



# Water Industry Act 1999

## 1999 CHAPTER 9

### PART I

#### WATER CHARGES IN ENGLAND AND WALES

#### **1 Disconnection for non-payment of charges.**

(1) After subsection (1) of section 61 of the <sup>M1</sup>Water Industry Act 1991 (disconnection for non-payment of charges) there is inserted—

“(1A) The power conferred by subsection (1) above is not exercisable in relation to any premises specified in Schedule 4A to this Act.”

(2) After Schedule 4 to the Water Industry Act 1991 there is inserted, as Schedule 4A, the Schedule set out in Schedule 1 to this Act.

#### **Marginal Citations**

M1 1991 c.56.

#### **2 Prohibition of use of limiting devices.**

After section 63 of the Water Industry Act 1991 there is inserted—

*“ Use of limiting devices*

#### **63A Prohibition of use of limiting devices.**

(1) A water undertaker shall be guilty of an offence under this section if it uses a limiting device in relation to any premises specified in Schedule 4A to this Act, with the intention of enforcing payment of charges which are or may become due to the undertaker in respect of the supply of water to the premises.

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- (2) For the purposes of this section “a limiting device”, in relation to any premises, means any device or apparatus which—
- (a) is fitted to any pipe by which water is supplied to the premises or a part of the premises, whether that pipe belongs to the undertaker or to any other person, and
  - (b) is designed to restrict the use which may be made of water supplied to the premises by the undertaker.
- (3) An undertaker does not commit an offence under this section by disconnecting a service pipe to any premises or otherwise cutting off a supply of water to the premises.
- (4) An undertaker guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

### **3 Undertakers to charge in accordance with charges schemes.**

- (1) In section 142 of the <sup>M2</sup>Water Industry Act 1991 (powers of undertakers to charge), in subsection (2) for “Subject to subsections (3) and (3A)” there is substituted “ Subject to subsections (2A), (3) and (3A) ” and after subsection (2) there is inserted—

“(2A) Paragraph (b) of subsection (2) above shall not have effect in relation to—

- (a) charges for the supply of water to a dwelling, or
- (b) charges for the provision of sewerage services in respect of a dwelling,

but this subsection does not affect any agreement made before the commencement of section 3 of the Water Industry Act 1999.

(2B) In subsection (2A) above, “dwelling” has the meaning given by paragraph 1(2) of Schedule 4A to this Act.”

- (2) In section 143 of that Act (charges schemes), in subsection (5)(a) after “a relevant undertaker” there is inserted “ in a case not falling within section 142(2A) above ”.

#### **Marginal Citations**

M2 [1991 c.56.](#)

### **4 Making and approval of charges schemes.**

- (1) Section 143 of the Water Industry Act 1991 (charges schemes) is amended as follows.
- (2) In subsection (1), after “which” there is inserted “ has effect in relation to a specified period of twelve months and ”.
- (3) At the end there is inserted—
- “(6) A charges scheme shall not take effect unless it has been approved by the Director.
  - (7) The Secretary of State may give guidance to the Director on the exercise of his power under subsection (6) above; and the Director shall have regard to that guidance in the exercise of that power.

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- (8) The Secretary of State shall arrange for any guidance given by him under subsection (7) above to be published in such manner as he considers appropriate.
- (9) The Director may not exercise his power under subsection (6) above for the purpose of limiting the total revenues of relevant undertakers from charges fixed by or in accordance with charges schemes.”

## 5 Regulations concerning charges schemes.

After section 143 of the <sup>M3</sup>Water Industry Act 1991 (charges schemes), there is inserted—

### “143A Regulations as to provisions to be included in charges schemes.

- (1) The provisions of any charges scheme under section 143 above must comply with any requirements prescribed by the Secretary of State by regulations.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may—
  - (a) prescribe items with respect to which a consumer is, or is not, to be liable to pay a charge;
  - (b) make provision as to the matters by reference to which charges may be fixed and as to methods and principles to be adopted in calculating and imposing charges;
  - (c) require alternative bases of charging to be made available to consumers; and
  - (d) require special provision, including exemption from specified charges, to be made for the purpose of assisting individuals who are or would be liable to pay any charges and who fall within any class of individuals appearing to the Secretary of State to require special provision.
- (3) Regulations under this section imposing requirements for the purpose mentioned in subsection (2)(d) may—
  - (a) prescribe the classes of persons for whom special provision is to be made in relation to any premises by reference to matters such as age, ill-health or disability, the age, ill-health or disability of any of their dependants or of any other persons who have their homes in the premises, or their financial circumstances;
  - (b) make provision as to the method by which a person may establish his entitlement to assistance under the regulations; and
  - (c) make provision as to responsibility for costs incurred for the purpose of establishing that entitlement.
- (4) The power to make regulations under this section may not be exercised for the purpose of limiting the total revenues of relevant undertakers from charges fixed by or in accordance with charges schemes.”

#### Commencement Information

- II** [S. 5](#) wholly in force at 23.12.1999; [s. 5](#) in force for certain purposes at Royal Assent see [s. 17\(2\)\(f\)](#); [s. 5](#) in force insofar as not already in force at 23.12.1999 by [S.I. 1999/3440](#), [art. 2\(b\)](#)

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### Marginal Citations

M3 1991 c.56.

## 6 Right of consumer to elect for charging by reference to volume.

After section 144 of the <sup>M4</sup>Water Industry Act 1991 there is inserted—

### *“ Restrictions on charging*

#### **144A Right of consumer to elect for charging by reference to volume.**

- (1) Where—
- (a) water is supplied by a water undertaker to premises in which, or in any part of which, a person has his home, and
  - (b) charges in respect of those premises are fixed by virtue of any charges scheme under section 143 above without reference to the volume of water supplied,
- the consumer may at any time give the undertaker a notice (in this section referred to as a “measured charges notice”) requiring the undertaker to fix charges in respect of the supply by reference to the volume of water supplied.
- (2) Subject to subsection (3) below, a water undertaker must give effect to a measured charges notice before the end of a period determined in accordance with the undertaker’s charges scheme.
- (3) A water undertaker is not obliged to give effect to a measured charges notice if—
- (a) it is not reasonably practicable to fix charges in respect of the premises by reference to the volume of water supplied, or
  - (b) to do so would involve the incurring by the undertaker of unreasonable expense.
- (4) Any dispute between a water undertaker and a consumer as to the application of paragraph (a) or (b) of subsection (3) above may be referred to the Director for determination under section 30A above by either party to the dispute.
- (5) Where—
- (a) either the conditions in subsection (6) below or the conditions in subsection (7) below are satisfied in relation to premises in respect of which a measured charges notice has been given, and
  - (b) such other conditions as may be prescribed are also satisfied in relation to the premises,
- the consumer may, at any time before the end of the period of twelve months beginning with the day on which the supply began to be measured by volume for charging purposes, revoke the measured charges notice by notice to the water undertaker.
- (6) The conditions in this subsection are—
- (a) that the person who gave the measured charges notice had not given any previous measured charges notice in relation to the premises, and
  - (b) that he remains the consumer in respect of the premises.

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- (7) The conditions in this subsection are—
- (a) that the person who gave the measured charges notice has, since the notice was given, ceased to be the consumer in respect of the premises,
  - (b) that neither he nor the person who has become the consumer had given any previous measured charges notice in respect of the premises, and
  - (c) that any person who was in occupation of the premises when the measured charges notice was given remains in occupation.
- (8) Where a measured charges notice has been revoked under subsection (5) above, the water undertaker must—
- (a) if reasonably practicable, before the end of the period of twelve months referred to in that subsection, or
  - (b) in any other case, as soon as reasonably practicable after the end of that period,
- revert to fixing the charges for the supply in respect of the premises without reference to the volume of water supplied.
- (9) If and so long as a water undertaker is obliged under subsection (2) above to fix charges for the supply of water in respect of any premises by reference to the volume of water supplied, a sewerage undertaker is under a corresponding obligation to fix charges in respect of foul water drainage provided by the sewerage undertaker in respect of those premises by reference to that volume.
- (10) If a water undertaker is obliged under subsection (8) above to fix charges without reference to volume, a sewerage undertaker is under a corresponding obligation in respect of charges for services provided by it.
- (11) Any charges scheme under section 143 above—
- (a) must contain provision for determining the period mentioned in subsection (2) above, and
  - (b) shall have effect subject to the preceding provisions of this section.”

**Marginal Citations**

M4 1991 c.56.

**7 Restriction on change in basis of charging.**

After section 144A of the <sup>M5</sup>Water Industry Act 1991 there is inserted—

**“144B Restriction on undertakers’ power to require fixing of charges by reference to volume.**

- (1) Subsection (2) below applies where—
- (a) water is supplied to any premises in which, or in any part of which, a person has his home,
  - (b) charges in respect of those premises have previously been fixed without reference to volume, and
  - (c) such conditions as may be prescribed are satisfied in relation to the premises.

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- (2) Where this subsection applies, a relevant undertaker may not by virtue of any charges scheme under section 143 above begin to fix the charges in respect of those premises by reference to volume unless either—
- (a) the consumer—
    - (i) has given the undertaker a measured charges notice under section 144A above which has not been revoked under that section, or
    - (ii) has consented to the charges in respect of the premises being so fixed and has not revoked that consent under section 144A, or
  - (b) there has been a change in the occupation of the premises and no charges have yet been demanded from the person who has become the consumer.
- (3) A change in the persons occupying any premises does not constitute a change in the occupation of the premises for the purposes of subsection (2)(b) above if any person who was in occupation of the premises before the change remains in occupation after the change.
- (4) Where a consumer gives consent for the purposes of subsection (2)(a)(ii) above in relation to premises in which, or in any part of which, a person has his home, he shall be treated for the purposes of subsections (5) to (8) of section 144A above as having given a measured charges notice under that section.”

**Commencement Information**

**I2** S. 7 wholly in force at 1.4.2000; s. 7 in force for certain purposes at Royal Assent see s. 17(2)(f); s. 7 in force insofar as not already in force at 1.4.2000 by S.I. 1999/3440, art. 3(b)

**Marginal Citations**

**M5** 1991 c.56.

**8 Charging by reference to rateable value.**

Section 145 of the <sup>M6</sup>Water Industry Act 1991 (which prevents charging by reference to rateable value in respect of services provided after 31st March 2000) shall cease to have effect.

**Marginal Citations**

**M6** 1991 c.56.

**9 Restriction on charging for metering works.**

In section 148 of the Water Industry Act 1991, in subsection (2)—

- (a) for paragraph (c) there is substituted—
  - “(c) in the case of premises which do not consist of or include any building or part of a building which is occupied as a private dwelling-house, any sums which it is entitled to recover from that person by virtue of section 64(3)(b) above;”, and
- (b) for paragraph (e) there is substituted—

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- (“e) in the case of premises which do not consist of or include any building or part of a building which is occupied as a private dwelling-house, any expenses incurred in consequence of the exercise by the consumer of any option to be charged by the undertaker in relation to those premises by reference to volume rather than by reference to other matters.”

## 10 Extension of power to carry out works in connection with metering.

- (1) Section 162 of the <sup>M7</sup>Water Industry Act 1991 (works in connection with metering) is amended as follows.
- (2) In subsection (1), for paragraph (a) there is substituted—
- “(a) subsection (1A) below applies to a relevant undertaker in respect of any premises; and”
- (3) After subsection (1) there is inserted—
- “(1A) This subsection applies to a relevant undertaker in respect of any premises if—
- (a) the undertaker has fixed any charges in relation to any premises by reference to volume,
  - (b) the undertaker is entitled so to fix any charges because the person who is the consumer in relation to the premises for the purposes of Chapter I of Part V of this Act has exercised his right to give—
    - (i) a measured charges notice under section 144A above, or
    - (ii) any consent for the purposes of section 144B(2)(a)(ii) above,and has not revoked the measured charges notice or consent under section 144A, or
  - (c) the undertaker has given notice of its intention of so fixing any charges—
    - (i) within the period specified in the notice, or
    - (ii) in a case where it is not for the time being entitled so to fix the charges, if and when it becomes entitled to do so.”
- (4) In subsection (4), for “subsection (1)(a)” there is substituted “ subsection (1A)(c) ”.

### Marginal Citations

M7 1991 c.56.

## 11 Rights of tenants in relation to metering.

After section 209 of the Water Industry Act 1991, there is inserted—

### “209A Rights of tenants in relation to metering.

- (1) Subject to subsection (3) below, no express or implied term of any tenancy is to be regarded—

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- (a) as excluding or restricting the exercise by the tenant of any right to give—
    - (i) a measured charges notice under section 144A above, or
    - (ii) any consent for the purposes of section 144B(2)(a)(ii) above,
  - (b) as preventing the installation or connection, in pursuance of such a notice or consent given by the tenant, of a meter for use in determining the charges which may be fixed in relation to water supplied to the premises comprised in the tenancy, or
  - (c) as requiring any consent to be obtained in relation to such installation or connection.
- (2) In subsection (1) above “tenancy” includes a licence which is treated as a tenancy by virtue of section 79(3) of <sup>M8</sup>the Housing Act 1985; and references to a “tenant” are to be construed accordingly.
- (3) Subsection (1) above does not apply where the tenancy is a fixed term tenancy for a term of less than six months; and for this purpose “fixed term tenancy” means any tenancy other than a periodic tenancy.”

**Marginal Citations**  
**M8** 1985 c.68.

**PART II**

THE WATER INDUSTRY COMMISSIONER FOR SCOTLAND

**12 Water Industry Commissioner for Scotland.**

<sup>F1</sup>(1) .....

<sup>F1</sup>(2) .....

(3) For the purposes of the <sup>M9</sup>Transfer of Undertakings (Protection of Employment) Regulations 1981—

(a) the functions of the Customers Council are to be treated as transferring to the Water Industry Commissioner for Scotland on the date on which this section comes into force, and

(b) the transfer is to be treated as the transfer of an undertaking, and the Regulations shall apply to the transfer (whether or not they would apply apart from this provision).

<sup>F1</sup>(4) .....

**Textual Amendments**  
**F1** S. 12(1)(2)(4) repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 26(2)(a)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**



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#### Marginal Citations

**M9** S.I. 1981/1794.

**F2** **13** .....

#### Textual Amendments

**F2** S. 13 repealed (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 26(2)(b)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

### PART III

#### SUPPLEMENTAL

#### 14 Application to Wales and Scotland.

- (1) Subsection (2) below applies to an Order in Council under section 22 of the <sup>M10</sup>Government of Wales Act 1998 (transfer of Ministerial functions) if the Order in Council contains a statement that it makes no provision which is not—
  - (a) provision about functions conferred by or by virtue of this Act; or
  - (b) provision in connection with such provision.
- (2) An Order in Council to which this subsection applies—
  - (a) shall not be subject to subsection (4)(a) of that section (affirmative resolution of both Houses of Parliament); but
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) For the purposes of the <sup>M11</sup>Scotland Act 1998, this Act so far as it extends to Scotland shall be taken to be a pre-commencement enactment within the meaning of that Act.

#### Marginal Citations

**M10** 1998 c.38.

**M11** 1998 c.46.

#### 15 Minor and consequential amendments and repeals.

- (1) Schedule 3 to this Act (minor and consequential amendments) has effect.
- (2) Schedule 4 to this Act (repeals) has effect.

#### Commencement Information

**I3** S. 15 wholly in force at 1.4.2000; s. 15 in force for certain purposes at Royal Assent see s. 17(2)(e); s. 15 in force for certain purposes (S.) at 1.11.1999 by S.S.I. 1999/133, **art. 1(2)**, 2(b)(c); s. 15(1) in

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force for certain purposes at 23.12.1999 by [S.I. 1999/3440](#), [art. 2\(c\)](#); [S. 15\(1\)\(2\)](#) in force for certain purposes at 1.4.2000 by [S.I. 1999/3440](#), [art. 3\(d\)\(e\)](#)

## 16 Financial provision.

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums so payable under any other Act.

## 17 Short title, commencement and extent.

- (1) This Act may be cited as the Water Industry Act 1999.
- (2) The following provisions of this Act shall come into force on the day on which this Act is passed—
  - (a) section 1 and Schedule 1,
  - (b) section 2,
  - (c) section 8,
  - (d) section 14,
  - (e) section 15 and Schedule 4, so far as they relate to the repeal of section 145 of the <sup>M12</sup>Water Industry Act 1991 and the heading preceding it, and
  - (f) so much of any other provision of this Act as confers any power to make subordinate legislation.
- (3) The remaining provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.
- (4) An order under subsection (3) above may include such transitional provisions, consequential provisions or savings as the Secretary of State considers appropriate for the purposes of, or in connection with, the provisions to which it applies.
- (5) In this Act—
  - (a) Part I extends to England and Wales only,
  - (b) Part II extends to Scotland only, and
  - (c) section 15 and Schedules 3 and 4 have the same extent as the enactments which they amend or repeal.
- (6) Except as provided by subsection (5)(c) above, this Act does not extend to Northern Ireland.

### Subordinate Legislation Made

- P1** [S. 17\(3\)](#) power partly exercised (26.10.1999): 1.11.1999 appointed for specified provisions by [S.S.I. 1999/133](#), [art. 2](#)  
[S. 17\(3\)](#) power partly exercised (22.12.1999): different dates appointed for specified provisions by [S.I. 1999/3440](#), [arts. 2, 3](#)

### Commencement Information

- I4** [S. 17\(3\)\(4\)](#) in force for certain purposes at Royal Assent see [s. 17\(2\)\(f\)](#)

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**Marginal Citations**

**M12** [1991 c.56](#).

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**Commencement Orders yet to be applied to the Water Industry Act 1999**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2003/1 art. 2Sch.](#) commences (2002 c. 41)