



Local Government etc. (Scotland) Act 1994

1994 CHAPTER 39

PART II

WATER AND SEWERAGE REORGANISATION

Charges

74 Charges for services provided

- (1) Subject to the provisions of this Part of this Act and of sections 9A and 47 of the 1980 Act (no charge for water in certain cases), the powers of a new water and sewerage authority shall include power—
 - (a) to fix charges for any services provided in the course of carrying out their functions; and
 - (b) to demand and recover charges fixed under this section from any person to whom they provide services.
- (2) The powers conferred by subsection (1) above shall be exercisable—
 - (a) by or in accordance with a charges scheme under section 76 of this Act; or
 - (b) by or in accordance with an agreement with the person to be charged.
- (3) Subject to the provisions of this Part of this Act, a new water and sewerage authority 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 them to be appropriate.
- (4) Nothing in this Part of this Act shall entitle a new water and sewerage authority to fix, demand or recover a charge for—
 - (a) under subsection (2) of section 6 of the 1980 Act (duty to provide water supply), taking pipes; or

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- (b) under subsection (2)(a) of section 1 of the 1968 Act (duty to provide sewerage), taking public sewers,
to the point or points mentioned in the subsection in question.
- (5) A new water and sewerage authority exercising their powers under subsection (1) above by entering into such agreements as are mentioned in subsection (2)(b) above shall endeavour to ensure that no undue preference is shown, and that there is no undue discrimination, in determining the conditions of those agreements.
- (6) Nothing in subsections (1) to (3) above or in any charges scheme under section 76 of this Act shall affect any power of a new water and sewerage authority to fix charges under any power conferred otherwise than under or by virtue of this Part of this Act.

75 Maximum charges for services provided with help of new authority

- (1) The Secretary of State may from time to time by order fix maximum charges which a person who is not a new water and sewerage authority may recover from another such person in respect of the supply of water to, the provision of sewerage to, or the disposal of sewage for that other person with the help of services provided by any such authority.
- (2) For the purposes of this section, water is supplied to, sewerage provided to, or sewage disposed of for a person with the help of services provided by an authority if—
- (a) a facility for that person to have access to a supply of water provided by the authority, as water authority, in pipes, or to make use of sewerage which is, or facilities for the disposal of sewage which are, provided by the authority as sewerage authority, is made available to that person otherwise than by the authority;
 - (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 the authority as water authority; or
 - (c) that person is provided with sewerage, or with facilities for the disposal of sewage, by a person who, for the purposes of providing the sewerage or facilities, makes use of sewerage or of such facilities provided, directly or indirectly, by the authority as sewerage authority.
- (3) An order under this section may make 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.
- (4) 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.
- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

76 Charges schemes

- (1) A new water and sewerage authority may, in accordance with this section, make a scheme (in this Part of this Act referred to as a “charges scheme”) which (either or both)—

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- (a) fixes the charges to be paid for any relevant services provided by them;
 - (b) makes provision with respect to the times and methods of payment of the charges fixed by the scheme.
- (2) Services are relevant for the purposes of subsection (1)(a) above if they are provided by the authority in the course of carrying out their functions and are not services as respects which conditions as to payment may be imposed under section 29(3)(j) of the 1968 Act (conditions relating to the reception, treatment and disposal of trade effluent).
- (3) A charges scheme may—
- (a) make different provision for different cases, or classes of case, including different provision in relation to different circumstances or localities;
 - (b) contain supplemental, consequential and transitional provisions for the purposes of the scheme;
 - (c) revoke or amend a previous charges scheme.
- (4) A charges scheme shall not come into force before—
- (a) it has been sent in draft to, and approved by, the Customers Council, such approval being to the scheme having effect either—
 - (i) without modifications; or
 - (ii) with such modifications as, after consulting with and obtaining the agreement of the authority, the Council thinks fit to make; or
 - (b) where the Council is not prepared to give approval under paragraph (a) above, or cannot obtain the agreement of the authority to some or all of the modifications which it would make under sub-paragraph (ii) of that paragraph, the draft (with any modifications to it which may have been agreed between the Council and the authority) has been sent by the Council to, and approved by, the Secretary of State, such approval being to the scheme having effect either—
 - (i) without modifications (or further modifications); or
 - (ii) with such modifications as, after consulting with the Council and the authority, he thinks fit to make,and the scheme shall have effect accordingly.
- (5) Where three months have elapsed since the Customers Council has received a charges scheme in draft by virtue of paragraph (a) of subsection (4) above and the Council has neither given approval under that paragraph nor sent the draft to the Secretary of State under paragraph (b) of that subsection, the new water and sewerage authority which made the scheme may require the Council so to send it to him.
- (6) Where, under—
- (a) paragraph (a) of subsection (4) above, the Customers Council gives approval to a charges scheme it shall send a copy of the scheme as so approved to the Secretary of State;
 - (b) paragraph (b) of that subsection, the Secretary of State gives approval to such a scheme he shall send a copy of the scheme as so approved to the Council.
- (7) A new water and sewerage authority in making a charges scheme, and the Customers Council and the Secretary of State in considering whether to give approval to such a scheme, shall endeavour to ensure that no undue preference is shown, and that there is no undue discrimination, in the fixing of charges.

- (8) Nothing in any charges scheme shall affect any power of a new water and sewerage authority 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 them.

77 Publication of summary of charges scheme

A new water and sewerage authority shall, on a charges scheme made by them being approved under section 76(4) of this Act—

- (a) provide, at such offices of the authority, and at such other places, as the authority think fit, reasonable facilities—
 - (i) for inspection of the scheme by any person; and
 - (ii) for any person to take a copy of the scheme, or of an extract of it, on his paying such reasonable amount as the authority may determine; and
- (b) advertise those facilities, and publish such summary of the scheme as appears to them to be appropriate, in at least one newspaper circulating in their water and sewerage areas.

78 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 a new water and sewerage authority are a party—
- (a) supplies of water provided by them shall be treated for the purposes of this Part of this Act as services provided to the occupier for the time being of any premises supplied; and
 - (b) the provision of sewerage, and the disposal of sewage, provided by them shall be treated for such purposes as provision to, or as disposal for, the occupier 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 authority as is provided for foul water or surface water or both; or
 - (ii) are premises the occupier of which has, in respect of the premises, the benefit of facilities which drain to a sewer or drain so connecting;
 and such supply of water, provision of sewerage or disposal of sewage are referred to in subsection (2) below as “relevant services”.
- (2) Subject to subsection (3) below, charges which, under the preceding provisions of this Part of this Act, are fixed in relation to any premises by reference to volume may be imposed so that a person remains liable, in relation to those premises, to pay charges for relevant services provided by a new water and sewerage authority after the person has ceased to be occupier of the premises.
- (3) A person shall not be liable by virtue of subsection (2) above for any charges fixed in relation to any premises by a new water and sewerage authority except where—
- (a) he fails to inform the authority 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) In paragraph (b) of subsection (3) above, “the first relevant day” means whichever of the following first occurs after the person ceases to occupy the premises—
- (a) where the person informs the authority of the ending of his occupation (but not timeously), the twenty-eighth day after informing the authority;
 - (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 authority that he has become the new occupier of the premises.
- (5) In subsection (3)(a) above, reference to two working days is to a period of forty-eight hours calculated after disregarding any time falling on—
- (a) a Saturday or Sunday;
 - (b) Christmas Day or Good Friday; or
 - (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971.
- (6) In the application of this section to services which are the subject of a determination under section 79(1)(a) of this Act, references in subsection (1) above to the occupier of premises shall be construed as references to the person liable under or by virtue of sections 75 to 77 of the Local Government Finance Act 1992 to pay council tax in respect of the premises (“council tax” being construed in accordance with section 70(1) of that Act).

79 Collection of charges by local authority

- (1) The Secretary of State may by order determine—
- (a) that as respects services provided, within a financial year specified in the order, by a new water and sewerage authority (in this section referred to as the “providing authority”) to dwellings within the area of a local authority (in this section and in Schedule 10 to this Act referred to as the “collecting authority”), or within such part of that area as may be so specified, the collecting authority and not the providing authority shall demand and recover charges (other than charges in respect of a supply of water taken by meter) payable for those services under a charges scheme ; and
 - (b) that the collecting authority shall, at such intervals as may be so specified, make such payments to the providing authority (to whom no other amount shall be payable under the charges scheme for the services provided) as may be so specified or as may be determined in accordance with the provisions of the order.
- (2) A statutory instrument containing an order under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under subsection (1) above may include provision as to—
- (a) forms and procedures which the collecting authority shall adopt in demanding payment;
 - (b) circumstances in which a customer of the providing authority who is aggrieved by a decision or calculation of the collecting authority may appeal—

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- (i) except in a case specified by virtue of sub-paragraph (ii) below, to a valuation appeal committee (constituted under section 29 of this Act); or
 - (ii) in a case which the order may specify, to a body constituted under the order (or under a previous such order) to consider appeals as respects any such case;
 - (c) procedures to be followed in any appeal by virtue of paragraph (b) above;
 - (d) the provision, for the purposes of this section, of information by the providing authority to the collecting authority; or
 - (e) the keeping by the collecting authority of accounts and records as respects their functions by virtue of this section and the exhibition of, or of copies of, such accounts and records to the providing authority.
- (4) Schedule 10 to this Act shall apply as respects the recovery by diligence of charges payable to a collecting authority by virtue of the foregoing provisions of this section.
- (5) In subsection (1)(a) above, “dwelling” has the same meaning as in Part II of the Local Government Finance Act 1992.

80 Power to demand and recover charges not to affect duty to maintain domestic water supply etc

Subsections (1)(b) of section 74 and (1), (3) and (4) of section 79 of this Act are without prejudice to the duties of a new water and sewerage authority under section 6 of the 1980 Act (which include the duty to maintain a supply of wholesome water provided to meet a requirement for domestic purposes) or to the entitlements of any person under section 12 or 13 of the 1968 Act (which include the entitlement of an occupier of premises to drain into public sewers to which the drains or private sewers of the owner of the premises are connected).

81 Reduced charges

- (1) The Secretary of State may make regulations as regards any case where—
- (a) a person is, under a charges scheme, liable to pay an amount to a new water and sewerage authority or to a local authority; and
 - (b) conditions prescribed in the regulations are fulfilled.
- (2) The regulations may provide that the amount the person is liable to pay shall be an amount which—
- (a) is less than the amount it would be but for the regulations; and
 - (b) is determined in accordance with rules prescribed in the regulations.
- (3) The conditions mentioned in subsection (1)(b) above, and the rules referred to in subsection (2)(b) above, may be prescribed by reference to such factors as the Secretary of State thinks fit.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

82 Arrears of charges: restrictions on voting

- (1) This section applies at any time to a member of a local authority, or a member of a committee of a local authority or of a joint committee of two or more local authorities (including in either case a sub-committee), if at that time a charge payable by virtue of section 79(1) of this Act has become payable by him and has remained unpaid for at least two months.
- (2) Subject to subsection (4) below, if a member to whom this section applies is present at a meeting of the authority or committee at which any matter concerning how the authority are to exercise such functions as they have by virtue of section 79 of this Act is a subject of consideration, he shall, at the meeting and as soon as practicable after its commencement, disclose the fact that this section applies to him and shall not vote on any question with respect to the matter.
- (3) If a person fails to comply with subsection (2) above, he shall be guilty of an offence, and shall for each such offence be liable on summary conviction to a fine not exceeding level 3 on the standard scale, unless he proves that he did not know—
 - (a) that this section applied to him at the time of the meeting; or
 - (b) that the matter in question was a subject of consideration at the meeting.
- (4) Subsections (1) to (3) of section 41 of the 1973 Act (removal or exclusion of disability) shall apply in relation to, and to any disability imposed by, this section as they apply in relation to, and to any disability imposed by, section 38 of that Act (provisions as to disability of members of authorities from voting).
- (5) In subsection (1) above “joint committee” has the meaning given by section 235(1) of the 1973 Act.