SCOTTISH STATUTORY INSTRUMENTS

2002 No. 33

WATER SUPPLY

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

Made - - - -	*31st January 2002*
Laid before the Scottish Parliament - - - -	*1st February 2002*
Coming into force - -	*1st April 2002*

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;

(**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).
(**2**) 1992 c. 53.
(**3**) 1992 c. 14.
(**4**) S.I. 1992/1332, as amended by S.I. 1992/3290, 1996/430 and S.S.I. 2000/261.

"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:–

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

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.