertaker, charges to be paid in connection with the carrying out of its trade effluent functions; and
  - (b) to demand and recover charges fixed under this section from any persons to whom the undertaker provides services or in relation to whom it carries out trade effluent functions.
- (2) Subject to subsection (3) below, the powers conferred by subsection (1) above shall be exercisable—
  - (a) by or in accordance with a charges scheme under section 143 below; or
  - (b) by or in accordance with agreements with the persons to be charged.
- (3) Paragraph (b) of subsection (2) above shall have effect in relation to the exercise of powers with respect to charges in connection with the carrying out of a sewerage undertaker's trade effluent functions only in so far as provision for the fixing, demanding or recovery of such charges may be contained in an agreement entered into in accordance with section 129 above.

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- (4) Except in so far as this Chapter otherwise provides, a relevant undertaker may fix charges under this section by reference to such matters, and may adopt such methods and principles for the calculation and imposition of the charges, as appear to the undertaker to be appropriate.
- (5) 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.
- (6) Nothing in subsections (1) to (5) above or in any charges scheme under section 143 below shall affect any power of a relevant undertaker to fix charges under any power conferred otherwise than by virtue of this Chapter.
- (7) References in this section to a sewerage undertaker's trade effluent functions are references to its functions under Chapter III of Part IV of this Act.

### **143 Charges schemes**

- (1) A relevant undertaker may make a scheme ("a charges scheme") which does any one or more of the following, that is to say—
  - (a) fixes the charges to be paid for any services provided by the undertaker in the course of carrying out its functions;
  - (b) in the case of a sewerage undertaker, requires such charges as may be fixed by the scheme to be paid to the undertaker where, in the circumstances set out in the scheme—
    - (i) a notice containing an application for a consent is served on the undertaker under section 119 above;
    - (ii) such a consent as is necessary for the purposes of Chapter III of Part IV of this Act is given by the undertaker; or
    - (iii) a discharge is made in pursuance of such a consent;
 and
  - (c) makes provision with respect to the times and methods of payment of the charges fixed by the scheme.
- (2) The persons who may be required by a charges scheme to pay any charge fixed by virtue of subsection (1)(b) above shall be the person who serves the notice, the person to whom the consent is given or, as the case may be, any person who makes a discharge in pursuance of the consent at any time during the period to which, in accordance with the scheme, the charge relates.
- (3) A charges scheme which requires the payment of charges where a discharge has been made in pursuance of such a consent as is mentioned in subsection (1)(b) above may impose—
  - (a) a single charge in respect of the whole period for which the consent is in force;
  - (b) separate charges in respect of different parts of that period; or
  - (c) both such a single charge and such separate charges.
- (4) A charges scheme may—
  - (a) make different provision for different cases, including different provision in relation to different circumstances or localities; and
  - (b) contain supplemental, consequential and transitional provision for the purposes of the scheme;

and such a scheme may revoke or amend a previous charges scheme.

- (5) Nothing in any charges scheme shall affect—
- (a) any power of a relevant undertaker to enter into such an agreement with any person in any particular case as determines the charges to be made for the services provided to that person by the undertaker; or
  - (b) the power of a sewerage undertaker to enter into any agreement under section 129 above on terms that provide for the making of payments to the undertaker.

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

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

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- (a) any person who is the occupier of any premises to which a supply of water is provided by a water undertaker has served notice on the undertaker for the purposes of section 62 above; and
- (b) that notice is given otherwise than in connection with that person's ceasing to be the occupier of the premises in a case in which provision is made by virtue of subsection (2) above for a person who has ceased to be the occupier of the premises to be made liable for any charges,

then, notwithstanding that that person continues to be the occupier of those premises, he shall not be liable to the undertaker (otherwise than in pursuance of a demand for a supply made since the service of the notice) for any charges in respect of any supply of water to those premises after the appropriate time.

- (6) In subsection (5) above “the appropriate time”, in relation to a case in which a notice has been served for the purposes of section 62 above, means whichever is the later of—
  - (a) the expiry of the notice; and
  - (b) the end of the period of two working days beginning with the service of the notice.
- (7) In this section any reference to two working days is a reference to a period of forty-eight hours calculated after disregarding any time falling on—
  - (a) a Saturday or Sunday; or
  - (b) Christmas Day, Good Friday or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.
- (8) Where, in the case of any premises—
  - (a) the person who was liable, immediately before 1st September 1989, to pay charges in respect of a supply of water to those premises was the owner of those premises, rather than the occupier;
  - (b) that person was so liable (under section 54 of Schedule 3 to the Water Act 1945 or any other local statutory provision) otherwise than by virtue of an agreement; and
  - (c) the person who was in fact the occupier of the premises on that date has not ceased to be the occupier before the coming into force of this Act,

then the person who is the owner from time to time of those premises shall continue, until the person mentioned in paragraph (c) above does cease to be the occupier of the premises, to be the person liable and, accordingly, shall be treated for the purposes of this section as if he were the occupier of the premises.

#### *General restrictions on charging*

### **145 Charging by reference to rateable value**

- (1) Charges and other amounts to which this section applies shall not, by virtue of anything contained—
  - (a) in this Chapter;
  - (b) in any local statutory provision;
  - (c) in any charges scheme under section 143 above; or
  - (d) in any agreement entered into on or after 1st September 1989,

be recoverable by a relevant undertaker from any person if they have been fixed wholly or partly by reference to a rating valuation list or are otherwise determined, whether

directly or indirectly, by reference to any value or other amount specified at any time in such a list.

- (2) This section applies to—
- (a) charges in respect of any services provided at any time after the end of 31st March 2000 by a relevant undertaker in the course of carrying out its functions; and
  - (b) amounts of any other description which such an undertaker, in exercise of any power conferred by or under any enactment, requires any person to pay in respect of any period ending after that date or in respect of anything done after that date.
- (3) In this section “rating valuation list” means a list which is or has at any time been maintained, for the purposes of rating, under section 41 or 52 of the Local Government Finance Act 1988, section 67 of the General Rate Act 1967 or any other enactment.

#### **146 Connection charges etc. and charges for highway drainage**

- (1) Subject to subsection (2) below, nothing in this Chapter or in any other enactment shall entitle any relevant undertaker to fix, demand or recover an initial charge for its becoming, or for its taking steps for the purpose of becoming—
- (a) the person who provides a supply of water for domestic purposes to any premises; or
  - (b) the person who provides sewerage services for the purposes of the drainage for domestic sewerage purposes of any premises.
- (2) Subject to subsection (3) below, nothing in subsection (1) above or in any other enactment shall be construed as prohibiting the fixing, demand or recovery by a relevant undertaker of—
- (a) a charge for the connection to a water supply of premises which have never at any previous time (whether before or after the coming into force of the restriction contained in this section) been connected to a supply of water provided for domestic purposes by a water undertaker or by any other authority or body which at that time provided supplies of water in the course of carrying out functions under any enactment; or
  - (b) a charge for the connection to a public sewer of premises which have never at any previous time (whether before or after the coming into force of the restriction contained in this section) been connected to a sewer used for the drainage for domestic sewerage purposes of those premises by a sewerage undertaker or by any other authority or body which at that time provided sewerage services in the course of carrying out functions under any enactment.
- (3) Nothing in this Chapter or in any other enactment or in the terms of any agreement under section 104 above shall authorise a sewerage undertaker to require any payment to be made to the undertaker in respect of the making by the undertaker of any declaration of vesting under Chapter II of Part IV of this Act or in respect of any agreement to make such a declaration.
- (4) Nothing in this Chapter or in any other enactment shall authorise a sewerage undertaker to require any payment to be made to the undertaker by a highway authority in respect of the drainage of any highway or the disposal of the contents of any drain or sewer used for draining any highway.

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- (5) The preceding provisions of this section, so far as they restrict the making of certain charges, shall be without prejudice—
- (a) to enactments by virtue of which a relevant undertaker may recover expenses incurred by it in carrying out works; and
  - (b) to the power of any such undertaker, by virtue of section 142(4) above, to fix the amount of any of its other charges by reference to such matters as it thinks appropriate.
- (6) In this section “domestic sewerage purposes” has the same meaning as in Chapter II of Part IV of this Act.

#### **147 Charging for emergency use of water**

- (1) Notwithstanding anything in section 142 above or in any charges scheme under section 143 above or in any agreement as to charges in respect of any supply of water, no charge may be made by any water undertaker in respect of—
- (a) water taken for the purpose of extinguishing fires or taken by a fire authority for any other emergency purposes;
  - (b) water taken for the purpose of testing apparatus installed or equipment used for extinguishing fires or for the purpose of training persons for fire-fighting; or
  - (c) the availability of water for any purpose mentioned in paragraph (a) or (b) above.
- (2) This section shall not prevent the making of charges in respect of work carried out at the request of or for the benefit of any person receiving a supply of water for the purposes mentioned in paragraph (a) or (b) of subsection (1) above.
- (3) This section shall not have the effect, where any water is used or made available for any of the purposes mentioned in paragraph (a) or (b) of subsection (1) above, of requiring a reduction in the charges imposed in respect of the provision for other purposes of the supply from which that water is taken.
- (4) In this section “fire authority” has the same meaning as in the Fire Services Act 1947.

#### *Metering*

#### **148 Restriction on charging for metering works**

- (1) Subject to subsections (2) to (4) below and section 177 below, where any meter to be used in determining the amount of any charges is installed by or at the request of any relevant undertaker then, notwithstanding the provisions of any enactment or of any agreement to the contrary between the undertaker and any other person, the undertaker shall bear—
- (a) the expenses of installing and connecting the meter;
  - (b) any expenses incurred in maintaining, repairing, disconnecting or removing the meter in accordance with any requirements of the undertaker; 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, disconnection or removal of the meter in accordance with any such requirements.

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- (2) Subject to subsection (3) below, subsection (1) above shall not require any relevant undertaker to bear, or prevent any such undertaker from recovering from any other person—
- (a) any expenses incurred for the purpose of enabling a condition imposed by virtue of subsection (2)(c) or (d) of section 47 above to be satisfied;
  - (b) any sums which it is entitled to recover in pursuance of any terms or conditions determined under section 56 above;
  - (c) any sums which it is entitled to recover from that person by virtue of section 64(3)(b) above;
  - (d) any expenses incurred in relation to a meter which is or is to be used in determining the amount of—
    - (i) any charges which are to be paid in connection with the carrying out of a sewerage undertaker's functions under Chapter III of Part IV of this Act; or
    - (ii) any charges provision for which is contained in an agreement entered into in accordance with section 129 above;
  - (e) any expenses incurred in consequence of the exercise by the occupier of any premises of any option to be charged by the undertaker in relation to any premises by reference to volume rather than by reference to other matters.
- (3) For the purposes of subsection (2) above the expenses which an undertaker may require someone else to bear, or may recover from another, by virtue of that subsection shall not include any expenses incurred for the purpose of enabling conditions such as are mentioned in paragraph (a) of that subsection to be satisfied in a case in which the conditions could not have been imposed but for the exercise by the undertaker of its power by virtue of paragraph (a), (b), (d) or (e) of section 64(2) above to require the provision of a separate service pipe to any premises.
- (4) The occupier of any premises where any relevant undertaker installs or has installed a meter shall in all cases bear so much of the expenses referred to in subsection (1) above as is attributable to compliance with a request made by him in accordance with any regulations under section 149 below for the positioning, in a place other than that reasonably proposed by the undertaker, either of the meter or of any pipe or apparatus installed for the purpose of facilitating the use of the meter.
- (5) Any dispute between a relevant undertaker and any other person (including another such undertaker)—
- (a) as to whether the undertaker or that other person should bear any expenses under this section; or
  - (b) as to the amount of any expenses to be borne by any person under this section, shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the Director.

#### **149 Further provision relating to charging by volume**

- (1) The Secretary of State may by regulations make such provision, supplementing—
- (a) the provisions of this Chapter; and
  - (b) so far as they relate to works for purposes connected with the fixing of charges in relation to any premises by reference to volume, the provisions of Part VI of this Act,

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as he considers appropriate with respect to the installation of meters, with respect to the connection, disconnection, use, maintenance, authentication and testing of meters and with respect to any related matters.

- (2) Without prejudice to the generality of subsection (1) 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 relevant undertaker to be required for the purpose of facilitating the use of any meter;
  - (b) make any other provision which appears to the Secretary of State to be appropriate with respect to any such pipes or apparatus;
  - (c) provide for a reading from a meter to be proved in such manner as may be prescribed and for a reading from a meter to be such evidence as may be prescribed of the volume of water supplied to, or of effluent discharged from, any premises;
  - (d) fix the method of determining the amount of the charges to be paid where it appears that a meter has given, or may have given, an incorrect reading;
  - (e) require a person who is not a relevant undertaker to pay the expenses incurred by such an undertaker in doing anything under the regulations or to pay contributions towards those expenses;
  - (f) provide for the payment of compensation in respect of anything done by a relevant undertaker under the regulations;
  - (g) require disputes arising under the regulations to be referred to arbitration;
  - (h) repeal or amend any local statutory provision.

*Charging for services provided with the help of an undertaker*

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

- (1) The Director may from time to time by order fix maximum charges which a person who is not a relevant undertaker may recover from another such person in respect of water supplies or sewerage services provided to that other person with the help of services provided by a relevant undertaker.
- (2) For the purposes of this section water supplies or sewerage services are provided to a person with the help of services provided by a relevant undertaker if—
  - (a) a facility for that person to have access to a supply of water provided by a water undertaker in pipes, or to make use of sewerage services provided by a sewerage undertaker, is made available to that person otherwise than by the undertaker;
  - (b) that person is provided with a supply of water in pipes by a person to whom the water is supplied, directly or indirectly, by a water undertaker; or
  - (c) that person is provided with sewerage services by a person who, for the purpose of providing those services, makes use of sewerage services provided, directly or indirectly, by a sewerage undertaker.
- (3) It shall be the duty of the Director to publish any order under this section in such manner as he considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.



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- (4) An order under this section may make different provision for different cases, including different provision in relation to different persons, circumstances or localities, and may fix a maximum charge either by specifying the maximum amount of the charge or by specifying a method of calculating that amount.
- (5) Where a person pays a charge in respect of anything to which an order under this section relates and the amount paid exceeds the maximum charge fixed by the order, the amount of the excess shall be recoverable by that person from the person to whom he paid the charge.