

Scottish Statutory Instrument 2002 No. 33

The Water Services Charges (Billing and Collection) (Scotland) Order 2002

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SCOTTISH STATUTORY INSTRUMENTS

2002 No. 33

WATER SUPPLY

The Water Services Charges (Billing and Collection) (Scotland) Order 2002

<i>Made</i>	<i>31st January 2002</i>
<i>Laid before the Scottish Parliament</i>	<i>1st February 2002</i>
<i>Coming into force</i>	<i>1st April 2002</i>

The Scottish Ministers, in exercise of the powers conferred by section 79 of the Local Government etc. (Scotland) Act 1994^[1] and of all other powers enabling them in that behalf, and after consultation with the Council on Tribunals as required by section 8(1) of the Tribunals and Inquiries Act 1992^[2] hereby make the following Order:

Citation, commencement and interpretation

1. - (1) This Order may be cited as the Water Services Charges (Billing and Collection) (Scotland) Order 2002 and shall come into force on 1st April 2002.

(2) In this Order-

"the Act" means the Local Government etc. (Scotland) Act 1994;

"the 1992 Act" means the Local Government Finance Act 1992^[3];

"the 1992 Regulations" means the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992^[4];

"the appropriate water authority", in relation to a local authority, means the water authority within whose water area (as specified in Schedule 8 to the Act) the area of that local authority is situated;

"dwelling" has the same meaning as in Part II of the 1992 Act;

"the East Authority" means the East of Scotland Water Authority;

"the first added area", "the second added area" and "the third added area" shall have the meanings respectively assigned to them in Schedule 8 to the Act;

"the North Authority" means the North of Scotland Water Authority;

"price index", in relation to a month, means the retail price index published by the Government Statistical Service for that month;

"relevant year" means the financial year 2002-03, 2003-2004 or 2004-05;

"sewerage charges" means charges payable under a charges scheme in respect of the provision of sewerage services to a dwelling in a relevant year;

"water authority" means the East Authority, the North Authority or the West Authority, and includes any such body acting as sewerage authority;

"water charges" means charges payable under a charges scheme in respect of the provision of water supply services to a dwelling in a relevant year (other than charges in respect of a supply of water taken by meter);

"water services charges" means sewerage charges and water charges;

"the West Authority" means the West of Scotland Water Authority.

Duty to demand and recover charges

2. Every local authority shall, as respects services provided in a relevant year by a water authority to dwellings within the area of the local authority, demand and recover the charges (other than charges in respect of a supply of water taken by meter) payable for those services under a charges scheme.

Payments by local authorities to water authorities

3. - (1) Subject to article 7 below, for each relevant year each local authority (other than those referred to in articles 4 and 5 below) shall pay to the appropriate water authority the sum ascertained in accordance with the following formula:-

$$(A - B) \times \frac{C}{C + D} - (E \times F)$$

Where-

A is the total amount paid to the local authority in question as council tax or water services charges for that relevant year by persons liable to pay that tax or those

charges;

B is any amount falling within the definition of A above which has been paid by a person and which-

(a) has subsequently been repaid to that person; or

(b) has subsequently been credited against a liability of that person to pay an amount which does not fall within that definition;

C is the total amount payable as water services charges in respect of dwellings in the area of the local authority in question;

D is the total amount payable as council tax for that relevant year in respect of dwellings in the area of the local authority in question;

E is the number of dwellings in the area of the local authority in question in respect of which water services charges are payable for that relevant year; and

F is-

(a) in respect of the financial year 2002-03 £4.34;

(b) in respect of the financial year 2003-04, the sum of £4.34 increased by the percentage increase between the price index for December 2001 and the price index for December 2002; and

(c) in respect of the financial year 2004-05, the sum calculated under (b) above increased by the percentage increase between the price index for December 2002 and the price index for December 2003.

(2) For the purpose of the definitions of C and D in paragraph (1) above, an amount is payable as water services charges or council tax if-

(a) it has been demanded by the local authority from a person appearing to that authority to be liable to pay it; and

(b) it-

(i) has been paid;

(ii) remains payable; or

(iii) has been written off by the local authority as irrecoverable.

4. Subject to article 7 below, for each relevant year the Perth and Kinross Council shall pay-

(a) to the North Authority a sum calculated in accordance with the formula in article 3(1) above, but for the purpose of that calculation the area of that Council shall be treated as if it did not include the first added area;

(b) to the East Authority a sum calculated in accordance with the formula in article 3(1) above, but for the purposes of that calculation the area of that Council shall be

treated as if it consisted only of the first added area.

5. - (1) Subject to article 7 below, for each relevant year the East Dunbartonshire Council and the North Lanarkshire Council shall each pay to the West Authority the sum ascertained in accordance with the formula in article 3(1) above, under deduction of the sum payable by each to the East Authority in accordance with paragraph (2) below.

(2) The sum payable by the East Dunbartonshire Council and by the North Lanarkshire Council to the East Authority shall be ascertained in accordance with the following formula:-

$$(G - H) \times \frac{J}{J + K} - (L \times F \times \frac{J}{J + M})$$

Where-

F has the same meaning as in article 3(1) above;

G is the total amount paid to the Council in question as council tax or water services charges for the relevant year by persons liable to pay that tax or those charges in respect of dwellings situated in the relevant area;

H is any amount falling within the definition of G above which has been paid by a person and which-

(a) has subsequently been repaid to that person; or

(b) has subsequently been credited against liability of that person to pay an amount which does not fall within that definition;

J is the total amount payable as water charges in respect of dwellings in the relevant area;

K is the total amount payable as council tax and sewerage charges for the relevant year in respect of dwellings in that area;

L is the number of dwellings in that area in respect of which water services charges are payable for the relevant year; and

M is the total amount payable as sewerage charges in respect of dwellings in that area.

(3) For the purposes of the definitions of J, K and M in paragraph (2) above, an amount is payable as water charges, sewerage charge or council tax if-

(a) it has been demanded by the Council in question from a person appearing to that Council to be liable to pay it; and

(b) it-

(i) has been paid;

(ii) remains payable; or

(iii) has been written off by that Council as irrecoverable.

(4) In paragraph (2) above, "the relevant Area" means-

- (a) as regards the East Dunbartonshire Council, the first added area and that part of the second added area situated within the area of that Council;
- (b) as regards the North Lanarkshire Council, that part of the second added area situated within the area of that Council.

6. - (1) Where a local authority is under an obligation to make payment to a water authority under article 3, 4 or 5 above, they shall, within 14 days of the end of each calendar month in the relevant year, pay to that water authority on account of that obligation an amount calculated by reference to the formula referred to in paragraph (2) below as applied at the end of the calendar month in question.

(2) The formula referred to in this paragraph is that set out in, or applied by, article 3, 4 or 5 above (as the case may be) except that, for the purposes of this paragraph, F shall be replaced by-

$$\frac{F}{12}.$$

(3) After the date when the last instalment payment under paragraph (1) above falls due, a local authority shall make further instalment payments to a water authority on account of such an obligation as is referred to in that paragraph at such intervals as may be agreed between the local authority and the water authority or, failing agreement, as may be determined by the Scottish Ministers.

(4) This article is subject to article 7 below.

Agreements between local authorities and water authorities

7. Any obligation imposed on a local authority by article 3(1), 4, 5(1) or 6 above may be varied by an agreement entered into between that local authority and the water authority to which the obligation in question is owed.

Forms and procedures for demanding payment

8. - (1) Where, at the time of serving on a person any notice demanding council tax for a relevant year in respect of a dwelling, it appears to a local authority that water services charges are payable by that person in respect of that dwelling and have not yet been demanded, they shall include a demand for those charges on that notice.

(2) No notice demanding water services charges in respect of a dwelling shall be served prior to service of any notice required to be served in respect of that dwelling and the relevant year under regulation 17(1) of the 1992 Regulations.

(3) Prior to service by a local authority of any such notice as is referred to in paragraph (1) above, that authority shall take reasonable steps to ascertain whether water services charges are payable in respect of the dwelling to which the notice relates.

(4) Where-

- (a) a water authority-

(i) begins to provide any services to a dwelling on any day in a relevant year subsequent to 1st April; or

(ii) ceases to provide any services to a dwelling on such a day; and

(b) it appears to that authority that as a consequence water charges or sewerage charges begin, or cease, to be payable in respect of that dwelling,

the authority shall so advise the local authority within the area of which the dwelling is situated.

9. - (1) Any notice issued by a local authority which includes a demand for water services charges must, subject to paragraph (2) below, contain the following details:-

(a) the gross amount payable as water charges, prior to application of any such reduction as is referred to in sub-paragraph (c) below;

(b) the gross amount payable as sewerage charges, prior to application of any such reductions as are referred to in sub-paragraphs (c) and (d) below;

(c) the amount of any reduction of water service charges as a consequence of the notice relating to a period in respect of which the council tax payable for the dwelling in question is reduced under section 79 of the 1992 Act;

(d) the amount of any reduction of charges attributable to the Domestic Water and Sewerage Charges (Reduction) (Scotland) Regulations 2002[5];

(e) the net amount payable as water services charges;

(f) the name, address and telephone number of the department or unit of the local authority to which enquiries regarding the notice may be directed, together with a note of the hours during which persons may attend at that department or unit with enquiries or during which they may make enquiries by telephone.

(2) Where a notice issued by a local authority demands the payment of both water services charges and council tax-

(a) the amount referred to in paragraph (1)(c) above need not be shown on the notice separately from the amount of reduction of council tax attributable to discounts under section 79 of the 1992 Act; and

(b) the amount referred to in paragraph (1)(e) above need not be shown on the notice separately from the net amount of council tax payable.

10. For the purposes of demanding payments due to a local authority under this Order, regulations 20 to 25 and 27 of, and Schedule 1 to, the 1992 Regulations shall apply in respect of water services charges as those provisions applied in respect of the council water charge for the year beginning on 1st April 1995.

Appeals

11. - (1) A person may appeal to a valuation appeal committee if aggrieved by-

- (a) any decision of a local authority that water services charges are payable to them in respect of a dwelling or that that person is a person liable to pay those charges; or
- (b) any calculation made by a local authority of an amount which that person is liable to pay to them in respect of water services charges.

(2) No appeal may be made under paragraph (1) above unless-

- (a) the aggrieved person serves on the local authority a written notice, stating the matter by which and the grounds on which that person is aggrieved; and
- (b) one of the conditions mentioned in paragraph (3) below is fulfilled.

(3) The conditions are that-

- (a) the aggrieved person is notified in writing, by the authority on which that person served the notice, that the authority believe the grievance is not well founded, but the person is still aggrieved;
- (b) the aggrieved person is notified in writing, by the authority on which that person served the notice, that steps have been taken to deal with the grievance, but the person is still aggrieved;
- (c) the period of two months, beginning with the date of service of the aggrieved person's notice, has ended without that person being notified under sub-paragraph (a) or (b) above.

12. - (1) An appeal under article 11 above shall be initiated by serving a written notice of appeal on the local authority.

(2) The notice served under paragraph (1) above shall contain the following information:-

- (a) the grounds on which the appeal is made; and
- (b) the date on which the aggrieved person's notice under article 11(2)(a) above was served on the local authority.

(3) Where a person is aggrieved as mentioned in article 11(1) above, any notice of appeal under paragraph (1) above shall require to be served within 4 months of the date of service by that person of the first notice under article 11(2)(a) above bringing the grievance in question to the attention of the local authority.

(4) On the receipt of a notice under paragraph (1) above, the local authority shall transmit it to the secretary of the valuation appeal panel for the area of that authority.

(5) Part IV of the Council Tax (Alternations of Lists and Appeals) (Scotland) Regulations 1993^[6] shall apply to appeals under this Order as it applies to appeals under section 81(1) of the 1992 Act.

Accounts and records to be kept by local authorities

13. - (1) Without prejudice to the generality of section 96(1) of the Local Government (Scotland) Act 1973^[2], a local authority shall keep accounts and records of all transactions under this Order.

(2) Accounts and records of any transaction kept by a local authority under paragraph (1) above shall not be disposed of by them until at least 6 years have passed since the end of the financial year in which the transaction occurred.

(3) A water authority, or any person duly authorised by such an authority, shall have the right to inspect any accounts and records kept under paragraph (1) above by a relevant local authority at such times as may be agreed between the water authority and the local authority, and the water authority shall be entitled to receive such copies of those accounts and records as they may reasonably require.

(4) For the purposes of paragraph (3) above, a local authority are "a relevant local authority" in relation to a water authority if they are obliged to make payments to that water authority under article 3, 4 or 5 above.

ROSS FINNIE

A member of the Scottish Executive

St Andrew's House, Edinburgh
31st January 2002

EXPLANATORY NOTE

(This note is not part of the Order)

Responsibility for water and sewerage services in Scotland rests with the three water authorities established under the Local Government etc. (Scotland) Act 1994. This Order provides, as regards financial years 2002-2003 to 2004-2005, for each local authority in Scotland to be responsible for demanding and recovering charges payable in respect of services provided by the water authorities to dwellings in the area of the local authority (other than charges for a supply of water taken by meter).

Provision is made for the local authorities to account to the water authorities for sums collected (articles 3 to 7), for the forms and procedures to be used or followed by the local authorities in demanding payment (articles 8 to 10) and for chargepayers to have a right of appeal to the relevant valuation appeal committee (articles 11 and 12). Article 13 requires each local authority to keep accounts and records of all transactions under the Order and gives the appropriate water authority the right to inspect such accounts and records.

Notes:

[1] 1994 c.39. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998(c.46).[back](#)

[2] 1992 c.53.[back](#)

[3] 1992 c.14.[back](#)

[4] S.I. 1992/1332, as amended by S.I. 1992/3290, 1996/430 and S.S.I. 2000/261.[back](#)

[5] S.S.I. 2002/47.[back](#)

[6] S.I. 1993/355, as amended by S.I. 1996/580.[back](#)

[7] 1973 c.65.[back](#)

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