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**Guidance note for the practical application
of weather-related exemptions in the
GSS Regulations**

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**SI 2008 No. 594. The Water Supply and Sewerage Services (Customer
Service Standards) Regulations 2008**

Guidance note

Practical application of GSS Regulations: Exemption from need to make a payment for failure to meet a standard related to severe or exceptional weather

This guidance note is intended to help companies in the practical application of the GSS Regulations. It is not intended to be a substitute for the GSS Regulations. It is the responsibility of each water and sewerage company or water only company to ensure that it understands and interprets correctly its obligations under the GSS Regulations. When considering regulatory decisions, in particular in determining disputes, we will consider the application of the GSS Regulations to the facts as they arise.

The guidance note is for companies to use in applying the minimum requirements of the GSS Regulations. If companies currently enhance the levels of service they provide to customers above the minimum standard as set out in the GSS Regulations, they can continue to do so and we would encourage companies to continue to enhance the service that they provide to customers.

Companies should use this guidance note to help them apply the GSS Regulations. We will monitor how the guidance is working in practice and review it if necessary.

In the table that follows the first column sets out extracts from each GSS Regulation with a weather-related payment exemption. Our guidance is set out in the neighbouring column. We have repeated for ease of reference our guidance against each regulation.

The guidance note refers to evidence of the reason for exemption. The company must retain this evidence and make it available to use and to the company's reporter. This is so that the company can demonstrate GSS compliance and verify its annual June return submission. The evidence can also be used for individual disputes.

Part 1 Severe weather: Regulations 6 (keeping of appointments), 7 (complaints, account queries and requests about payment arrangements), 9 (entitlement to a payment or credit where supply not duly restored)

Extract from GSS Regulations	Interpretation of severe weather
<p>Extracts from Regulation 6 – Keeping of appointments</p> <p>(1) This regulation applies if a representative of a relevant undertaker is to visit a customer’s premises in connection with the provision of water supply services or sewerage services.</p> <p>(6) However, the undertaker need not pay the customer under this paragraph if—</p> <p style="padding-left: 20px;">(a) the customer cancels the appointment;</p> <p style="padding-left: 20px;">(b) the undertaker cancels the appointment by giving the customer at least 24 hours’ notice, orally or in writing, of the cancellation; or</p> <p style="padding-left: 20px;">(c) it became impracticable, for a reason mentioned in paragraph 7, for the representative to keep the appointment, and the undertaker could not reasonably have so foreseen in time to enable it—</p> <p style="padding-left: 40px;">(i) to cancel the appointment giving 24 hours’ notice; or</p> <p style="padding-left: 40px;">(ii) to make other suitable arrangements for a representative to attend the premises at the arranged time.</p> <p>(7) The reasons are—</p> <p style="padding-left: 20px;">(a) severe weather;</p> <p style="padding-left: 20px;">(b) industrial action by employees of the undertaker; and</p> <p style="padding-left: 20px;">(c) the act or default of a person who is not—</p> <p style="padding-left: 40px;">(i) an officer, employee or agent of the undertaker; or</p> <p style="padding-left: 40px;">(ii) a person acting on behalf of the undertaker or of an agent of the undertaker.</p>	<p>Regulation 6 states that if the company is unable to visit the customer because of severe weather the company does not have to make a payment. Instances where the payment exemption for Regulation 6 may apply include (one or more of the following may apply):</p> <ul style="list-style-type: none"> • Access to property blocked by: <ul style="list-style-type: none"> – snow; or – flooding; or – fallen trees or other obstacles following gales. • Regional snow fall or flooding has prevented significant number of relevant staff attending work or affected company property preventing staff from attending customer property. • Weather conditions have occurred that have made working conditions unsafe for employees of and/or contractors of the company to undertake the required work in an appropriate and safe manner. <p>Access is defined as including the usual route from the water company to the customer’s property, or from one appointment to the next appointment and including reasonable alternatives.</p> <p>A ‘significant number of staff’ will be different depending on the size of the company. This would be applicable when the absence of staff has caused problems to the company in carrying out its day-to-day operations.</p> <p>Companies should be able to justify why the number is thought to be significant.</p> <p>Companies must be able to provide evidence to justify non-payment of a GSS payment. This could include (not all items would be necessary for each event):</p> <ul style="list-style-type: none"> • employee and/or contractor attendance records; • action taken to gain access to the property; • records of contacts from customers, employees and/or contractors on

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problems;

- video or photographic evidence;
- radar data and rain gauge information;
- rainfall data from the Met Office;
- flooding information or reports from the Environment Agency;
- traffic reports confirming tree falls, snow, and general accessibility and the impact on travel routes;
- emergency service reports;
- media reports; or
- warnings from police or highway agencies.

If a company cannot demonstrate severe weather has occurred, then a payment should be made to the customer.

If requested, companies should be able to provide a clear explanation to the customer about why a GSS payment is not being made following the event.

Extract from GSS Regulations	Interpretation of severe weather
<p>Extracts from Regulation 7 – Complaints, account queries and requests about payment arrangements</p> <p>(1) This regulation applies where a customer of a relevant undertaker—</p> <ul style="list-style-type: none"> (a) complains in writing about the supply of water or the provision of sewerage services by the undertaker; (b) queries, in writing, the correctness of an account for the supply of water or the provision of sewerage services; or (c) asks, in writing, for a change to payment arrangements. <p>(6) However, the undertaker need not pay the customer under paragraph (4) if—</p> <ul style="list-style-type: none"> (a) the address that the customer wrote to was not a notified address of the undertaker for a complaint, query or request of that kind; (b) the customer does not wish to pursue the complaint, query, or request and has so informed the undertaker; (c) it was impracticable for the undertaker to send a reply within the required period because of— <ul style="list-style-type: none"> (i) industrial action by employees of the undertaker; or (ii) the act or default of a person who is not— <ul style="list-style-type: none"> (aa) an officer, employee or agent of the undertaker; or (bb) a person acting on behalf of the undertaker or of an agent of the undertaker; or (d) in the case of a reply to a complaint or query— <ul style="list-style-type: none"> (i) the complaint or query was frivolous or vexatious; or (ii) the undertaker reasonably considered that a visit was necessary before replying, and severe weather made that visit impracticable. 	<p>Regulation 7 states that if the company is unable to visit the customer because of severe weather the company does not have to make a payment. Instances where the payment exemption for Regulation 7 may apply include (one or more of the following may apply):</p> <ul style="list-style-type: none"> • Access to property blocked by: <ul style="list-style-type: none"> – snow; or – flooding; or – fallen trees or other obstacles following gales. • Regional snow fall or flooding has prevented significant number of relevant staff attending work or affected company property affecting staff from attending customer property. • Weather conditions have occurred that have made working conditions unsafe for employees of and/or contractors of the company to undertake the required work in an appropriate and safe manner. <p>Access is defined as including usual route from the water company to property, or from one appointment to the next appointment and including reasonable alternatives.</p> <p>A ‘significant number of staff’ will be different depending on the size of the company. This would be applicable when the absence of staff has caused problems to the company in carrying out its day-to-day operations.</p> <p>Companies should be able to justify why the number is thought to be significant.</p> <p>Companies must be able to provide evidence to justify non-payment of a GSS payment. This could include (not all items would be necessary for each event):</p> <ul style="list-style-type: none"> • employee and/or contractor attendance records; • action taken to gain access to the property; • records of contacts from customers, employees and/or contractors on problems; • video or photographic evidence; • radar data and rain gauge information;

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- rainfall data from the Met Office;
- flooding information or reports from the Environment Agency;
- traffic reports confirming tree falls, snow, and general accessibility and the impact on travel routes;
- emergency service reports;
- media reports; or
- warnings from police or highway agencies.

If a company cannot demonstrate severe weather has occurred, then a payment should be made to the customer.

If requested, companies should be able to provide a clear explanation to the customer about why a GSS payment is not being made following the event.

Extract from GSS Regulations	Interpretation of severe weather
<p>Extracts from Regulation 9 – Entitlement to a payment or credit where supply not restored as promised</p> <p>(1) This regulation applies if a water undertaker interrupts or cuts off the supply of water to premises, as described in regulation 8</p> <p>(6) The undertaker need not pay the customer under paragraph (4)—</p> <p>(a) if (or, as the case may be, so long as) the undertaker was prevented from restoring the supply by—</p> <p>(i) severe weather;</p> <p>(ii) industrial action by employees of the undertaker; or</p> <p>(iii) the act or default of a person who is not—</p> <p>aa) an officer, employee or agent of the undertaker; or</p> <p>bb) a person acting on behalf of the undertaker or of an agent of the undertaker;</p>	<p>Weather conditions for Regulation 9 may be different or more localised than for Regulations 6 and 7 where the severe weather prevents the company from restoring supply. Instances where the payment exemption for Regulation 9 may apply include (one or more of the following may apply):</p> <ul style="list-style-type: none">• Weather conditions have occurred that have made working conditions unsafe for employees of and/or contractors of the company to undertake the required work in an appropriate and safe manner.• Weather conditions have caused ground conditions that make access and or excavation very difficult and restoration of supply is prolonged.• Deep snow or flooding has covered the area which the company needs to access to restore supply.• Weather conditions have prevented the company from being able to locate a leak or burst (such as if the area is covered with flood water or deep snow).• Weather conditions have prevented a part needed in order to restore supply from being transported to the site. <p>Companies must be able to provide evidence to justify non-payment of a GSS payment. This could include:</p> <ul style="list-style-type: none">• employee and/or contractor attendance records;• action taken to gain access to the property;• records of contacts from customers, employees and/or contractors on problems;• video or photographic evidence;• radar data and rain gauge information;• rainfall data from the Met Office;• flooding information or reports from the Environment Agency;• traffic reports confirming tree falls, snow, and general accessibility and the impact on travel routes;• emergency service reports;

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- media reports; or
- warnings from police or highway agencies.

Where a company cannot demonstrate severe weather has occurred then a payment should be made to the customer.

If requested, companies should be able to provide a clear explanation to the customer about why a GSS payment is not being made following the event.

Part 2 Exceptional weather: Regulations 11 (flooding from sewers – internal flooding) and 12 (flooding from sewers – external flooding)

Extract from GSS Regulations	Interpretation of exceptional weather
<p>Extracts from Regulation 11 - Flooding from sewers—internal flooding of buildings</p> <p>(1) Effluent from a sewer that is vested in a sewerage undertaker must not enter a customer's building.</p> <p>(5) The undertaker need not pay the customer under paragraph (2) if—</p> <p style="padding-left: 20px;">(a) the entry of effluent was caused by one or more of the following—</p> <p style="padding-left: 40px;">(i) exceptional weather;</p> <p style="padding-left: 40px;">(ii) industrial action by employees of the undertaker;</p> <p style="padding-left: 40px;">(iii) an action of the customer;</p> <p style="padding-left: 40px;">(iv) a defect, inadequacy or blockage in the customer's drain or sewer; or</p> <p style="padding-left: 20px;">(b) if—</p> <p style="padding-left: 40px;">(i) the undertaker could not practicably have identified the customer as having been affected, and</p> <p style="padding-left: 40px;">(ii) the customer does not claim (orally or in writing) a payment under this regulation within the 3 months following the date on which the effluent entered the building.</p>	<p>Sewer flooding is most likely to occur during severe weather and many public sewers are designed to cope with storms likely to occur on average once or more in 30 years. Customers might legitimately expect a GSS payment if flooding occurred in such weather. We note that information is provided on internal and external sewer flooding incidents caused by overloaded sewers attributed to severe weather in the June return. This annual information is used to look at the companies' overall performance and to identify properties at risk of more frequent flooding. Exceptional weather, which would exempt a company from making a GSS payment, is more extreme than severe weather.</p> <p>The GSS looks at standards from an individual customer perspective. Therefore, these guidelines on exceptional weather are described in terms that a customer can relate to rather than solely from a technical definition of weather.</p> <p>Instances where weather results in sewer flooding that could be categorised as exceptional include (one or more of the following may apply):</p> <ul style="list-style-type: none"> • A large number of properties or gardens in the surrounding areas have been affected by sewer flooding (this does not mean all cases where neighbouring properties affected by the same incident, but is meant to reflect sewer flooding of properties in a wider area). • Surrounding land and roads are extensively flooded, as well as properties or gardens. • There is extensive fluvial flooding (rivers have overflowed). • Flooding is caused by storms with a return period of more than 30 years. <p>Companies must be able to provide evidence to justify non-payment of a GSS payment. This</p>

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could include:

- records of contacts from customers, employees and/or contractors on problems;
- video or photographic evidence;
- radar data and rain gauge information;
- rainfall data from the Met Office;
- flooding information or reports from the Environment Agency;
- emergency service reports;
- media reports; or
- Warnings from police or highway agencies.

As part of their handling of each sewer flooding case, companies should provide a clear explanation to the customer about why a GSS payment is not being made following the event.

If a company cannot demonstrate exceptional weather has occurred, then a payment should be made to the customer.

If asset failure (for example, blockages or pump failures) contributes to flooding, then rainfall data must be part of the evidence.

Extract from GSS Regulations	Interpretation of exceptional weather
<p>Extracts from Regulation 12 - Flooding from sewers—external flooding</p> <p>(1) Effluent from a sewer that is vested in a sewerage undertaker must not enter a customer's land or property.</p> <p>(4) However, the undertaker need not pay the customer under paragraph (2) if—</p> <p>(a) the entry of effluent was caused by one or more of the following—</p> <ul style="list-style-type: none"> (i) exceptional weather; (ii) industrial action by employees of the undertaker; (iii) an action of the customer; (iv) a defect, inadequacy or blockage in the customer's drain or sewer; <p>(b) the undertaker was required, by regulation 11, to make a payment to the same customer in respect of the same incident;</p> <p>(c) the customer was not materially affected by the incident; or</p> <p>(d) the customer does not claim the payment in accordance with paragraph (5) within the 3 months following the date on which the effluent entered the customer's land or property.</p>	<p>Sewer flooding is most likely to occur during severe weather and many public sewers are designed to cope with storms likely to occur on average once or more in 30 years. Customers might legitimately expect a GSS payment if flooding occurred in such weather. We note that information is provided on internal and external sewer flooding incidents caused by overloaded sewers attributed to severe weather in the June return. This annual information is used to look at the companies' overall performance and to identify properties at risk of more frequent flooding. Exceptional weather, which would exempt a company from making a GSS payment, is more extreme than severe weather.</p> <p>The GSS looks at standards from an individual customer perspective. Therefore, these guidelines on exceptional weather are described in terms that a customer can relate to rather than solely from a technical definition of weather.</p> <p>Instances where weather results in sewer flooding that could be categorised as exceptional include (one or more of the following may apply):</p> <ul style="list-style-type: none"> • A large number of properties or gardens in the surrounding areas have been affected by sewer flooding (this does not mean all cases where neighbouring properties affected by the same incident but is meant to reflect sewer flooding of properties in a wider area). • Surrounding land and roads are extensively flooded, as well as properties or gardens. • There is extensive fluvial flooding (rivers have overflowed). • Flooding is caused by storms with a return period of more than 30 years. <p>Companies must be able to provide evidence to justify non-payment of a GSS payment. This could include:</p> <ul style="list-style-type: none"> • records of contacts from customers,

employees and/or contractors on problems;

- video or photographic evidence;
- radar data and rain gauge information;
- rainfall data from the Met Office;
- flooding information or reports from the Environment Agency;
- emergency service reports;
- media reports; or
- warnings from police or highway agencies.

As part of their handling of each sewer flooding case, companies should provide a clear explanation to the customer about why a GSS payment is not being made following the event.

If a company cannot demonstrate exceptional weather has occurred, then a payment should be made to the customer provided the other aspects of Regulation 12 – paragraphs 4(b), 4(c) and 4(d) – are satisfied.

If asset failure (for example, blockages or pump failures) contributes to flooding, then rainfall data must be part of the evidence.



Ofwat, Centre City Tower
7 Hill Street, Birmingham B5 4UA

Phone: 0121 625 1300 Fax: 0121 625 1400
Website: www.ofwat.gov.uk
e-mail: enquiries@ofwat.gsi.gov.uk

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