

NORFOLK



ISLAND

WATER ASSURANCE CHARGES ACT 1991

[Consolidated as at 17 August 2003
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

TABLE OF PROVISIONS

1. Short title
2. Interpretation
3. Assessment of charges
4. Assessment method — general rules
5. Assessment method — special cases
6. Notice of assessments
7. Recovery of annual charge
- 7A. Concessionary charges for certain beneficiaries
8. Variation of assessments
9. Review of assessments
10. Powers of entry
- 10A. Regulations
11. Transitional
Schedule



Water Assurance Charges Act 1991

An Act to impose charges for use of the Water Assurance Scheme, and for related purposes

Short title

1. This Act may be cited as the *Water Assurance Charges Act 1991*.

Interpretation

2. (1) In this Act, unless the contrary intention appears —
- “assessment” means an assessment under section 3 of the annual charge to be paid in relation to premises;
 - “connection”, in relation to premises, means the direct or indirect connection of a sanitary facility that is in or on the premises to a sewer;
 - “instrument of registration”, in relation to a tourist accommodation house, means an instrument referred to in section 13 of the *Tourist Accommodation Act 1984*;
 - “premises” includes land or a building;
 - “scheduled purpose” means a purpose specified in column 2 of the Schedule.

(2) Unless the contrary intention appears, an expression defined in the *Environment Act 1990* has the same meaning in this Act as it does for the purposes of that Act.

(3) For the purposes of this Act, premises are to be taken to have been connected at the time when a sanitary facility that is in or on the premises is first able to be effectively discharged into a sewer.

Assessment of charges

3. (1) Subject to subsection 3(3), as soon as practicable after the connection of premises, an authorised officer must make an assessment of the annual charge to be paid in relation to the premises.

(2) An authorised officer may make an assessment of the annual charge to be paid in relation to premises that are not connected if —

- (a) the owner requests the making of the assessment;
- (b) the authorised officer is satisfied that the premises are likely to be connected within 3 months of the making of the request; and
- (c) sufficient information is available to the authorised officer to enable an assessment to be made.

(3) An assessment under subsection 3(1) is not to be made in relation to premises if, before the connection of the premises, an assessment under subsection 3(2) has been made in respect of the same premises.

Assessment method — general rules

4. (1) An authorised officer is to conduct an assessment in relation to premises by ascertaining —

- (a) whether the premises are substantially used for one scheduled purpose or for more than one scheduled purpose;
- (b) if the premises are substantially used only for one scheduled purpose —
 - (i) that purpose; and
 - (ii) the maximum number of natural persons who could reasonably be expected to be present at the same time in or about the premises for that purpose, or, in the case of a commercial laundry, the maximum number of persons ordinarily concurrently served by that laundry; and
- (c) if the premises are substantially used for more than one scheduled purpose —
 - (i) those purposes; and
 - (ii) the maximum number of natural persons who could reasonably be expected to be present at the same time in or about the premises for each of those purposes, or, in the case of a commercial laundry, the maximum number of persons ordinarily concurrently served by that laundry.

(2) After ascertaining the matters referred to in subsection 4(1), the authorised officer is to assess an annual charge payable in relation to the premises, which is not to exceed an amount calculated in accordance with the Schedule.

Assessment method — special cases

5. (1) In spite of section 4, the annual charge payable in relation to a house is 13 fee units.

(2) If a house is also substantially used for one or more scheduled purposes, subsection 5(1) does not prevent an assessment being made under section 4 in relation to that purpose or those purposes.

(3) For the purposes of subparagraphs 4(1)(b)(ii) and 4(1)(c)(ii), where premises are a tourist accommodation house the maximum number of natural persons who could reasonably be expected to be present at the same time in or about the premises as guests is to be taken to be equal to the maximum number of guests who may, in accordance with the instrument of registration of the tourist accommodation house, lawfully be accommodated in the tourist accommodation house.

Notice of assessments

6. (1) As soon as practicable after an assessment has been completed, a notice of assessment is to be served on the owner of the premises to which the assessment applies.

(2) A notice of assessment is to specify —

- (a) the scheduled purpose or purposes, if any, referred to in subparagraph 4(1)(b)(i) or 4(1)(c)(i);
- (b) except in relation to a house - the maximum number of persons referred to in subparagraph 4(1)(b)(ii) or 4(1)(c)(ii); and
- (c) the annual charge payable in relation to the premises.

(3) A notice of assessment may be served by post.

Recovery of annual charge

7. (1) Where, in relation to premises, the annual charge specified in a notice of assessment —

- (a) exceeds 27 fee units — the charge is payable in 12 equal monthly instalments, commencing on the last day of the month in which the premises were connected; or

- (b) does not exceed 27 fee units — the charge is payable in 2 equal six-monthly instalments, commencing on the last day of the sixth month after the connection of the premises.

(2) A charge payable under subsection 7(1) is to be paid to the Administration.

(3) A charge payable under subsection 7(1), but not paid, may be sued for by the Administration in a Court of competent jurisdiction.

(4) A charge payable under subsection 7(1) in relation to premises is payable by the person who is the owner for the time being of the premises, even if the charge was incurred in respect of a period during which the person was not the owner of the premises.

Concessionary charges for certain beneficiaries

7A. (1) Subject to this section, the executive member may, by written instrument, declare —

- (a) a person or class of persons to be an eligible person or eligible class; and
- (b) that the annual charge that would otherwise be payable under section 7 by the person, or by persons included in the eligible class, is to be waived, or reduced by an amount or percentage specified in the declaration.

(2) The executive member must not make a declaration under subsection 7A(1) unless the person, or each person included in the class of persons, is a person who is in receipt of a benefit —

- (a) within the meaning of the *Social Services Act 1980*; or
- (b) under —
 - (i) the *Social Security Act 1947* of the Commonwealth or *Veterans' Entitlements Act 1986* of the Commonwealth; or
 - (ii) any other prescribed law,and who would, but for that benefit, be eligible for a benefit under the *Social Services Act 1980*.

(3) A person, or person included in a class of persons, specified in a declaration under subsection 7A(1) is not liable, in spite of section 7, to pay —

- (a) if the declaration waives the annual charge that would otherwise be payable by the person - any of the charge; or
- (b) if the declaration reduces the annual charge that would otherwise be payable by the person - the amount by which the charge is reduced.

Variation of assessments

8. If, after the service under section 6 of a notice of assessment in respect of premises, an authorised officer considers that a matter referred to in paragraph 4(1)(a), 4(1)(b) or 4(1)(c) may have changed since the making of the assessment which led to the service of the notice, the authorised officer may re-assess the premises, and this Act applies in relation to the re-assessment as if it were an initial assessment.

Review of assessments

9. Part IX of the *Environment Act 1990* applies to the making of an assessment as if the making of the assessment were a reviewable decision for the purposes of subsection 128(1) of that Act.

Powers of entry

10. An authorised officer may enter land or a building for the purpose of making an assessment in the same circumstances, and to the same extent, as if the officer were performing a function in connection with the administration of the *Environment Act 1990*, and sections 142, 143 and 144 of that Act apply accordingly.

Regulations

10A. The Administrator may make Regulations prescribing matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Transitional

11. (1) In relation to premises connected before the commencement of this Act, subsection 3(1) is to be read as if “as soon as practicable after the connection of premises” were omitted, and “as soon as practicable after the commencement of this Act” were substituted.

(2) A charge may be imposed under this Act in respect of a period beginning on the date of connection of premises, whether that date was before or after the date of commencement of this Act.

SCHEDULE

Sections 2 and 4

Column 1 Item	Column 2 Scheduled purposes	Column 3 Maximum number of persons referred to in subparagraph 4(1)(b)(ii) or 4(1)(c)(ii) – annual charge per person	Column 4 Minimum annual charge
		Fee units	Fee units
1	Restaurant in which liquor is sold	2	40
2	Restaurant in which liquor is not sold	0.8	40
3	Bar room (other than bar room forming part of a restaurant)	2	40
4	Food shop	3	40
5	Speciality shop	3	27
6	Shop other than food or speciality shop	3	13
7	Garage or service station	3	40
8	Tourist accommodation house – hotel	8.8	-
9	Tourist accommodation house – other than hotel	9.3	-
10	Tourist accommodation house – staff accommodation	5	13
11	Commercial laundry	1	-

NOTES

The *Water Assurance Charges Act 1991* as shown in this consolidation comprises Act No. 3 of 1991 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Water Assurance Charges Act 1991</i>	3, 1991	28.2.91	11
<i>Water Assurance Charges Amendment Act 1992</i>	13, 1992	24.12.92	
<i>Statutes Amendment (Fees) (No. 2) Act 1999</i>	17, 1999	17.7.00	

Table of Amendments

ad = added or inserted am = amended rep = repealed rs = repealed and substituted

Provision affected	How affected	
5	am	17, 1999
7	am	17, 1999
7A	ad	13, 1992
10A	ad	13, 1992
Schedule		
item 1	am	17, 1999
item 2	am	17, 1999
item 3	am	17, 1999
item 4	am	17, 1999
item 5	am	17, 1999
item 6	am	17, 1999
item 7	am	17, 1999
item 8	am	13, 1992; 17, 1999
item 9	am	13, 1992; 17, 1999
item 10	am	17, 1999

© Norfolk Island Government 2003

The *Copyright Act 1968* of the Commonwealth of Australia permits certain reproduction and publication of this legislation. For reproduction or publication beyond that permitted by the Act, written permission must be sought from the Legislative Counsel, Administration of Norfolk Island, Norfolk Island, South Pacific 2899.