STATUTORY INSTRUMENTS

1981 No. 130

WATER, ENGLAND AND WALES

The Water Authorities (Collection of Charges) (Amendment) Order 1981

Made - - - -	*4th February* 1981
Laid before Parliament	*13th February* 1981
Coming into Operation	*6th March* 1981

The Secretary of State for the Environment and the Secretary of State for Wales, in exercise of the powers conferred upon them by the enactments specified in the Schedule to this instrument, and of all other powers enabling them in that behalf, hereby make the following order:—

Title, commencement, territorial extent of exercise of powers, and interpretation

1.—(1) This order may be cited as the Water Authorities (Collection of Charges) (Amendment) Order 1981, and shall come into operation on 6th March 1981.

(2) This order is made—

(*a*) by the Secretary of State for Wales in relation to the Welsh Water Authority, and

(*b*) by the Secretary of State for the Environment in relation to any other water authority.

(3) In this order "the principal order" means the Water Authorities (Collection of Charges) Order 1980 (**a**).

Amendment of principal order

2. The principal order is hereby amended by the insertion of the following article after article 12:—

"Determination of final surplus or final deficit

12A.—(1) This article shall apply to every rating authority who have been required to make a sewerage payment and an environmental services payment (which payments are referred to in this article as "the relevant payments") to a water authority or water authorities under Part III of this order.

(2) It shall be the duty of every rating authority to whom this article applies, as soon as it is reasonably practicable after they have paid the last monthly instalment of the relevant payments required under Part III of this order to the water authority or water authorities concerned, to determine, as far as they

(**a**) S.I.1980/229.

can reasonably estimate, having regard to the matters mentioned in paragraph (3) below and to any other matters which appear to them to be relevant—

(*a*) the surplus, if any, of receipts over payments and expenses expected to accrue to the rating authority or, as the case may be,

(*b*) the deficit, if any, of receipts below payments and expenses expected to be incurred by the rating authority

by reason of duties imposed on the rating authority under the 1976 Order or under any later order, with regard to payments made to and by the rating authority.

(3) The matters to which regard shall be had for the purpose of paragraph (2) above are the following, that is to say—

(*a*) all amounts refunded by the rating authority on behalf of the water authority or water authorities in pursuance of Part II of the 1976 Order, other than payments reimbursed directly to the rating authority by a water authority;

(*b*) all amounts received by the rating authority by way of miscellaneous services charge in pursuance of Part IV of the 1976 Order, or by way of Part III charges in pursuance of a later Part III;

(*c*) all amounts paid by the rating authority by way of miscellaneous services payment in pursuance of Part IV of the 1976 Order, or by way of the relevant payments under a later Part III;

(*d*) any expenses reasonably incurred by the rating authority in the discharge of any duty under Part II or Part IV of the 1976 Order, or under a later Part III.

(4) For the purposes of this article any surplus determined in pursuance of this article in relation to a rating authority and a water authority or two or more water authorities shall be referred to as "the final surplus", and any deficit so determined shall be referred to as "the final deficit".

(5) Where the rating authority have been required to make the relevant payments to two or more water authorities under Part III of this order, they shall ascertain, as soon as may be after they have paid the last monthly instalment of those payments to all the water authorities concerned, the following amounts, that is to say—

(*a*) the total amount paid to each water authority by way of the relevant payments under the said Part III (in this article referred to, in relation to each water authority concerned, as "the individual Part III payment"), and

(*b*) the aggregate of all the individual Part III payments made by that rating authority (in this article referred to as "the aggregate Part III payment").

(6) Subject to paragraph (8) below, where the amount determined by the rating authority under paragraph (2) above is a surplus, it shall be the duty of the rating authority—

(*a*) where they were required to make the relevant payments to one water authority only, to pay the final surplus to that water authority, and

(*b*) where they were required to make such payments to two or more water authorities, to pay to each of those authorities that part of the final surplus which bears to the final surplus the proportion which the individual Part III payment relating to that authority bears to the aggregate Part III payment.

(7) Subject to paragraph (8) below, where the amount determined by the rating authority under paragraph (2) above is a deficit, the rating authority—

(*a*) where they were required to make the relevant payments to one water authority, may recover the final deficit from that authority, and

(*b*) where they were required to make such payments to two or more water authorities, may recover from each of those authorities that part of the final deficit which bears to the final deficit the proportion which the individual Part III payment relating to that authority bears to the aggregate Part III payment.

(8) Any matter arising in relation to the amount of a payment required to be made in pursuance of paragraph (6) or (7) above shall be determined by agreement between the water authority and the rating authority or, in default of agreement, by an arbitrator to be appointed by agreement between the parties or in default of agreement by the President of the Chartered Institute of Public Finance and Accountancy; and any matter relating to the method or time or times of payment may be determined by agreement between the water authority and the rating authority.

(9) In this article, the expression "later order" means the 1977 Order, the 1978 Order, the 1979 Order or this order, and "later Part III" means Part III (Charges for Sewerage and Environmental Services) of any later order. ".

SCHEDULE

ENABLING POWERS UNDER WHICH THIS ORDER IS MADE

1. The Local Government Act 1972(**a**), section 254(1)(*a*) and (2)(*c*), as applied by the Water Act 1973(**b**), section 34(1) and Schedule 6.

2. The Local Government Act 1972, section 254, as so applied and as extended by the Water Act 1973, Schedule 6, paragraph 5, sub-paragraphs (2)(*c*) and (*cc*) (inserted by the Local Government Act 1974(**c**), Schedule 7, paragraph 14) and (3) (inserted by the Water Charges Act 1976(**d**), section 2(4)).

3. The Water Act 1973, section 36(2).

Michael R.D. Heseltine,
2nd February 1981. Secretary of State for the Environment.

Nicholas Edwards,
4th February 1981. Secretary of State for Wales.

(**a**) 1972 c.70. (**b**) 1973 c.37. (**c**) 1974 c.7. (**d**) 1976 c.9.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which applies to England and Wales, amends the Water Authorities (Collection of Charges) Order 1980 ("the 1980 Order") by inserting a new article, article 12A (determination of final surplus or final deficit), after article 12 of that Order.

The 1980 Order made provision, in respect of the year beginning on 1st April 1980 ("1980-81"), for the collection and recovery on behalf of water authorities, by local authorities who were rating authorities, of charges made by water authorities for the supply of water and for sewerage and environmental services during 1980-81.

Article 12 of that order contained a provision which allowed for the adjustment of local authorities' surpluses or deficits arising in respect of charges for sewerage and environmental services during the years 1976-77, 1977-78, 1978-79, and 1979-80 from duties imposed upon them by orders which had been made annually from 1976 to 1979, in terms resembling those of the 1980 Order and for purposes similar to the purposes of that order.

The 1980 Order did not contain any provision for the adjustment of similar surpluses or deficits arising during 1980-81; at the time when that order was made, it appeared likely that a further annual order would be required in 1981 in respect of the year 1981-82, and such a provision would have been appropriately included in that order.

It is now known that from 1st April 1981 onwards none of the ten regional water authorities in England and Wales proposes to collect charges under the provisions of an order resembling the 1980 Order. The present order therefore makes provision for the adjustment of any local authorities' surpluses or deficits which will be outstanding immediately after the end of the year 1980-81. This is done by inserting into the 1980 Order a new provision closely resembling article 12 of the 1980 Order, with modifications to deal with the situation which will arise on 1st April 1981.

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