



# Public Utility Transfers and Water Charges Act 1988

## 1988 CHAPTER 15

### *Water charges*

#### **2 Charges by statutory water companies**

- (1) Subject to the provisions of this Act and to section 2 of the Water Act 1981 (exemption from charges for water for fire fighting), a statutory water company shall have power—
  - (a) to fix such charges for the services performed, facilities provided or rights made available by the company (including separate charges for separate services, facilities or rights or combined charges for a number of services, facilities or rights) as the company thinks fit; and
  - (b) to demand, take and recover charges fixed under this section from persons for whom the company performs the services, provides the facilities or makes the rights available.
- (2) A statutory water company may fix any of its charges by means of a scheme under section 31 of the 1973 Act (charges schemes) or by agreement with any person; and accordingly the said section 31 shall have effect as if references in subsections (1) to (5) of that section to a water authority included references to a statutory water company.
- (3) Nothing in this section or in any charges scheme made by virtue of subsection (2) above shall affect any power of a statutory water company to fix its charges under any power conferred otherwise than by virtue of this section.

#### **3 Provisions regulating the charges of all water undertakers**

- (1) The following provisions of this section shall apply in relation to the exercise by any means whatever of any power conferred on any water undertakers by section 2 above or section 30 of the 1973 Act (water charges by water authorities) to fix their charges for any services, facilities or rights.

- (2) Except in so far as this Act otherwise provides, the water undertakers may fix the charges by reference to such matters, and may adopt such methods and principles for the calculation and imposition of the charges, as appear to the undertakers to be appropriate; and, subject to subsection (3) below, they may make different charges for the same service, facility or right in different cases.
- (3) Subject to section 4(5) below, it shall be the duty of the water undertakers in fixing the charges for any services, facilities or rights—
  - (a) to have regard to the cost of performing those services, providing those facilities or making those rights available; and
  - (b) to ensure that no undue preference is shown to, and that there is no undue discrimination against, any class of persons.
- (4) The water undertakers shall comply with any directions given by the Secretary of State to them, or to water undertakers of any relevant description or water undertakers generally—
  - (a) as to the matters by reference to which any charges are to be fixed; or
  - (b) as to the methods and principles to be adopted under subsection (2) above;and in giving a direction for the purposes of this subsection the Secretary of State shall have regard to the duties imposed by subsection (3) above.
- (5) Subsection (6) of section 12 of the 1973 Act (right of statutory water company to reasonable return) shall apply in relation to the giving by the Secretary of State of a direction under subsection (4) above to a statutory water company as it applies to the settlement or variation of arrangements under that section.
- (6) Charges fixed in relation to any premises by reference to volume may be imposed so that a person is made liable in relation to those premises to pay charges for services, facilities or rights performed, provided or made available after he has ceased to be the occupier of the premises; but such a person shall not be made so liable except where—
  - (a) he fails to inform the undertakers 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 whichever of the following first occurs after he ceases to occupy the premises, that is to say—
    - (i) where he informs the undertakers of the ending of his occupation of the premises less than two working days before, or at any time after, he ceases to occupy them, the twenty-eighth day after he so informs them;
    - (ii) any day on which any meter would normally have been read in order for the amount of the charges to be determined;
    - (iii) any day on which any other person informs the undertakers that he has become the new occupier of the premises.
- (7) In subsection (6) above the references to two working days are references to a period of forty-eight hours calculated after disregarding any time falling on a Saturday or Sunday or on Christmas Day, Good Friday or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.
- (8) Nothing in any enactment passed before this Act shall operate in relation to the water undertakers so as to oblige them to fix separate charges for separate services, facilities or rights; but the powers in relation to which this section has effect shall not be

exercised so as to contravene any local statutory provision which expressly provides that no charge shall be made for a particular service, facility or right.

#### **4 Metering trials schemes**

- (1) This section applies to any charges scheme made by any water undertakers under section 31 of the 1973 Act which—
  - (a) contains a statement that it is made for the purpose of enabling the undertakers to conduct a trial of fixing charges in relation to premises by reference to volume; or
  - (b) amends or revokes any charges scheme containing such a statement or any charges scheme to which this section applies by virtue of this paragraph.
- (2) Subject to the following provisions of this section, water undertakers shall not make a scheme to which this section applies unless—
  - (a) they have submitted a proposed scheme to the Secretary of State for his approval;
  - (b) the Secretary of State has approved the proposed scheme, either unconditionally or subject to such conditions (including conditions requiring modifications of the proposed scheme) as may, after consultation with the undertakers, be specified by him in the approval; and
  - (c) the scheme made by the undertakers complies with any conditions specified in the approval and, subject to that, is the same as the proposed scheme.
- (3) In determining whether to give an approval for the purposes of subsection (2) above to any proposed scheme, or whether to make any such approval subject to any conditions, the Secretary of State shall have regard, in particular—
  - (a) to the interests of any persons on whom charges are imposed by the scheme; and
  - (b) to whether provision which appears to him to be appropriate has been, or is to be, made with respect to the matters specified in subsection (4) below;but, in the case of a proposed scheme submitted after 1st April 1989, the Secretary of State shall be entitled, without having regard to those matters, to refuse his approval on the grounds only that the scheme has been submitted to him after that date.
- (4) The matters mentioned in subsection (3) above are—
  - (a) the methods by which and principles on which any charges fixed in relation to any premises by the scheme are calculated and imposed;
  - (b) the selection and identification for the purposes of the scheme of the locality in which those premises are situated and of those premises within that locality;
  - (c) the period during which any charges fixed by the scheme in relation to those premises are imposed;
  - (d) the consultations about the proposal or, as the case may be, about the implementation, effect or operation of the scheme which have been or are to be conducted with persons who are likely to be, or have been, affected by the scheme and with any bodies representing the interests of those persons;
  - (e) the handling of any representations about the implementation, effect or operation of the scheme; and
  - (f) the supply to the Secretary of State of such information about the matters specified in paragraphs (a) to (e) above or otherwise about the implementation,

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*Status: This is the original version (as it was originally enacted).*

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effect or operation of the scheme as the Secretary of State may from time to time require.

- (5) Subsections (3) and (4) of section 3 above and subsection (3) of section 31 of the 1973 Act (directions of the Secretary of State) shall not apply in relation to the exercise of any power to fix charges by means of a scheme to which this section applies; but the Secretary of State may have regard to the matters mentioned in subsection (3) of section 3 above when he is considering, for the purposes of subsection (3) above, whether appropriate provision has been made with respect to the methods by which and principles on which any charges are calculated and imposed.
- (6) The Secretary of State shall not be required to consider whether to give an approval for the purposes of subsection (2) above to any proposed scheme unless the undertakers who submitted the scheme to him supply him with such information as he may require for the purpose of enabling him to determine whether to give his approval and to what conditions, if any, his approval should be subject.
- (7) If it appears to the Secretary of State appropriate to do so for any reason whatever he may give a direction to any undertakers who have made a scheme to which this section applies requiring them—
  - (a) to amend or revoke the scheme; or
  - (b) to comply with any provision made by or for the purposes of the scheme with respect to any matter specified in subsection (4)(d), (e) or (f) above;and subsection (2) above shall not apply to the making of any scheme to give effect to a direction under this subsection.
- (8) Where any water undertakers fail to comply with a direction under subsection (7) above—
  - (a) the Secretary of State may, instead of enforcing the direction by mandamus, himself exercise any power of the undertakers to amend or revoke the scheme in question or, as the case may be, to secure compliance with the provision in question; and
  - (b) any expenses which the Secretary of State certifies were incurred by him in the exercise of any power under paragraph (a) above shall, on demand, be paid to him by the undertakers.
- (9) Any administrative expenses incurred by the Secretary of State in consequence of this section shall be paid out of money provided by Parliament.

## **5 Provisions relating to meters etc**

- (1) Schedule 1 to this Act shall have effect for the purpose of securing the installation of meters and of making other provision in relation to meters and the premises where they are installed.
- (2) The Secretary of State may by regulations make such provision, supplementing the provisions of this Act, as appears to him to be appropriate with respect to the installation of meters, with respect to the connection, disconnection, use, maintenance, authentication and testing of meters and with respect to any related matters.
- (3) Without prejudice to the generality of subsection (2) above, regulations under that subsection may—
  - (a) regulate the positioning, whether inside or outside the building or other premises in relation to which the meter is to be used, of any meter or of any

- pipes or apparatus appearing to any water undertakers to be required for the purpose of facilitating the use of any meter;
- (b) make any other provision which appears to the Secretary of State to be appropriate with respect to any such pipes or apparatus;
  - (c) provide for a reading from a meter to be proved in such manner as may be specified in the regulations and for a reading from a meter to be such evidence as may be so specified of the volume of water supplied to, or of effluent discharged from, any premises;
  - (d) fix the method of determining the amount of the charges to be paid where it appears that a meter has given, or may have given, an incorrect reading;
  - (e) require water undertakers to include with any demand for payment such information about the fixing of their charges as may be specified in the regulations;
  - (f) require persons other than water undertakers to pay the expenses incurred by water undertakers in doing anything under the regulations or to pay contributions towards those expenses;
  - (g) provide for the payment of compensation in respect of anything done by water undertakers under the regulations;
  - (h) require disputes arising under the regulations to be referred to arbitration.
- (4) Regulations under subsection (2) above—
- (a) may make different provision for different cases, including different provision in relation to different persons, circumstances or localities;
  - (b) may contain such incidental, consequential and transitional provisions as appear to the Secretary of State to be appropriate; and
  - (c) without prejudice to the preceding provisions of this section or to section 6(2) below, may repeal or otherwise modify any local statutory provision.
- (5) The power to make regulations under subsection (2) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.