

*These notes refer to the Water Industry (Financial Assistance)  
Act 2012 (c.8) which received Royal Assent on 1 May 2012*

# **WATER INDUSTRY (FINANCIAL ASSISTANCE) ACT 2012**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes relate to the Water Industry (Financial Assistance) Act 2012 which received Royal Assent on 1 May 2012. They have been prepared by the Department for Environment, Food and Rural Affairs (Defra) in order to assist the reader of the Act in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

### **SUMMARY AND BACKGROUND**

3. The Water Industry (Financial Assistance) Act will enable the Government to meet commitments it made in the *Autumn Statement 2011* and *Water for Life CM 8230* (the “*Water White Paper*”) published by the Government on 8 December 2011.
4. The Water Industry (Financial Assistance) Act amends the Water Industry Act 1991 (WIA) by adding two sections after section 154. The Act enables the Secretary of State to provide financial assistance to water and sewerage undertakers (appointed under the WIA and commonly called “water companies”) and other water suppliers licensed under the WIA to secure a reduction in water and sewerage bills where desirable to do so. It also enables the Secretary of State to give financial assistance in connection with the construction of water or sewerage infrastructure or the carrying out of works to existing water or sewerage infrastructure where the construction or works involve exceptionally large or complex works. The powers apply only in respect of water or sewerage undertakers whose areas are wholly or mainly in England.

### **TERRITORIAL EXTENT AND APPLICATION**

5. The Act extends to England and Wales.
6. The power in the provision inserted by section 1 may be exercised by the Secretary of State in relation to charges payable by customers in the areas of undertakers wholly or mainly in England.
7. The power in the provision inserted by section 2 may be exercised by the Secretary of State in relation to infrastructure that can be used by undertakers whose areas are wholly or mainly in England.
8. The areas of appointment of water and sewerage undertakers do not follow the national boundary between England and Wales. Under section 108 of, and paragraph 19 of Schedule 7 to, the Government of Wales Act 2006, the National Assembly for Wales has legislative competence in relation to “water supply” but not in relation to the

“appointment and regulation of any water undertaker whose area is not wholly or mainly in Wales.” The Government proceeds in accordance with a convention that it will not normally ask Parliament to legislate in relation to matters within the legislative competence of the National Assembly for Wales without the Assembly’s consent. Defra obtained the agreement of the Welsh Ministers that no Legislative Consent Motion in the National Assembly for Wales was required for any provision in this Act.

9. The Act does not extend to Scotland or Northern Ireland.

## **COMMENTARY**

### ***Section 1 – Financial assistance to reduce charges***

10. Section 154A of the Water Industry Act 1991, as inserted by section 1, creates a power to give financial assistance to secure a reduction in charges for customers of water supply and sewerage services.
11. Under this section the Secretary of State can provide assistance in any form, including grants, loans and guarantees, for the purpose of securing a reduction in charges for water supply or sewerage services. Assistance may be given to a relevant undertaker or licensed water supplier in any manner. It may be given directly or it may be given indirectly, in which case it would be administered by a relevant undertaker.
12. The power is discretionary and may be exercised for such reasons as the Secretary of State feels desirable. It may be exercised in respect of all customers in an undertaker’s area or a particular description of customers in such an area. The Secretary of State may make the assistance subject to terms and conditions.
13. In the *2011 Budget*, the Government committed to using public expenditure to support households who face water affordability pressures and households in areas with particularly high water charges. A commitment to make a payment to South West Water to reduce the charges of every South West Water household customer’s water and sewerage bill by £50 was announced in the *Autumn Statement 2011*. The background was described in the *Water White Paper*. Here it was explained that:  
  
“We have therefore decided to fund South West Water to enable it to cut bills by £50 per year for all household customers until at least the end of the next spending review period. This payment will be made transparently so it can be clearly demonstrated that all the benefit from this payment is passed through to customers. The Government will legislate to enable bills to be reduced from April 2013.

### ***Section 2 – Financial assistance for major works***

14. Section 154B of the Water Industry Act 1991, as inserted by section 2, creates a power to give financial assistance in connection with the construction of water or sewerage infrastructure or the carrying out of works in respect of existing water or sewerage infrastructure, if that, or the combination of the two, involves works which are exceptionally large or complex. The intended use of the infrastructure must include use by water or sewerage undertakers in the exercise of their duties to maintain a water supply and provide sewerage services under the WIA, but the financial assistance is not limited to cases where the undertaker is carrying out the construction or works or will have exclusive use of the infrastructure. Under this section the Secretary of State can provide assistance in any form, including grants, loans, guarantees and indemnities, the provision of insurance and by acquiring shares or securities in a body corporate.
15. The power is discretionary and may be exercised for such reasons as the Secretary of State feels desirable. The Secretary of State may make the assistance subject to terms and conditions.
16. The *Autumn Statement 2011* stated that the Government would, subject to affordability, consider using transparent forms of guarantee to support specific projects where

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this provides best value for money for taxpayers and users, recognising that the private sector cannot always bear every risk. This commitment was in line with Government confirmation in a November 2011 statement to Parliament that it was willing in principle to provide contingent financial support for exceptional risks in the construction of the Thames Tunnel, a sewerage infrastructure project designed to reduce the amount of untreated waste water being discharged into the River Thames.

**COMMENCEMENT**

17. [Sections 1](#) and [2](#) come into force two months after Royal Assent.

**HANSARD**

18. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
<b>House of Commons</b>		
Introduction	2 February 2012	Vol. 539 Col. 1034
Second Reading	29 February 2012	Vol. 541 Cols. 348-396
	6 March 2012	Vol. 541 Cols. 719-748
Committee and Third Reading	14 March 2012	Vol. 542 Cols. 266-340
<b>House of Lords</b>		
Introduction	15 March 2012	Vol. 736 Col. 392
Second Reading	27 March 2012	Vol. 736 Cols. 1380-1406
Royal Assent	1 May 2012	House of Lords Hansard Vol. 736 Col. 2114
		House of Commons Hansard Vol. 543 Col. 1371