

Net Zero, Energy and Transport Committee

10th Meeting, 2023 (Session 6)

Tuesday 21 March 2022

SSI cover note for: The Water and Sewerage Services to Dwellings (Collection of Unmetered Charges by Local Authority) (Scotland) Order 2023

SSI 2023/52

Title of Instrument: [The Water and Sewerage Services to Dwellings \(Collection of Unmetered Charges by Local Authority\) \(Scotland\) Order 2023](#)

Type of Instrument: Negative

Laid Date: 24 February 2023

Circulated to Members: 3 March 2023

Meeting Date: 21 March 2023

Minister to attend meeting: No

Motion for annulment lodged: No

Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee? No

Reporting deadline: 17 April 2023

1. An electronic copy of the Order is available at: <https://www.legislation.gov.uk/ssi/2023/52/contents/made>

2. A copy of the Scottish Government's Explanatory and Policy Notes are included in **Annexe A**.

Recommendation

3. The Committee is invited to consider any issues which it wishes to raise on this instrument.

Purpose

4. The Water and Sewerage Services to Dwellings (Collection of Unmetered Charges by Local Authority) (Scotland) Order 2023 (“the Order”) makes each local authority responsible for the collection of the charges payable for water services and sewerage services which are provided by Scottish Water to dwellings within each financial year from 1st April 2023 to 31st March 2028. It also requires each authority to make payments to Scottish Water so as to account for this.

Delegated Powers and Law Reform Committee consideration

5. At its meeting on 7 March 2023, the Committee considered the following instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Procedure for Negative Instruments

6. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).

7. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament. If that is also agreed to, Scottish Ministers must revoke the instrument. At present no motion to annul has been laid for this instrument.

8. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be

entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument.

9. If no motion to annul has been laid then, at the conclusion of consideration of the instrument, the Committee will be invited that agree to make no recommendation in relation to the instrument.

Clerks
Net Zero, Energy and Transport Committee

Annexe A

Scottish Government Explanatory Note

This Order makes each local authority (and not Scottish Water) responsible for the collection of the charges payable for water services and sewerage services which are provided by Scottish Water to dwellings within each financial year (“service year”) from 1 April 2023 to 31 March 2028. It also requires each authority to make payments to Scottish Water so as to account for this.

Article 3 requires each local authority to collect the charges payable in respect of water and sewerage services provided to dwellings in its area (“the services”), but this collection duty does not apply to dwellings where the provision of water services is charged on a metered basis.

Article 4 provides that, in respect of the services provided by Scottish Water within each service year, a local authority must pay to Scottish Water a sum (determined by a formula) to account for the amounts collected by the authority in respect of the services provided in the authority’s area.

Articles 5 requires each sum payable under article 4 to be paid in instalments, and sets out the amount and timing of each instalment.

Articles 6 to 8 set out the forms and procedures for demanding payment. Articles 9 and 10 make provision for appeals. Article 11 makes provision in relation to keeping accounts and records.

Scottish Government Policy Note

POLICY NOTE

THE WATER AND SEWERAGE SERVICES TO DWELLINGS (COLLECTION OF UNMETERED CHARGES BY LOCAL AUTHORITY) (SCOTLAND) ORDER 2023

S.S.I. 2023/52

The Order was made in exercise of the powers conferred on the Scottish Ministers by section 37 and 68(2) of the Water Industry (Scotland) Act 2002 (“the Act”). The Order is subject to negative procedure.

Policy Objectives

Section 29A of the Act requires Scottish Water to make a charges scheme which fixes the charges payable for water and sewerage services provided by it in the exercise of its core functions. Section 37 of the Act separately empowers the Scottish Ministers to determine, by order, that for specified services provided by

Scottish Water to dwellings in the area of a local authority, the authority (not Scottish Water) is to collect the charges payable.

The Water and Sewerage Services to Dwellings (Collection of Unmetered Charges by Local Authority) (Scotland) Order 2023 (“the Order”) makes each local authority responsible for the collection of the charges payable for water services and sewerage services which are provided by Scottish Water to dwellings within each financial year from 1st April 2023 to 31st March 2028. It also requires each authority to make payments to Scottish Water so as to account for this.

Consultation

The Order was prepared in consultation with key stakeholders (including COSLA, Scottish Water (SW), Water Industry Commission for Scotland (WICS) and Consumer Scotland; no significant issues were raised.

Impact Assessments

As there is no impact on business or the third sector, and no impact on the environment or on environmental issues, no Business and Regulatory Impact Assessment or Strategic Environmental Assessment is required.

Financial Effects

There is an existing order - The Water and Sewerage Services to Dwellings (Collection of Unmetered Charges by Local Authority) (Scotland) Order 2020 - which makes local authorities responsible for the collection of charges for the period from 1 April 2020 to 31 March 2023. The Order effectively supersedes the previous order, with new agreed fees for local authorities for the upcoming period. It fixes the amount to be deducted (for the cost of collection) from the sum each local authority must pay to Scottish Water as regards services provided in each of the financial years to which the Order applies. These amounts also take account of the cost of collecting charges for dwellings for which there is no council tax liability. The total amount deducted for the cost of collection in relation to services is set at £20,736,234.00 in financial year 2023-24. This is seen by COSLA and Scottish Water to be a reasonable settlement in terms of recovering the cost of collecting charges for services. The allocation of this amount among local authorities is set out in the schedule of the Order as the fee for the financial year 2023/24. In each subsequent service year covered by the Order the previous year’s fee will be amended to take account of inflationary costs by uprating it with reference to the relevant prevailing Consumer Prices Index (CPI) rate (less 1% efficiency). The amended fee for each service year will establish the baseline value used to calculate the fee for each subsequent year of the order up to 31 April 2028.

Water Policy and DECC Operations Division
February 2023