

*These notes refer to the Water Industry Act 1999
(c.9) which received Royal Assent on 30 June 1999*

WATER INDUSTRY ACT 1999

EXPLANATORY NOTES

BACKGROUND

English and Welsh Provisions

5. The provisions in Part I of this Act are based on a Government consultation document, 'Water Charging in England and Wales: A New Approach', published in April 1998. A response by the Government to the consultation exercise, 'Water Charging in England and Wales: Government Decisions following Consultation', was published on 18 November 1998.

Water Charging in England and Wales

6. There are two principal ways in which water consumers are charged by water companies. Most are charged on the basis of an unmeasured charge, which is usually based on the rateable value of the property. Others are charged by reference to volume, as measured by a water meter. Different water companies have different policies relating to water metering (e.g. whether they offered meter installation free of charge). The charges made by a water company for water and sewerage are set out in the company's charging scheme, and most domestic customers are charged on this basis. Some people are charged on the basis of an agreement with the water company.

Disconnection

7. Until now, if consumers did not pay their water and sewerage bills, water companies had the power to disconnect the supply. Water companies also argued that they were not prohibited from restricting the amount of water available for a consumer's use if they did not pay their bill. The Act removes the power to disconnect water supply for non-payment, or to limit the supply with the intention of enforcing payment, from a list of different premises. These premises are private dwelling houses, caravans, houseboats, houses in multiple occupation and sheltered accommodation (where these are someone's main home) and children's homes, residential care homes, prisons and detention centres, schools, premises used for children's daycare, institutions of further and higher education, hospitals, nursing homes, GPs' and dentists' surgeries (including surgeries set up as primary care pilot schemes) and premises occupied by the emergency services.

Basis of water charging - unmeasured charges

8. For properties built before 1990, where consumers pay on an unmeasured basis for water and sewerage services, their charges are usually calculated by reference to the rateable value of the property. Under section 145 of the Water Industry Act 1991, companies were prevented from continuing to base charges for water and sewerage services on rateable value after 31 March 2000.

Charging by reference to volume

9. The main alternative basis of charging for domestic customers for water and sewerage services is by reference to the volume of water used, as measured by a water meter. The present situation, which will continue until the relevant provisions of this Act come into force and charges schemes become subject to them, is as follows. Water companies are able, at their discretion, to require customers to move to a charge based on the volume of water supplied. Customers do not have a statutory right either to move to a measured charge or to remain on an unmeasured charge. Where water meters are fitted at the company's request, they have to be installed free of charge. Where a company agrees to install a meter at a customer's request, the company is not obliged to do that free of charge. Some water companies offer customers the option of a free meter. Other companies do not.
10. A relatively small but growing number of households in England and Wales (an expected average of 18% across the country by the end of the 1999-2000 charging year) pay on the basis of a measured charge, some through choice, some where a water company has required it (for example, where a household uses a garden sprinkler) or because the household has moved into a house with a meter. Since no property built since 1990 will have a rateable value, most new houses have meters. Some people's water bills will be lower if they pay on a measured basis, but some people will have higher bills than if they were paying on an unmeasured basis. Concern has been expressed that this could bring hardship to those with high water use who cannot reduce their demand, or who can do so only at the expense of health or hygiene. Two examples of these groups, mentioned in the Government's consultation document on water charging, are those with medical conditions requiring higher than usual water use and large families on low incomes.

Rights for tenants to choose the basis of water charging

11. In general, tenants have the same rights as any other consumers to choose the basis on which they are charged for water and sewerage services. However, some tenants need their landlords' consent for the alteration or improvement of their properties either under the statutory provisions of the Housing Acts 1980 and 1985 or under their agreements with their landlords.

Scottish Provisions

12. Part II of the Local Government etc. (Scotland) Act 1994 established three water and sewerage authorities for Scotland and the Scottish Water and Sewerage Customers Council.
13. The Customers Council is responsible for representing the interests of the water industry customers in Scotland, approving the water and sewerage authorities' customer codes of practice, and investigating any customer complaints not resolved between the complainant and the relevant water and sewerage authority. It also has primary responsibility for approving charges schemes proposed by the water and sewerage authorities. Responsibility for economic and efficiency regulation of the water and sewerage authorities is a function of the Secretary of State transferred to the Scottish Ministers under the Scotland Act 1998.
14. In June 1997, the Secretary of State for Scotland announced a review of the Scottish water industry, including consideration of the role and functions of the Customers Council in relation to the regulation of the industry. The review identified a consensus that the current division between price regulation by the Customers Council and efficiency regulation by the Secretary of State had proved untenable. It recommended creating a new statutory, professional regulator responsible for economic regulation in all its aspects, and for promoting the customer interest. The Secretary of State endorsed the recommendation in the statement about the review that he made to the House of Commons on 16 December 1997.

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15. The Scottish provisions in the Act give effect to this recommendation. They dissolve the Customers Council and establish the Water Industry Commissioner for Scotland. The Commissioner will assume most of the existing duties of the Council and will have new advisory functions in relation to the fixing of water and sewerage charges. The provisions also establish Water Industry Consultative Committees for each of the water and sewerage authorities. The Consultative Committees will advise the Commissioner on the promotion of the interests of customers of the authority in question.