

24 November 2016

Trust in water

Wholesale charging rules issued by the Water Services Regulation Authority under sections 66E and 117I of the Water Industry Act 1991

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The logo for the Water Services Regulation Authority (Ofwat). It consists of the lowercase letters 'ofwat' in a bold, sans-serif font. The letter 'w' is enclosed within a dark blue circle.

Introduction

1. These rules are issued by the Water Services Regulation Authority under sections 66E and 117I of the Water Industry Act 1991.
2. The rules come into effect on 24 November and apply to charges payable in relation to any period beginning on or after 1 April 2017.
3. The rules apply to the charges that may be imposed by:
 - (a) a water undertaker under a section 66D agreement where a water supply licensee with a retail authorisation or a restricted retail authorisation is a party to that agreement; and
 - (b) a sewerage undertaker under a section 117E agreement where a sewerage licensee with a retail authorisation is a party to that agreement.
4. The rules are supplementary to statutory provisions that apply to relevant undertakers under any enactment, or instrument made thereunder (including the conditions of their appointments), and in the event of any conflict between the rules and any statutory provision, the latter shall prevail.

Interpretation

5. Unless the context otherwise requires, in these rules:
 - “**Eligible Premises**” means premises that could be:
 - (a) supplied with water by a water supply licensee with a retail or restricted retail authorisation; or
 - (b) provided with sewerage services by a sewerage licensee with a retail authorisation.
 - “**Mogden Formula**” means the following formula:

$$\text{Charge per unit of effluent} = R + [(V + Bv) \text{ or } M] + B(Ot/Os) + S(St/Ss)^7$$

where:

R = reception and conveyance charge [p/m³]

V = primary treatment (volumetric) charge [p/m³]

Bv = additional volume charge if there is biological treatment [p/m³]

M = treatment and disposal charge where effluent goes to sea outfall [p/m³]

B = biological oxidation of settled sewage charge [p/kg]

Ot = Chemical oxygen demand (COD) of effluent after one hour quiescent settlement at pH 7

Os = Chemical oxygen demand (COD) of crude sewage one hour quiescent settlement

S = treatment and disposal of primary sewage sludge charge [p/kg]

St = total suspended solids of effluent at pH 7 [mg/litre]

- “**Rateable Value Charge**” means a charge fixed wholly or partly by reference to a Rating Valuation List or otherwise determined, whether directly or indirectly, by reference to any value or other amount specified at any time in such a list or which purports to be so fixed or determined;
- “**Rating Valuation List**” means a list which is or has at any time been maintained, for the purposes of rating, under section 41 of the Local Government Finance Act 1988, section 67 of the General Rate Act 1967 or any other enactment;
- “**service**” includes, but is not limited to, the supply of water;
- “**Small Companies**” means the following companies:
 - (a) any company holding an appointment as a relevant undertaker where the conditions of that appointment limit charges that can be fixed under a charges scheme under section 143 of the Water Industry Act 1991 by reference to the charges fixed by one or more other relevant undertakers; and
 - (b) Cholderton and District Water Company Limited.

- “**Special Agreement**” means an agreement to which section 142(2)(b) of the Water Industry Act 1991 applies;
 - “**Unmetered Wholesale Charges**” means a charge for services that is not based on measured quantities of volume to any extent; and
 - “**Wholesale Charges**” means the charges that may be imposed by:
 - (a) a water undertaker under a section 66D agreement where a water supply licensee with a retail authorisation or a restricted retail authorisation is a party to that agreement; and
 - (b) a sewerage undertaker under a section 117E agreement where a sewerage licensee with a retail authorisation is a party to that agreement.
6. Unless the contrary intention appears, words and expressions used in these rules have the same meaning as in any provision of the Water Industry Act 1991.

Publication

7. Each water undertaker must publish the Wholesale Charges payable by a water supply licensee for the supply of water to Eligible Premises that are connected to the undertaker’s supply system. This includes the Eligible Premises to which a Special Agreement would otherwise apply (although nothing in these rules requires the publication of a customer’s name or address).
8. Each sewerage undertaker whose area is wholly or mainly in England must publish the Wholesale Charges payable by a sewerage licensee in respect of the provision of sewerage services to Eligible Premises that are connected to the undertaker’s sewerage system. This includes the Eligible Premises to which a Special Agreement would otherwise apply (although nothing in these rules requires the publication of a customer’s name or address).
9. Each relevant undertaker must also, as a minimum, publish the Wholesale Charges (or the methodology for calculating such charges where the charges cannot be determined in advance) that would, where relevant, be payable by a water supply or sewerage licensee for:

- (a) the replacement of lead service pipes;
 - (b) the provision and maintenance of fire hydrants;
 - (c) damage to apparatus;
 - (d) the carrying out of inspections to ascertain whether any provision contained in or made or having effect under the Water Industry Act 1991 with respect to any water fittings or with respect to the waste or misuse of water is being or has been contravened;
 - (e) site inspections;
 - (f) the provision and use of standpipes;
 - (g) the testing of meters; and
 - (h) the disconnection of a service pipe (or for otherwise cutting off a supply of water) to any premises and the reconnection of such premises to a water main.
10. Wholesale Charges must be published at least eleven weeks before the start of the period for which the charges will be imposed.
11. Wholesale Charges must be published on a relevant undertaker's website and in such other manner as the undertaker considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.
12. Wholesale Charges must be published with such additional information or explanation as is necessary to make clear what services are covered by each charge.

General charging principles

13. Relevant undertakers whose areas are wholly or mainly in England must determine what types of charges may or may not be imposed and the amount of any charges that may be imposed in accordance with the principle that Wholesale Charges should reflect:
- (a) fairness and affordability;
 - (b) environmental protection;
 - (c) stability and predictability; and
 - (d) transparency and customer-focused service.

Principles for determining the amount of charges

14. Consistent principles and methodologies must be applied to the calculation of charges for different classes of Eligible Premises, regardless of the services provided.
15. Charging structures must reflect the long-run costs associated with providing the relevant service.
16. Differences between charges for services provided to Eligible Premises that are larger users of water and sewerage services and charges for services provided to Eligible Premises that are smaller users of water and sewerage services must only be based on cost differences associated with differential use of network assets, differential peaking characteristics, different service levels and/or different service measurement accuracy.
17. Where cost differences associated with differential peaking characteristics are used as a basis for differences between charges for services provided to Eligible Premises that are larger users of water and charges for services provided to Eligible Premises that are smaller users of water, the charges fixed on that basis must be structured on an appropriate peak demand basis.
18. Charges for sewerage services must take into account the different pollutant loads associated with foul water, trade effluent, surface water draining from Eligible Premises and surface water draining from highways.

Unmetered charges

19. No Unmetered Wholesale Charges may be imposed unless the basis on which those charges are fixed or determined is clear and, in the case of Rateable Value Charges, it is clear:
 - (a) which Rating Valuation List charges are fixed or determined by reference to; and
 - (b) if the undertaker uses a different value or other amount to that specified in such a list, the methodology or other basis on which that different value or other amount is calculated.

Wastewater charges

20. Sewerage undertakers whose area is wholly or mainly in England must, in relation to each period beginning on or after 1 April 2020, separate Wholesale Charges for sewerage services provided to Eligible Premises into separate charges for the reception, treatment and disposal of:
 - (a) foul water;
 - (b) trade effluent;
 - (c) surface water draining from Eligible Premises; and
 - (d) surface water draining from highways.

21. Sewerage undertakers must provide for an appropriate reduction in the Wholesale Charges payable for the provision of sewerage services to any Eligible Premises where the sewerage undertaker knows, or should reasonably have known, that surface water does not drain to a public sewer from those premises.

Trade effluent

22. Charges to be paid in connection with the carrying out of a sewerage undertaker's trade effluent functions must be based on the Mogden Formula, a reasonable variant of the Mogden Formula or on a demonstrably more cost-reflective basis.

Concessionary drainage charges

23. The Wholesale Charges published by each sewerage undertaker must set out:
 - (a) the classes of community group (if any) in relation to which the undertaker allows reductions in the Wholesale Charges payable by a sewerage licensee in respect of surface water drainage from Eligible Premises; and
 - (b) the reductions allowed.

24. Where a sewerage undertaker's charges scheme under section 143 of the Water Industry Act 1991 includes a provision designed to reduce charges to community groups in respect of surface water drainage from their Eligible Premises, the amount of Wholesale Charges payable by a sewerage licensee in respect of the provision of sewerage services to Eligible Premises occupied by community groups must be determined in accordance with the principles that:
- (a) Wholesale Charges must be reduced in relation to the same classes of community group; and
 - (b) the reductions in Wholesale Charges must be the same and apply for the same period.

Special agreements

25. Where a Special Agreement would apply to the provision of services to Eligible Premises if the undertaker continued to provide the services, a relevant undertaker must impose on a water supply licensee or, as the case may be, a sewerage licensee only such charges as would enable the licensee to charge for those services at the same rate or rates as would have applied if the Special Agreement had applied.

Small companies

26. Paragraph 10 of these rules does not apply to Small Companies. Instead Small Companies must publish their Wholesale Charges (or the methodology for calculating such charges) at least nine weeks before the start of the period for which the charges will be imposed.

Annex: Information requirements

Assurance statements

- A1 Each undertaker should provide to the Water Services Regulation Authority an assurance statement from its Board of Directors and publish its statement no later than the time of publication of its final Wholesale Charges confirming that:
- (a) the company complies with its legal obligations relating to the Wholesale Charges it has published;
 - (b) the Board has assessed the effects of the new charges on water supply and sewerage licensees (as a whole or in groups) who are retailing wholesale services and on customers occupying Eligible Premises (as a whole or in groups) and approves the impact assessments and handling strategies developed in instances where bill increases for licensees (as a whole or in groups) who are retailing wholesale services and on customers occupying Eligible Premises (as a whole or in groups) exceed 5%;
 - (c) the company has appropriate systems and processes in place (including up-to-date models and data) to make sure that the information published about its Wholesale Charges is accurate;
 - (d) the company has consulted with relevant stakeholders in a timely and effective manner on its Wholesale Charges; and
 - (e) where final Wholesale Charges are significantly different from the indicative Wholesale Charges published for the same period, the Board has considered the reasons why those changes occurred and has issued a statement explaining why those changes were not anticipated and/or mitigated. For these purposes, “indicative Wholesale Charges” means the information referred to in A3 below and charges are “significantly different” if a reasonable person would consider the changes to be material.

Indicative charging information

- A2 No later than six months before publishing its final Wholesale Charges, each undertaker (other than a small company), should if considering making any significant changes to its primary Wholesale Charges publish information that, at a minimum, informs stakeholders of the scope of its proposed changes. For these purposes, changes will be “significant” if a reasonable person would

consider them to be material. The information provided does need not be as detailed as that referred to in A3 and A4 below.

- A3 No later than three months before publishing its final Wholesale Charges, each undertaker (other than a small company) should provide to the Water Services Regulation Authority and publish indicative Wholesale Charges. For these purposes, “indicative Wholesale Charges” are the primary Wholesale Charges that the undertaker reasonably expects to fix for the following period (based on the information available to it at that time).
- A4 No later than three months before publishing its final Wholesale Charges, each undertaker (other than a small company) should, if it intends to make any significant changes to its primary Wholesale Charges, provide to the Water Services Regulation Authority and publish a statement of significant changes. For these purposes:
- (a) changes to the level of primary Wholesale Charges, or to the methodology for calculating them, will be significant if a reasonable person would consider them to be material; and
 - (b) a statement of significant changes should include:
 - (i) what changes are expected;
 - (ii) how water supply and sewerage licensees (as a whole or in groups) and customers occupying Eligible Premises (as a whole or in groups) are likely to be affected; and
 - (iii) the handling strategies that may be adopted by the undertaker or why the undertaker considers that no handling strategies are required.
- A5 Each undertaker (other than a small company) should provide to the Water Services Regulation Authority an assurance statement from its Board of Directors and publish its statement no later than the time of publication of its indicative Wholesale Charges confirming, using the best available information available at that time, that:
- (a) the company complies with its legal obligations relating to the indicative Wholesale Charges it has published;
 - (b) the Board has assessed the effects of the new charges on water supply and sewerage licensees (as a whole or in groups) who are retailing wholesale services and on customers occupying Eligible Premises (as a whole or in groups) and approves the impact assessments and handling

strategies developed in instances where bill increases for licensees (as a whole or in groups) who are retailing wholesale services to eligible customers and on customers occupying Eligible Premises (as a whole or in groups) exceed 5%;

- (c) the company has appropriate systems and processes in place (including up-to-date models and data) to make sure that the information published about its indicative Wholesale Charges is accurate; and
- (d) the company has consulted with relevant stakeholders in a timely and effective manner on its indicative Wholesale Charges.