

EXECUTIVE NOTE

THE PROVISION OF WATER AND SEWERAGE SERVICES (REASONABLE COST) (SCOTLAND) REGULATIONS 2006

(S.S.I. No. 2006/120)

The above instrument was made in exercise of the powers conferred on the Scottish Ministers by section 1(3C) of the Sewerage (Scotland) Act 1968 (as amended by section 29 of the Water Environment and Water Services (Scotland) Act 2003) and section 6(2D) of the Water (Scotland) Act 1980 (as amended by section 29 of the Water Environment and Water Services (Scotland) Act 2003). The instrument is subject to negative resolution parliamentary procedure.

Background

Section 1 of the Sewerage (Scotland) Act 1968 (“the 1968 Act”) and section 6 of the Water (Scotland) Act 1980 (“the 1980 Act”) respectively require Scottish Water to make new connections to the public sewerage and water supply systems where it is possible to do so at reasonable cost. Section 29 of the Water Environment and Water Services (Scotland) Act 2003 (“the 2003 Act”) amended these sections, including inserting new section 1(3C) to the 1968 Act and section 6(2D) to the 1980 Act, which make provision in relation to the calculation of reasonable cost. This provides that Scottish Ministers may make regulations to determine what is reasonable cost for the purposes of those sections.

Policy Objectives

Ministers have set their charging policy and investment objectives for Scottish Water for the period 2006-10, under sections 29D and 56A of the Water Industry (Scotland) Act 2002 (“the 2002 Act”). These provide that Scottish Water is required to meet the costs of providing strategic capacity required for new developments and that developers are required to meet the costs of additional local capacity, subject to a reasonable cost contribution from Scottish Water. The Provision of Water and Sewerage Services (Reasonable Cost) (Scotland) Regulations 2006 determine what that reasonable cost contribution should be, by specifying what matters are to be taken into, or left out of, account in calculating the contribution and the method of calculation.

The Regulations clarify Scottish Water’s duties to make new connections to the public sewerage and water supply systems and, for the types of connection that the Regulations apply to, they replace previous non-statutory arrangements operated by Scottish Water.

The formulae set out in the Regulations calculate the benefit to Scottish Water of a new connection, by calculating a proportion of the future income it will bring Scottish Water. It has the effect of allocating up to a maximum contribution towards each connection based on an amortised payment of the average charge income collected over a period of 12 years.

The Regulations

Regulation 2 provides that the reasonable cost of the connection of a dwelling to the public sewerage system or the public water supply system is, respectively, the amount calculated under regulation 4(1) or 5(1). Regulation 3 makes provision in relation to the premises and infrastructure in respect of which a reasonable cost payment is not available. In respect of connections to be made under the 1968 Act, a reasonable cost contribution is not available for connections to a dwelling which comprise only the construction of a drain, or which Scottish Water is otherwise obliged to provide either in whole or in part (regulation 3(1)). In respect of connections to be made under the 1980 Act, a reasonable cost contribution is not available for connections to a dwelling which comprise only the construction of a service pipe, or which Scottish Water is otherwise obliged to provide either in whole or in part (regulation 3(2)).

Regulations 4 and 5 set the threshold at or below which Scottish Water's duty to provide a connection to the public sewerage or water supply systems engages. Regulation 4 provides that the reasonable cost of a connection to the public sewerage system is the cost of the connection (calculated with regard to the matters specified in regulation 6) or the cost calculated in accordance with the formula specified in regulation 4(2) and subject to regulation 4(3), whichever amount is less. Regulation 5 makes equivalent provision for a connection to the public water supply system.

Regulations 6(1) and 7(1) specify the matters to be taken into account when calculating the cost of a connection to the public sewerage and water supply systems, which comprise those costs which are considered by Scottish Water to be reasonably and necessarily incurred in providing the connection. Regulations 6(2) and 7(2) make provision in relation to the costs which may not be taken into account when calculating the cost of a connection. In particular, any connection charge which may be levied by Scottish Water under a charges scheme (made under section 29A of the 2002 Act) is to be excluded from the calculation of the connection costs for the purposes of the Regulations.

Consultation

In 2005, the Scottish Executive consulted a wide range of individuals and organisations on the principles of charging for water and sewerage services and on what Scottish Water's investment objectives should be. The outcome of this consultation influenced the overall policy on these Regulations which Ministers set out in February 2005. Subsequently draft Regulations were published for consultation in August 2005, and a report on that consultation has been published by the Scottish Executive.¹ The Regulations have also been prepared in close consultation with Scottish Water and the Water Industry Commission.

Financial Effects

The Regulations clarify the costs which it is reasonable for Scottish Water to bear in fulfilling its duty to make connections to the public sewerage system and the public water supply system. These costs will be met by Scottish Water. Ministers have required the Water Industry Commission, through the statement of policy that they issued under section 29D of

¹ Links to the consultation paper and consultation report can be found on the Scottish Executive website at: www.scotland.gov.uk/Topics/Environment/Water/17583/10148

the 2002 Act, to ensure that the level of borrowing that it sets for Scottish Water is sufficient to enable Scottish Water to fund the costs that it will incur in complying with the Regulations. The Water Industry Commission therefore made an allowance for these costs in its determination of Scottish Water's charges for the period 2006-10.

Scottish Executive
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