



Water Charges Equalisation Act 1977

1977 CHAPTER 41

An Act to provide for the payment of equalisation levies and payments by and to statutory water undertakers in England and Wales and for purposes connected therewith. [29th July 1977]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Equalisation levies payable by certain statutory water undertakers.

- (1) If for the year of 1978 or any subsequent year it appears to the Secretary of State that, in proportion to the number of premises to which a supply of water is provided on an unmeasured basis, the relevant financing costs of a statutory water undertaker are less than the average of the relevant financing costs of all statutory water undertakers in England and Wales, he may by order direct the undertaker to pay to the National Water Council a levy (in this Act referred to as an “equalisation levy”) of such amount as may be specified in the direction in accordance with subsection (7) below.
- (2) Subject to subsection (9) below, in relation to each statutory water undertaker by which, in the year ending 31st March 1976, a supply of water was provided on an unmeasured basis, the Secretary of State shall determine for the purposes of this Act the amount which appears to him to represent the value at that date of that part of the undertaker’s assets which was then referable to the supply of water on an unmeasured basis.
- (3) In this section the “qualifying asset value” of a statutory water undertaker for any accounting period means the amount determined under subsection (2) above in relation to the undertaker, less such amount as appears to the Secretary of State to be appropriate in respect of depreciation for any previous accounting period or periods beginning on or after 1st April 1976.
- (4) Any reference in this Act to the relevant financing costs of a statutory water undertaker for any year is a reference to an amount which is determined by reference to the

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qualifying asset value of the undertaker for the corresponding accounting period and consists of the aggregate of—

- (a) such percentage (in this subsection referred to as “the qualifying percentage”) of the interest payable by the undertaker in the corresponding accounting period as appears to the Secretary of State to be referable to indebtedness incurred with respect to assets whose value is reflected in the qualifying asset value for that period, and
 - (b) so much of the provision for depreciation made by the undertaker in the corresponding accounting period as appears to the Secretary of State to be referable to any such assets, and
 - (c) in the case of a statutory water company, the qualifying percentage of the franked payments, within the meaning of Part V of the Finance Act 1972, made by the company in the corresponding accounting period.
- (5) For the purposes of this Act, in relation to the year 1978 or any subsequent year the corresponding accounting period of a statutory water undertaker is the accounting period of the undertaker which is co-terminous with or begins in that year.
- (6) Any reference in this Act to the average unit cost of statutory water undertakers for any year is a reference to the figure produced by dividing—
- (a) the aggregate of the relevant financing costs of statutory water undertakers for that year
- by
- (b) the total number of premises in England and Wales to which in that year a supply of water is provided by statutory water undertakers on an unmeasured basis.
- (7) Subject to section 3(3) below, where the Secretary of State gives a direction to a statutory water undertaker under subsection (1) above for a year, the amount of the equalisation levy to be specified in the direction shall be such as appears to him to represent the amount by which the product of—
- (a) the average unit cost of statutory water undertakers for that year, and
 - (b) the number of premises to which in that year a supply of water is provided by the undertaker on an unmeasured basis,
- exceeds the relevant financing costs of the undertaker for that year.
- (8) Any equalisation levy which a statutory water undertaker is directed to pay shall be payable by such instalments and at such times as may be specified in, or determined in accordance with, the direction.
- (9) Nothing in this section or section 2 below shall apply to any statutory water undertaker which in the year ending 31st March 1976 supplied less than one hundred million gallons of water.

2 Equalisation payments to be made to certain statutory water undertakers.

- (1) For each year for which an equalisation levy is payable to the National Water Council, the Secretary of State shall by order direct the Council to pay to such statutory water undertakers as may be specified in the direction payments (in this Act referred to as “equalisation payments”) of such amounts as may be so specified, being equal in the aggregate to the equalisation levies payable to the Council for that year.

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- (2) Subject to section 3(3) below, in giving a direction under this section for any year the Secretary of State shall seek to secure that—
 - (a) an equalisation payment is made to any statutory water undertaker whose relevant financing costs for that year exceed the product of the average unit cost of statutory water undertakers for that year and the number of premises to which in that year a supply of water is provided by the undertaker on an unmeasured basis; and
 - (b) the amount of the equalisation payment made to a statutory water undertaker is such as represents, as near as may be, the excess referred to in paragraph (a) above.
- (3) Any equalisation payment which the National Water Council is directed to pay shall be payable by such instalments and at such times as may be specified in, or determined in accordance with, the direction.

3 Supplementary provisions as to directions and orders.

- (1) An order containing a direction under section 1 or section 2 above shall be made before the beginning of the year to which the direction relates and, accordingly, the determination of the amount of any equalisation levy or equalisation payment specified in such a direction shall be made by reference to such estimates and other information as may be available to the Secretary of State at the time the order is made.
- (2) An order under section 1 or section 2 above may be varied or revoked by a further order made before the beginning of the year to which it relates.
- (3) As soon as practicable after the end of each year in respect of which orders have been made under sections 1 and 2 above the Secretary of State shall determine, by reference to the accounts of statutory water undertakers and other information then available to him, the extent of the discrepancy (if any) between—
 - (a) the amount of any equalisation levy or equalisation payment specified in a direction for that year; and
 - (b) what the amount of that levy or payment would have been if the final figures for that year had been available to him before that direction was made;and in determining the amount of any equalisation levy or equalisation payment for a later year, the Secretary of State shall make such adjustment as is necessary to take account of any discrepancy determined for a previous year under this subsection.
- (4) Before making any order under this Act, the Secretary of State shall consult the National Water Council.
- (5) Any power to make an order under this Act shall be exercisable by statutory instrument and no order shall be made in the exercise of such a power unless a draft of the order has been laid before and approved by a resolution of the Commons House of Parliament.

4 Impact of equalisation levies and payments on water charges.

- (1) For the purposes of Part III (financial provisions) of the Water Act 1973 and, in particular, subsection (4) of section 30 of that Act (in fixing charges for services, facilities etc., a water authority shall have regard to the cost of performing those services and providing those facilities)—

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- (a) any equalisation levy which a water authority is required to pay in respect of any year shall be treated as an addition to the cost to the authority in the corresponding accounting period of providing water supplies on an unmeasured basis; and
 - (b) any equalisation payment received by a water authority in respect of any year shall be applied in the reduction of the amount which would otherwise represent the cost to the authority in the corresponding accounting period of providing water supplies on an unmeasured basis.
- (2) Notwithstanding anything in any enactment,—
- (a) the amount of any equalisation levy which a statutory water company is required to pay in respect of any year, and
 - (b) the amount of any equalisation payment which a statutory water company is entitled to receive in respect of any year,
- shall be passed on in full, in the form of increased or reduced charges, to the persons to whom water is supplied by the company on an unmeasured basis in the corresponding accounting period.

5 Information and accounts.

- (1) With respect to the year 1978 and each subsequent year, each statutory water undertaker in relation to which a determination falls to be or has been made under section 1(2) above shall furnish to the Secretary of State such estimates and other information as he may reasonably require for the purpose of his functions under sections 1 to 3 above.
- (2) Without prejudice to the duty of the National Water Council under paragraph 38 of Schedule 3 to the Water Act 1973 to keep proper accounts and proper records in relation to the accounts, the Council shall keep a separate account of equalisation levies received and equalisation payments made by the Council for each financial year.

6 Citation, interpretation, commencement and extent.

- (1) This Act may be cited as the Water Charges Equalisation Act 1977.
- (2) This Act and the Water Acts 1973 and 1976 may be cited together as the Water Acts 1973 to 1977; and in this Act “statutory water company” and “statutory water undertakers” have the same meaning as in the Water Act 1973.
- (3) This Act shall come into force at the expiration of the period of three months beginning with the day on which it is passed.
- (4) Any reference in this Act to the supply of water on an unmeasured basis is a reference to its supply to consumers whose charges for the supply are not payable by reference to the volume of water supplied.
- (5) Any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, applied or extended by or under any other enactment.
- (6) This Act extends to England and Wales only.