



An Bille um Sheirbhísí Uisce, 2017
Water Services Bill 2017

Meabhrán Míitheach agus Airgeadais
Explanatory and Financial Memorandum



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EXPLANATORY AND FINANCIAL MEMORANDUM

General

The Water Services Bill 2017 provides the mechanism through which the majority of the recommendations of the report of the Joint Oireachtas Committee on the Future Funding of Domestic Water Services can be introduced. This report, published on 12 April 2017, was approved by both Houses of the Oireachtas.

The recommendations of the Committee provide for the discontinuance of domestic water charges for dwellings as set out in the Water Services Act, 2014 to be replaced by arrangements including the introduction of a levy for excessive use of water. As a consequence, this Bill provides for the extinguishing of any existing liabilities for water charges for domestic customers for the period prior to the suspension of charges in 2016; the removal of late payment charges for dwellings and the making of refunds, by Irish Water, of domestic water charges paid since domestic charges were introduced on 1 January 2015 and provides for new arrangements where excessive use of water above a threshold arises.

A number of related issues are also provided for in this legislation, such as the measures to underpin the future funding arrangements for Irish Water, the establishment of a Water Forum, an enhanced role for the Commission for Regulation of Utilities (CRU) in relation to dispute resolution for customers, the establishment of a Water Advisory Body and, finally, some miscellaneous amendments that are also now required.

Financial Implications

The cost of issuing refunds to domestic customers in respect of domestic water charges paid (section 22 of the Bill refers) is estimated to be approximately €179m, including administration costs. It is intended, subject to the passage of the Bill, that the majority of customers will be refunded between October and December 2017, with any remaining activity completed in Quarter 1 of 2018.

It is estimated that the funding of domestic water charges through taxation will cost on average €240m per annum, above the Irish Water Business Plan projections considered by Government in September 2015.

The 2017 Estimate already provides for €125m in respect of the suspension of domestic water charges to the end of March 2017. A further, €114m is required in 2017 to meet the costs of the extension of the suspension by Ministerial Order to the end of 2017.

Therefore, if refunds are to be made in 2017, the full cost required, by way of supplementary estimate, will be some €293m - refunds (€179m) and suspending domestic water charges to the end of the year (€114m).

From 2018 onwards, all State funding to Irish Water will be channelled through the Department's Vote and will be in the form of a payment for domestic water services as determined through the regulatory process and a capital contribution. The Bill provides for the development of a strategic funding plan by Irish Water which will provide clarity on the investment requirements and operational costs over a multi-annual period.

In order to facilitate the change in funding sources from the Local Government Fund (LGF) and the Central Fund, on foot of the implementation of the Committee's report, the provisions of this Bill will facilitate the payment of motor tax receipts into the Exchequer, rather than the LGF, and the direct payment by Revenue of local property tax receipts into the LGF.

PART 1 – PRELIMINARY AND GENERAL

Section 1 – Short title, collective citation and commencement

Section 1 sets out the short title of the Bill and provides that the various provisions of the Bill may be brought into operation on such day or days as may be appointed by order of the Minister.

Section 2 – Interpretation

This section sets out the definitions required to give effect to the provisions of all parts of the Bill.

Section 3 – Expenses

This is a standard provision enabling expenses incurred by the Minister in the administration of the Act to be paid out of moneys provided by the Oireachtas.

Section 4 – Orders and regulations

Section 4 provides that every order and regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling such order or regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly.

Section 5 – Repeals and revocations

This section outlines the legislation and regulations that are repealed or revoked.

PART 2 – AMENDMENT OF WATER SERVICES ACT 2007

Section 6 – Amendment of section 2 of Act of 2007

This section provides for the insertion of certain definitions into the Water Services Act 2007.

Section 7 - Amendment of section 16 of the Act of 2007

This section provides for the inclusion of the proposed Water Advisory Body and the Water Forum in bodies that can be funded by the Minister.

Section 8 – Review by Commission of rate of demand for water services provided to dwellings

In this section, provision is made for the Commission for Regulation of Utilities (CRU) to carry out a review to assess the average consumption by customers of water services provided by Irish Water to dwellings which shall be used by the Minister to set the threshold over which excessive usage payments may apply. The CRU will also recommend to the Minister, based on consumption trends, the level of allowance to apply for usage by larger households (i.e. where five or more people are ordinarily resident in a dwelling). The first such review will be carried out and completed within one month after the coming into operation of this section with provision for future reviews prior to the expiration of the water charges plans.

Section 9 – Threshold amount and allowance amount

This section sets out the process for specifying the threshold amount and the allowance amount, following receipt of the report from the CRU. It specifies that the threshold amount shall be calculated by multiplying by 1.7 the amount assessed by the Commission as the average rate of consumption of water services in a 12 month period. Allowances will be provided where the excessive use of water is caused by the size of the household or medical needs in the household. Provision is made that the multiplier of 1.7 may be reduced in time, but not within the first five years of the Act, and not without a positive resolution of the Oireachtas.

Section 10 – Provision of water services exceeding the threshold amount

This section provides for the insertion of a provision into the 2007 Act, to preclude Irish Water from charging a customer for water services provided by Irish Water to the customer's dwelling where that customer does not consume water services in excess of the threshold amount.

Section 11– Notice of provision of water services exceeding the threshold amount

This section inserts a provision into the Water Services Act 2007 for Irish Water to give notice to a customer where the threshold amount has been exceeded. A customer who continues to consume water services in excess of the threshold amount after a period of 6 months following a notice from Irish Water will be liable to pay Irish Water for the provision of any water services that exceed the threshold amount. The payment levels will be set by the CRU having regard to the costs of Irish Water.

Section 12 – Allowance for household size

This section provides that a customer who receives a notice of the provision of water services exceeding the threshold amount can seek an allowance relating to the size of their household, to reduce or eliminate their liability. The allowance amount set will be multiplied by the number of persons over four in a dwelling.

Section 13 – Exemption for certain medical needs

This section provides that a customer who receives a notice of the provision of water services exceeding the threshold amount can seek an exemption from payment where the usage arises from a medical need of a member of the household giving rise to additional demand for water services.

PART 3 – AMENDMENT OF WATER SERVICES (NO. 2) ACT 2013

Section 14 – Amendment of section 2 of No. 2 Act of 2013

This section provides for an amendment to Section 2 of the No. 2 Act of 2013 to insert the definitions for ‘dwelling’, ‘strategic funding plan’, ‘threshold amount’ and ‘water services policy statement’.

Section 15 – Amendment of section 21 of No. 2 Act of 2013

This section provides for the charging of customers of Irish Water for services that exceed the threshold amount in respect of which a customer is liable to make a payment, services relating to the connection of the dwelling to water services and reading and testing of water meters when requested by a customer of Irish Water in respect of the dwelling.

Section 16 – Amendment of section 22 of No. 2 Act of 2013

This section provides that the CRU would have regard to a strategic funding plan prepared by Irish Water when considering a water charges plan submitted by Irish water.

Section 17 – Amendment of section 32 of No. 2 Act of 2013

This section provides that Irish Water, amend their code of practice to make additional provision in relation to the making of complaints to Irish Water by persons in relation to notices received relating to the provision of water services exceeding the threshold amount and refunds being made under section 3C (inserted by section 22 of the Bill) of the Water Services Act 2014.

Section 18 – Water services policy statement

This section provides that the Minister shall prepare a ‘water services policy statement’ before the expiration of the water charges plan. The statement will contain information concerning the policy objectives and priorities of the Government regarding the provision of water services in the State. The water services policy statement will be laid before each House of the Oireachtas.

Section 19 – Strategic funding plan

This section provides for Irish Water to prepare and submit a ‘strategic funding plan’ outlining the arrangements for implementation of the objectives of the ‘water services strategic plan’ for the duration of the water charges plan being prepared by Irish Water. The ‘strategic funding plan’ will include an estimate for the costs associated with the provision of water services to dwellings and recovery of these costs; costs associated with the provision of water services to premises other than dwellings and recovery of those costs; income of Irish Water and the operating expenditure and capital expenditure of Irish Water. The strategic funding plan will be laid before each House of the Oireachtas and will be furnished to the CRU.

The Joint Oireachtas Committee on the Future Funding of Domestic Water Services recommended that there should be funding certainty and long term stability for the water utility. The proposals in the legislation are in line with this recommendation.

Section 20 – Amendment of section 36 of No. 2 Act of 2013

This section provides for grants to Irish Water, sanctioned by the Minister for Public Expenditure and Reform, towards the expenditure incurred by Irish Water in the provision of water services to a “dwelling”. Before deciding whether or not to make a grant, the Minister shall have regard to the water charges plan last approved by the CRU, the strategic funding plan last approved by the Minister, the refunds plan, the need to ensure

the recovery of costs of water services in line with the Water Framework Directive and the environmental objectives of the EU Water Framework Directive.

PART 4 - AMENDMENT OF WATER SERVICES ACT 2014

Section 21 – No liability in respect of certain charges

This section provides that no liability arises for Irish Water domestic customers in respect of the period from 1 January 2015 to 30 June 2016 or to any related late payment charge, i.e. the period prior to the suspension of domestic water charges.

Section 22 – Refunds

This section provides Irish Water with the power to make a refund payment to a customer who paid a charge for the provision by Irish Water of water services to a dwelling.

Section 23 – Customer Dispute Resolution: connection to, and use of, public water system

This section strengthens the role of the CRU in relation to disputes between Irish Water and those seeking a connection to the public water/wastewater network.

PART 5 SECTIONS 24 TO 32 – WATER FORUM

Sections 24 to 32 in the Draft Bill provide for the establishment of the Water Forum and set out the provisions relating to the membership, functions and operation of the Forum.

PART 6 SECTIONS 33 TO 41 – DISSOLUTIONS AND TRANSFER OF FUNCTIONS

Sections 33 to 41 provide for the dissolution of the Public Water Forum and the National Rural Water Services Committee and sets out the transitional arrangements in moving towards the establishment of the Water Forum.

PART 7 SECTIONS 42 TO 53 – WATER ADVISORY BODY

Sections 42 to 53 in the Bill provide for the establishment of the Water Advisory Body and set out the provisions relating to the membership, functions and operation of the Body.

PART 8 – MISCELLANEOUS AMENDMENTS RELATING TO FINANCE

Section 54 – Transfer of local property tax to the Local Government Fund

This section provides for the Minister for Finance to pay into the Local Government Fund the local property tax collected during the financial years 2014 to 2017. Commencing with the year 2018, the Revenue Commissioners shall pay directly into the Local Government Fund an amount equivalent to the local property tax received by them, including any interest or penalties.

Section 55 – Amendment of section 2 of Act of 1998

This section provides that the Minister for Transport, Tourism and Sport can issue directions in relation to the collection of motor tax under sections 5(3) and 7(1) of the 1998 Act.

Section 56 – Amendment of section 4 of Act of 1998

This section amends section 4(6) of the 1998 Act to provide that from 1 January 2018, all motor tax collected by the Minister for Transport, Tourism and Sport shall be paid into the Central Fund.

Section 57 – Amendment of section 5 of Act of 1998

This section provides that from 1 January 2018, motor tax collected by local authorities shall be paid to the Minister for Transport, Tourism and Sport. It also clarifies that all motor tax collected up to the 31 December 2017 shall continue to be paid into the Local Government Fund.

Section 58 – Amendment of section 6 of Act of 1998

This section amends Section 6 of the 1998 Act and provides for the deletion of subsections 1A, 2A, 2AB, 2B, 2CA and 9. It also amends subsection 2C to provide for a payment to the Exchequer in 2017.

Section 59 – Amendment of section 7 of Act of 1998

This section inserts the Minister for Transport, Tourism and Sport as the relevant Minister. It also adds a provision that any direction in force, remains in force.

PART 9 – TRANSITIONAL PROVISION AND MISCELLANEOUS AMENDMENTS

Section 60 – Transitional matters affecting section 22 of No. 2 Act of 2013

This sections deals with consequential amendments to the water charges plan in force to give effect to the amendments in this Bill.

Section 61 – Amendment of Valuation Act 2001

This section provides for Schedule 4 to the Valuation Act 2001 to be amended by the deletion of paragraph 21. This deletion will provide for the entire network used for the provision of water services by Irish Water or a person who holds a water services licence or land and buildings occupied by Irish Water or such a licence holder to now be rateable.

Section 62 – Amendment of section 70B of Act of 2007

This section provides for the removal of the requirement provided for in Section 70B(5) to register a domestic waste water treatment system every five years. Associated subheads 70B(6) and (7) are also deleted.

*An Roinn Tithíochta, Pleanála agus Rialtais Áitiúil,
Meán Fómhair, 2017.*