SCOTTISH STATUTORY INSTRUMENTS

2005 No. 54

WATER SUPPLY

The Water Services Charges (Billing and Collection) (Scotland) Order 2005

Made - - - -	*2nd February 2005*
Laid before the Scottish Parliament - - - -	*3rd February 2005*
Coming into force - -	*1st April 2005*

The Scottish Ministers, in exercise of the powers conferred, by section 37 of the Water Industry (Scotland) Act 2002(**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 2005 and shall come into force on 1st April 2005.

(2) In this Order–

"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 2002 Act" means the Water Industry (Scotland) Act 2002;

"charges scheme" means a charges scheme made under section 31 of the 2002 Act for the relevant year;

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

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

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**5**); and "area", in relation to a local authority, means the local government area (within the meaning of that Act) for which the Council is constituted;

(**1**) 2002 asp 3, to which there are amendments not relevant to this Order.
(**2**) 1992 c. 53.
(**3**) 1992 c. 14, as relevantly amended by 1994 c. 39 (Schedule 13, paragraph 176), and S.S.I. 2005/51.
(**4**) S.I. 1992/1332, as amended by S.I. 1996/430, and S.S.I. 2000/166, 2000/261 and 2002/166.
(**5**) 1994 c. 39.

"the relevant year" means the period of 12 months beginning on 1st April 2005;

"Scottish Water" means the body corporate established by section 20(1) of the 2002 Act;

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

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

"water services charges" means sewerage charges and water charges.

Duty to demand and recover charges

2. Every local authority shall, as respects water supply and sewerage services provided in the relevant year by Scottish Water in the exercise of its core functions 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 Scottish Water

3.—(1) Subject to article 5 below, for the relevant year each local authority shall pay to Scottish Water 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 the 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 for the relevant year 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 the relevant year; and

"F" is, in respect of the relevant year, £4.76.

(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.—(1) Where a local authority is under an obligation to make payment to Scottish Water under article 3 above, it shall, within 14 days of the end of each calendar month in the relevant year, pay to Scottish Water 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 above 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 Scottish Water 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 Scottish Water or, failing agreement, as may be determined by the Scottish Ministers.

(4) This article is subject to article 5 below.

Agreements between local authorities and Scottish Water

5. Any obligation imposed on a local authority by article 3(1) or 4 above may be varied by an agreement entered into between that local authority and Scottish Water.

Forms and procedures for demanding payment

6.—(1) Where, at the time of serving on a person any notice demanding council tax for the 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, it shall include a demand for those charges in 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) Scottish Water–

(i) begins to provide any water supply and sewerage services to a dwelling on any day in the 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 Scottish Water that as a consequence water charges or sewerage charges begin or, as the case may be, cease, to be payable in respect of that dwelling,

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

7.—(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 reductions as are referred to in sub-paragraphs (c) and (d) 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;