

WATER AND SEWERAGE SERVICES (NORTHERN IRELAND) ORDER 2006

S.I. 2006 3336

EXPLANATORY MEMORANDUM

OVERVIEW OF THE ORDER

Part VII - Financial Provisions

88. Part VII deals with financial matters including the levying of charges for water and sewerage services by the undertaker. Amongst other things it gives effect to Government policy announced during consultation on water reform including:
- All customers to pay a direct charge for water and sewerage services received;
 - Charges will be calculated on a full cost recovery basis; and
 - Special measures will be taken to mitigate the impact of charges on low-income groups.
89. Much of the detail of these measures will be set out in the undertaker's scheme of charges (which will hence be influenced by Government policy) and regulations made by the Department.
90. [Article 200](#) enables undertakers to make charges for water and sewerage services provided by them. This includes, for example, charges for the provision of water and sewers to domestic households and commercial premises, the receipt of trade effluent into the sewerage system to be treated, drainage charges, and charges for connecting new premises to the water and sewerage system or the installation of meters.
91. Where the undertaker proposes to make charges it must (generally) set these out in an annual "charges scheme" (Article 201) which is approved by the Authority (as neither the Authority nor the undertaker will exist prior to April 2007, the first charges scheme will be made by the Department). The undertaker can also fix charges for its services by agreement with the person receiving the service but this does not apply to domestic water supply or domestic sewerage services. These charges must be set out in the charges scheme.
92. Those who do not receive either water and/or sewerage services – because they have a private water supply and/or a septic tank – will not be charged for the relevant service.
93. The detail of how charges are to be calculated is to be determined by the undertaker (Article 200(7)), subject to the Authority's approval of the charges scheme and any regulations made by the Department (as noted above, the Department will make the first scheme on the undertaker's behalf). Although the detail is not set out in the primary legislation, the Government has announced that domestic charges for water and sewerage will both consist of a standing charge and a variable element based on the discrete capital value of each property. The capital value of a property is the amount it would reasonably have sold for on the open market on a specified date, currently 1 January 2005, (see Schedule 2 to the Rates (Capital Values Etc.) (Northern Ireland) Order 2006); domestic rates will be based on individual capital values from

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April 2007. Water and sewerage charges for commercial premises will be based on metered usage or net annual values (the rateable value assessment which is based on an estimate of the rentable value of a property, currently at 2001 value levels – see Schedule 12 to the Rates (Northern Ireland) Order 1977). The details will be set out in the charges scheme to be implemented from 1 April 2007.

94. [Article 202](#) enables the Department to make regulations setting out matters with which any charges scheme must comply. In particular, it gives the Department power to specify groups for whom special provisions may be made. To implement the Government's announcements on providing assistance to lower income groups, the Department will introduce regulations setting out the basis for an affordability tariff. As announced in the Integrated Impact Assessment on Water Reform (December 2005), all those who are in receipt of housing benefit and rate rebate (and rate relief when introduced) will be eligible for support with their water and sewerage bills in the form of an affordability tariff. This will be based on the single person pension credit guarantee (an annual figure set by Parliament to be the minimum weekly income for a single pensioner household – currently £114) in combination with a scale based on property value. In addition, all 16/17 year-old householders, relevant children leaving care (as defined by the Children's Leaving Care Act (NI) 2002), and those in full-time education and training who are entitled to full rate relief will also be eligible for the affordability tariff. As Article 202 does not allow the Department to limit the amount of revenue the undertaker can derive from charges (the aim being to make water and sewerage services self-financing) any regulatory intervention which has such an effect has to be paid for either through higher charges in other areas, borrowing, government funding or some other means. The Government has undertaken to make grants to meet the costs of the affordability tariff.
95. [Article 203](#) clarifies that occupiers are liable for paying for water and sewerage charges, unless an agreement is made between the undertaker and some other person instead i.e. the owner. The remainder of the Article makes an occupier liable for charges after they have left particular premises if they fail to tell the undertaker that they have moved within the stipulated timescales.
96. [Articles 204](#) and [205](#) provide the undertaker's domestic customers with the right to choose to have their water and sewerage charges fixed "by reference to volume" – that is to have their water consumption metered. The Articles set out the procedures for someone to require the undertaker to charge by reference to volume – basically giving a person a year to decide whether they wish to continue to be charged by reference to volume or to return to unmetered charges. If there is a change of occupation of a house, the undertaker may continue to charge by reference to volume and a new occupier would not have a right to revert to unmetered charges ([Article 205](#)).
97. However, the Government has announced that it would be impractical to introduce widespread metering immediately, though its aim is to progress towards this. Accordingly, the right to elect to be metered under [Article 204](#) is subject to regulations which set out the classes of consumer to whom the right to be metered under this provision will apply. The Government proposes to make regulations for April 2007 which prescribe pensioners for the purpose of [Article 204](#). Accordingly, only pensioners will have the right to choose to be metered from April 2007. The policy of focusing initial access to metering on pensioners is to provide priority assistance to those who may have houses with higher capital values but low water consumption.
98. It should be noted that, under [Article 81](#) any properties newly connecting to the water and sewerage system will be required to have a meter installed and be required to be charged by reference to volume. This policy supports compliance with European directives – particularly the Water Framework Directive - which require the UK to promote the efficient use of water.
99. [Articles 206 to 208](#) set out a number of restrictions on the undertaker's ability to charge for various things. The undertaker cannot levy initial charges simply by virtue of

becoming responsible for supplying water or sewerage services (Article 206) though it can, of course, make charges for making new connections to the water and sewerage system. Like other charges, the detail of connection charges will be set out in the undertaker's charges scheme. The government's overall policy on connection charges – which will inform the charges scheme – is set out in its consultation document “Charges for Connections to the Water and Sewerage Networks (June 2006).

100. The undertaker cannot charge for water used for emergency purposes for fire fighting (Article 207) or for work in connection with the installation of meters where the meter is installed at the behest of the undertaker. But this does not cover new domestic connections where there is an obligation (Article 81) to have a meter installed or non-domestic meters.
101. [Articles 209-211](#) give the Department and the Authority powers to make regulations or orders setting out detailed matters on a number of miscellaneous charging matters, meter installation (Article 209), billing disputes (Articles 211), and the fixing of maximum charges by the Authority for services provided by a third party with an undertaker's help (Article 210). This last matter concerns circumstances in which, say, a harbour authority is responsible for supplying water to those within its area of responsibility but uses the undertaker's system to provide the supply.
102. [Article 213](#) enables the Department, with the approval of the Department of Finance and Personnel, to make grants to the undertaker for the purpose of meeting any costs or losses arising from the undertaker's compliance with regulations made by the Department under Article 202. As explained above, the Department will make regulations under Article 202 to provide assistance to low income groups in the form of an affordability tariff. This will result in a considerable loss of revenue for the undertaker as those assisted will not be required to pay their full charges. To make up this loss, the Government has agreed to provide the undertaker with a grant equal to the amount of revenue lost because of the cost of the affordability tariff.
103. To assist the introduction of water and sewerage charges, the Government has announced that charges will be phased in over a three year period. In the first year (2007/08), customers will be required to pay one third of their total bill, in the second year (2008/09), they will pay two thirds and in the third year (2009/10), the Government has said that average domestic charges will not exceed those in England and Wales. As with the affordability tariff, this will result in considerable lost revenue for the undertaker so Article 213(3) obliges the Department to make a grant to the undertaker to cover the cost of the phased introduction of charges.
104. By the 2009/10 billing year, it is intended that the undertaker will be self-financing and, subject to the Authority's approval of its annual charges scheme, it will determine the level of charges in accordance with the terms of the licence under which it was appointed. As the overall level of charges will be determined by the cost of delivering the service, the Government has announced the initiation of a major efficiency programme in Water Service to reduce the costs. This will be continued under the auspices of the Authority which will set overall efficiency targets for the undertaker and review prices on a quinquennial basis. The undertaker will not be able to increase costs over and above the limits set by the Authority unless the Authority makes a special determination. The arrangements are comparable to those governing other regulated utilities.