EXECUTIVE NOTE

THE WATER SERVICES CHARGES (BILLING AND COLLECTION) (SCOTLAND) ORDER 2010

S.S.I. 2010/10

The above instrument was made in exercise of the powers conferred on the Scottish Ministers by section 37 of the Water Industry (Scotland) Act 2002 ("the 2002 Act") (as amended by the Water Services etc. (Scotland) Act 2005), after consultation with the Administrative Justice and Tribunals Council under paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007. The instrument is subject to negative resolution parliamentary procedure.

Background and Policy Objectives

Section 29A of the 2002 Act enables Scottish Water to make a charges scheme which fixes the charges payable in respect of the provision of water and sewerage services by Scottish Water, in the exercise of its core functions under that Act. Water and sewerage charges (for non-metered households) are currently collected jointly with Council Tax by Local Authorities. This arrangement has been in existence since 1 April 1996 (when the three former Water Authorities were established under section 62(1) of the Local Government etc. (Scotland) Act 1994) and enables Local Authorities and Scottish Water to share billing and collection costs. The current Order, the Water Services Charges (Billing and Collection) (Scotland) Order 2006, expires on 31 March 2010.

The Order specifies how charges for each customer must be calculated; how they are to be presented on Council Tax bills; and provides for the amount and timing of payments from Local Authorities to Scottish Water. It also enables Local Authorities to extend certain Council Tax discounts or reductions (set out in the Scottish Government's Principles of Charging Statement for 2010-15, a statement of policy made under section 29D of the Water Services etc (Scotland) Act 2005) to water and sewerage bills**.** Mr Swinney, Cabinet Secretary for Finance and Sustainable Growth consulted COSLA on the length and the terms of the 2010 Order and, on 25 November, it was agreed that the Order, in terms of form and content, would remain largely unchanged from the Order made in 2006 and would apply in the financial years 2010-11 and 2011-12.

The Order

The 2010 Order requires Local Authorities to collect domestic water and sewerage charges on behalf of Scottish Water, except for those households which are metered and which are billed on that basis.

The Order makes provision in relation to:

- the amounts that must be billed to each customer;

• the discounts that may apply to customers by virtue of provisions in the Scottish Government's Principles of Charging Statement for 2010-15 or under section 79 of the Local Government Finance Act 1992;
• the format of the bill to be presented to customers;
• the amounts and timing of payments to be made to Scottish Water by Local Authorities;
• the minimum amount payable by Scottish Water to Local Authorities for the billing and collection services provided;
• appeal arrangements; and
• the records and accounts that must be kept and prepared by each Local Authority.

Consultation

The 2010 Order has been prepared in consultation with COSLA and Scottish Water. In accordance with paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007, the Administrative Justice and Tribunals Council has also been consulted on the Order. All are content with the form and content of the Order. COSLA however, continue to have concerns about the manner in which amounts to be transferred to Scottish Water are calculated. A Steering Group comprising representatives of COSLA, Scottish Water and the Scottish Government has been set up to review the current Billing and Collection arrangements and to develop a solution acceptable to all parties.

Financial Effects

The only financial effect of the 2010 Order is an increase in the minimum amount payable per dwelling by Scottish Water to Local Authorities for services provided. In 2009-10 this amount was £5.34. In 2010-11 the minimum amount payable is £5.47. In 2011-12 the minimum amount payable is £5.47 increased by the percentage increase between the price index for December 2009 and the price index for December 2010.

Water Services Division
January 2010