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Welsh Government

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Guidance Document

**Non-statutory guidance in relation
to the Water Industry (Undertakers
Wholly or Mainly in Wales)
(Information about Non-owner
Occupiers) Regulations 2014**



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1. BACKGROUND

- 1.1 Under the Water Industry Act 1991, the occupier of a property is liable for any charges in respect of water supplies and sewerage services (collectively referred to in this guidance as “services”), although the water and sewerage undertaker (referred to in this guidance as “water company” or “water companies”) cannot compel an occupier to provide their details in order to bill them. Prior to the Water Industry Act 1999, water companies were able to withhold or withdraw services from households in the event of non payment of charges. That act prohibited the withdrawal of services through disconnection so this deterrent was lost. Water companies are now only able to take action for non-payment through the court, where any judgement in respect of arrears will be reflected in a person’s credit score. This action is usually taken against a named individual but water companies have no direct route for obtaining information on occupiers of properties. Non-owner occupiers are particularly problematic to identify.
- 1.2 Water companies currently use a variety of methods to obtain information about occupiers, such as calling at properties because no information has been provided as to their occupancy or buying information from credit reference agencies. The costs of these methods all add to increasing administration costs and are ultimately passed on to all customers through increased prices and bills.
- 1.3 Section 144C of the Water Industry Act 1991 (as amended by section 45 of the Flood and Water Management Act 2010) places a duty on owners of residential properties who do not live in them to provide information to the relevant water company about the occupiers of those properties (‘non-owner occupiers’). Failure to do so results in the owner becoming jointly and severally liable for water and sewerage charges. These regulations set out what information should be provided, how it can be provided and the time frame for providing.
- 1.4 Having the details of non-owner occupiers will enable water companies to correctly bill, and if necessary pursue the named individuals who are not paying their bills. It will also enable the water companies to establish a relationship with the occupiers early on in their occupancy and determine whether they require additional advice or support in relation to paying their bills. Owners and managing agents of rented properties can reasonably be expected to be aware of who is occupying their properties. Information on who is liable for water & sewerage charges in rented/let properties can be passed on to the relevant water company by the owner or managing agent.

2. DUTIES ON PROPERTY OWNERS FROM 1 JANUARY 2015

(This applies to all owners be they formal landlords or simply allowing someone else to live in their property)

- 2.1 Owners of residential properties who do not live in those properties are required to arrange for the water company to be given the following information about the occupiers of the property:
 - a) full name;
 - b) date of birth (where this has been provided to the owner);
 - c) the date the occupier began to occupy the premises (where this is after 1 January 2015)
- 2.2 If a property is unoccupied the owner should aim to inform the water company that the property is unoccupied.
- 2.3 The information in 2.1 above must be provided by 21 January 2015 or within 21 days of there being changes to the occupancy of the property. Where the information has already been provided to the water company, prior to 1 January 2015 then there is no requirement to update this information, until such time as the occupiers change.
- 2.4 If the owner does not comply with this duty they will become jointly and severally liable with the occupier for water and sewerage charges for the period that they have failed to comply. That means that the water company can sue an occupier, owner or both in relation to any outstanding charges; however, water companies should only pursue owners where they have wilfully failed to provide the information.

3. GUIDANCE FOR OWNERS

3.1 Duty of Owners

The regulations give property owners a legal framework to provide basic information to the water companies, helping them to bill the non-owner occupiers for the services that they receive and to pursue for any outstanding payments. It is assumed that the information required should, in many cases, already have been provided to the owner via a tenancy agreement or similar.

Essentially, when a property becomes occupied or there is a change of occupier, the owner should inform the water company within 21 days. Owners may also wish to inform the water company when a property ceases to be occupied, as this will help ensure more accurate billing for any future occupiers; however, this is not a legal requirement.

An owner may arrange for a third party (e.g. a managing agent) to provide the information to the water company on their behalf. However, it is still the owner's responsibility to ensure that the information has been passed to the water company within the specified timescale and the joint and several liability will still apply until the date the information was received, if outside the specified 21 day timescales.

3.2 Liability

The owner will not be liable for outstanding water and sewerage charges incurred by the occupier prior to 1 January 2015.

If the owner fails to comply with the duty within the specified timescales, they will become jointly and severally liable with the occupier for any water or sewerage charges that are incurred during the period.

Examples:

- i) An owner has a property which has been occupied since 1 November 2014.
 - a) The occupier informed the water company when they moved into the property and have started to receive bills. The owner is aware of this and therefore does not provide information for this property when the regulations come into force. The duty has been fulfilled and no liability attaches to the owner as the water company already holds the required information.
 - b) The occupier did not inform the water company when they moved in to the property. The owner provides the prescribed information to the water company by 21 January 2015. The occupiers will receive a bill for water usage since 1 November 2014 and there will be no liability attached to the owner.
 - c) The occupier did not inform the water company when they moved into the property. The owner provides the prescribed information on

21 February 2015. The owner will be jointly and severally liable with the occupier for charges incurred from 1 January 2015 until 21 February 2015. The charges incurred prior to 1 January 2015 are the sole liability of the occupier.

- ii) A new occupier takes over a property on 1 June. The previous occupier left owing 3 months charges.
 - a. The owner provided the prescribed information to the water company, in respect of the original occupier, within the prescribed timescales and informs the water company of the change of tenant by 21 June. The owner will not be liable for the outstanding bill – the water company must pursue this with the previous occupier. The new occupier is liable for bills from 1 June.
 - b. The owner failed to provide the prescribed information to the water company in respect of the original occupier within the prescribed timescales but did so 40 days after occupation. The owner is therefore jointly and severally liable for charges incurred by that occupier for that 40 day period.
 - c. The owner failed to provide information relating to the original occupier but provides details of the new occupier within 21 days of them taking up occupation. The owner would be jointly and severally liable in relation to the charges of the original occupier from 1 January 2015 until 1 June 2015. Although no further charges are incurred by the original occupier from 1 June 2015, and the extent of the owner's liability is therefore "capped" as regards the original occupier, the owner should still provide the information so that the water company can attempt to locate them and pursue the outstanding charges. The owner will not be liable for any charges in relation to the new tenant.

Ofwat, the economic regulator for the water industry responsible for signing off water company charging schemes, recommend that the water company should not charge for unoccupied, unfurnished properties.

For unoccupied, furnished properties, Ofwat recommends¹ that the company charges its standard metered and unmetered charges unless the owner asks for it to be disconnected, in which case they recommend that all charges are waived other than the surface water drainage charge.

¹ <http://www.ofwat.gov.uk/consumerissues/chargesbills/vacant/>

3.3 Change of owner

When an owner sells their property they will no longer be liable for any charges incurred by the occupiers after the date of sale. However, if they failed to comply with the duty while still the owner of the property, they remain jointly and severally liable for any charges incurred, up to and including the date that they ceased to be the owner of the property.

Example

A new occupier moves into a property on 1 May 2015. The owner informs the water company of the change in occupier on 1 June 2015. The property is sold on 1 July 2015. The original owner will remain jointly and severally liable for charges incurred between 1 May and 1 June, until such time as the charges are paid.

The duty will apply to the new owner of a property from the date that they become the owner of said property.

3.4 Houses of Multiple Occupation

Some properties are divided into units, each billed or metered separately. To comply with their duty under the regulations, the owner must provide the details of all occupiers over 18 years of each unit. If they do not do so, the owner will be liable for water and sewerage bills in respect of each unit that they have failed to provide the information for.

3.5 Incomplete Information

It has been assumed that most owners will already hold the basic information requested. For example, it is normal practice for tenancy agreements to include the date of occupation, full name and address and date of birth of the tenant because the landlord will want some surety as to the identify of their occupiers.

The owner is required to provide the date of birth only if they have this information. If no date of birth has been provided then the owner should notify the water company of this (at the same time as providing the other information) in order that they fully comply with the duty.

3.6 Date of occupation

For these purposes the date of occupation is the date on which a person occupies or is entitled to occupy (whichever is earlier). That is because the occupier's liability for water charges arises at the earliest of those points.

3.7 Provision of Information

The information can be provided to the relevant water company by telephone, post, email or via the online portal, Landlord TAP. The portal has been developed by the water industry for England and Wales and enables property owners (or their authorised representative) to provide water companies with details of the occupiers of their property. Details input to the portal are automatically passed to the relevant water company and a unique transaction

receipt reference is provided. The website can be accessed at www.landlordtap.co.uk or www.landlordtap.com.

Contact details for the relevant water companies are below:

Dŵr Cymru Welsh Water

 0800 052 0145
 Water.enquiries@dwrwymru.com
 Dwr Cymru Welsh Water
Customer Services
PO Box 690
Cardiff
CF3 5WL

Dee Valley Water

 01978 833200
 customer.services@deevalleygroup.com
 Dee Valley Water plc
Packsaddle
Wrexham Road
Rhostyllen
Wrexham
LL14 4EH

3.8 Agents

The Water Act 1991 states that the owner is '*under a duty to arrange for the undertaker to be given information...*'; therefore, the owner may appoint an agent to act on their behalf. However, joint and several liabilities will still be attached to the owner if the agent fails to provide the required information within the prescribed timescales.

3.9 Communication

Owners are required to inform their tenants at the outset of any agreement to occupy that their details will be passed to the water company for such purpose. This could, for example, be included as a term or condition of a formal tenancy agreement / leasing contract.

3.10 Water Meters

Although not a requirement of the regulations, where a water meter is fitted, it is good practice for property owners to take a meter reading when there is a change of occupier and provide this to the water company. This can help the water company accurately determine the charges liable at a given point.

4. WATER AND SEWERAGE UNDERTAKERS

The regulations are intended to help the water companies bill the right person, and to pursue outstanding payments if necessary by requiring owners of properties to provide information that they will normally hold. They provide an incentive for property owners to do this by making them jointly and severally liable for water and sewerage charges, if they do not provide this information. They are not intended to routinely make property owners liable for charges incurred by occupiers.

The water companies should help to make property owners and occupiers aware of their responsibilities by, for example, publishing information about the regulations on the water company website; contacting property owners individually when these regulations come into force, and providing timely and accurate advice in response to enquiries.

The water companies should act pro-actively and promptly when a property falls behind with its payments. Where there is doubt they should try to determine liability for water and sewerage charges as soon as possible once a bill payment is overdue by seeking information from the owner and/ or other occupiers, and making the owner aware of their duties under these regulations. They should not wait until debt builds up and then seek to recover charges from the owner without giving them a reasonable opportunity to provide the required information.

When they are informed, or they have reason to believe that there has been a change of occupation, the company should take a meter reading in order to ensure that any liability for charges can be accurately apportioned.

The purpose of the regulations is not to create a liability on owners but to ensure that the companies have the correct information in order to charge and if necessary, enforce against occupiers.