



Number 44 of 2014

Water Services Act 2014



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ACTS REFERRED TO

Companies Acts

Gas Act 1976 (No. 30)

Gas Regulation Act 2013 (No. 39)

Health Service Executive (Financial Matters) Act 2014 (No. 17)

Housing Finance Agency Act 1981 (No. 37)

Social Welfare and Pensions Act 2014 (No. 16)

Social Welfare Consolidation Act 2005 (No. 26)

Valuation Act 2001 (No. 13)

Water Services (No. 2) Act 2013 (No. 50)

Water Services Act 2007 (No. 30)

Water Services Act 2013 (No. 6)

Water Services Acts 2007 to 2013



Number 44 of 2014

WATER SERVICES ACT 2014

An Act to make provision, should the Government with the consent of both Houses of the Oireachtas propose to alienate the shareholding in Irish Water of the Minister for the Environment, Community and Local Government and the Minister for Finance, for the holding of a Plebiscite of the People to decide upon the proposal; to provide for the maximum level of charges that Irish Water may impose on a person in respect of the provision of water services to a dwelling, for the payment of a grant to householders for the conservation of water, for the establishment by the Commission for Energy Regulation of a public water forum, for the provision by the Commission for Energy Regulation of dispute resolution procedures for customers of Irish Water and for matters relating to the superannuation of persons employed with Irish Water before those persons entered into service with Irish Water; to rescind the power of Irish Water to require the personal public service number of its customers; to increase the membership of the Board of Ervia; to amend the Water Services Acts 2007 to 2013, the First Schedule to the Gas Act 1976, Schedule 4 to the Valuation Act 2001 and Schedule 5 to the Social Welfare Consolidation Act 2005; and to provide for connected matters.

[28th December, 2014]

Be it enacted by the Oireachtas as follows:

Definitions

1. In this Act—

“Act of 2007” means Water Services Act 2007;

“adult” means a person who has attained 18 years of age;

“Commission” means Commission for Energy Regulation;

“customer”, “local authority”, “occupier”, “premises” and “property” have the meanings assigned to each of them, respectively, in section 2 of the No. 2 Act of 2013;

“dwelling” has the meaning assigned to it in section 21(9) of the No. 2 Act of 2013;

“Minister” means Minister for the Environment, Community and Local Government;

“No. 2 Act of 2013” means Water Services (No. 2) Act 2013;

“water services” and “waste water” have the meanings assigned to them, respectively, in section 2(1) of the Act of 2007;

“water meter” means a meter within the meaning of section 71 of the Act of 2007.

Plebiscite on ownership of Irish Water

2. (1) A Bill providing or allowing for the alienation of any share or shares in Irish Water to a person other than a Minister of the Government shall not be initiated by or on behalf of a Minister of the Government in either House of the Oireachtas unless—
 - (a) a Resolution of each such House is passed approving a proposal to provide or allow for such alienation,
 - (b) a proposal to provide or allow for such alienation is submitted by Plebiscite for the decision of the People, and
 - (c) a majority of the votes cast in such Plebiscite shall have been cast in favour of the proposal.
- (2) Whenever Resolutions are passed by both Houses of the Oireachtas in respect of the proposal referred to in *subsection (1)*, the Minister may by order appoint the day upon which and during which the poll at the Plebiscite on the proposal shall be held.
- (3) An order under *subsection (2)* shall be published in the *Iris Oifigiúil*.
- (4) On such Resolutions being passed by both Houses of the Oireachtas, the Clerk of the Dáil shall immediately inform the Minister accordingly.
- (5) A person who has the right to vote at a referendum on a proposal for an amendment of the Constitution shall have the right to vote in the Plebiscite.
- (6) The Plebiscite shall—
 - (a) put a proposal for a decision of those persons entitled to vote in the Plebiscite as to whether the Government may, if it wishes to, cause the initiation of legislation as referred to in *subsection (1)*, and
 - (b) be held in accordance with regulations made by the Minister providing for the holding of the Plebiscite and for other requirements and arrangements that will apply in relation to the Plebiscite.
- (7) The Minister shall publish details of the proposal and the reasons for it to be submitted to the people in the Plebiscite not later than 30 days before the day fixed as the polling day for the Plebiscite.
- (8) In this section “Plebiscite” means the Plebiscite to which *subsection (1)(b)* refers.

Water charges - dwellings

3. (1) Notwithstanding section 21(1) of the No. 2 Act of 2013, Irish Water shall not charge, before 1 January 2015, for water services provided by it to a dwelling.

- (2) *Subsection (1)* does not apply to non-domestic water supply and waste water charges made under the approved water charges plan in respect of the period from 1 October 2014 until 31 December 2014.
- (3) Subject to this section (other than *subsection (16)*), Irish Water, during the period from 1 January 2015 until 31 December 2018, shall charge for the provision of water services in respect of each year during that period—
- (a) to a dwelling which is occupied by not more than one adult as the place of his or her principal private residence, not more than €160,
 - (b) to a dwelling which is occupied by 2 or more adults as the place of their principal private residence, not more than €260, and
 - (c) to a dwelling which is occupied by a person as a place of his or her place of private residence but is not the place of his or her principal private residence, or to a premises which if it were occupied would constitute a dwelling, not more than €260.
- (4) Where a dwelling is in receipt of one service in respect of water services provided by Irish Water, that is to say—
- (a) the supply of water to the dwelling, or
 - (b) the removal of waste water from it,
- then the maximum charge that Irish Water may charge for that service in respect of the dwelling is an amount that is 50 per cent less than the amount that would be charged for water services to the dwelling in accordance with *subsection (3)* but for this subsection.
- (5) The Minister may, with the consent of the Minister for Public Expenditure and Reform, by order provide that Irish Water shall not charge for the provision of water services to a dwelling more than the amount specified in the order in respect of any period after the period referred to in *subsection (3)*.
- (6) Where the Minister proposes to make an order under *subsection (5)*, a draft of the order shall be laid before each House of the Oireachtas, and the order shall not be made until a resolution approving the draft has been passed by each such House.
- (7) Subject to *subsections (3), (14) and (15)*, the amount that Irish Water may, during the period from 1 January 2015 until 31 December 2018, charge for the provision of water services to a dwelling in respect of which a water meter has been installed by a metering authority (within the meaning of section 19 of the Water Services Act 2013) shall be—
- (a) not more than €1.85 for each 1,000 litres of water supplied by it, and
 - (b) not more than €3.70 for each 1,000 litres of water supplied and waste water removed by it.
- (8) The charging of customers of Irish Water for the provision of water services provided for in this section is deemed to be part of the approved water charges plan.

- (9) Irish Water shall make any consequential amendments to the approved water charges plan necessary to provide for the matters provided for in this section.
- (10) Irish Water shall when amending the water services plan under *subsection (9)* submit any part of the amended plan which is consequential to its amendment to the Commission for approval under section 22(8) of the No. 2 Act of 2013.
- (11) The household water allowance as outlined in the water charges policy direction under section 42 of the No. 2 Act of 2013 given by the Minister on 2 July 2014 ceases to apply.
- (12) A child water allowance provided under the approved water charges plan applies to a person who is not an adult.
- (13) Where a dwelling is provided with a water meter installed by Irish Water and, at any time after 1 January 2015, the average annual volume of water provided by Irish Water to that dwelling is found to be such that the charge for that volume, calculated in accordance with the approved water charges plan as provided for in this section, would be less than the maximum charge provided under *subsection (3)* which has been paid by a customer of Irish Water, then the customer who is charged for the provision to that dwelling of the water consumed is entitled to one and one only rebate.
- (14) Where a dwelling is provided with water services by Irish Water on 31 December 2014 and no occupier of that dwelling has registered with Irish Water before such date as the Minister may by order specify, the occupier, for the time being, of that dwelling shall be liable to be charged by Irish Water the amount of €260 in respect of that dwelling for each year up to 31 December 2018 or until such time as an occupier of the dwelling has registered with Irish Water, whichever first occurs. Where the occupier so registers a lower amount may be charged.
- (15) Where a dwelling is provided with water services by Irish Water, on or after 1 January 2015, the occupier, for the time being, of the dwelling shall be liable to be charged by Irish Water the amount of €260 in respect of that dwelling for each year up to 31 December 2018 or until such time as an occupier of that dwelling has registered with Irish Water, whichever first occurs. Where the occupier so registers a lower amount may be charged.
- (16) Irish Water shall not charge for any services to a dwelling (including its curtilage) other than—
 - (a) water services or waste water services provided to the dwelling,
 - (b) in relation to the connection of the dwelling to water services and waste water services, and
 - (c) reading and testing of water meters requested by a customer of Irish Water in respect of the dwelling.
- (17) A charge made by Irish Water of a customer of Irish Water under section 21 of the No. 2 Act of 2013 includes a charge under this section.

- (18) In this section “approved water charges plan” means the water charges plan approved by the Commission under section 22(8) of the Act of 2013 on 30 September 2014.

Late payment charge - dwellings

4. (1) Where a customer of Irish Water has not paid any charges duly demanded of him or her by Irish Water, under section 21(1) of the No. 2 Act of 2013, for water services provided to a dwelling in respect of which he or she is the customer within a period of 12 months from the date of the issue of the first demand and has not entered into a payment plan with Irish Water and which the customer complies with for payment of the charges by such date as determined by Irish Water, that customer shall be charged, in addition to any arrears outstanding in respect of—
- (a) a dwelling which is occupied by not more than one adult as the place of his or her principal private residence, a late payment charge of not more than €30,
 - (b) a dwelling which is occupied by 2 or more adults as the place of their principal private residence, a late payment charge of not more than €60, and
 - (c) a dwelling which is occupied by a person as a place of his or her place of private residence but is not the place of his or her principal private residence, or to a premises which if it were occupied would constitute a dwelling, a late payment charge of not more than €60,
- in respect of each year that the arrears remain unpaid.
- (2) In this section reference to a dwelling includes a reference to a premises which if it was occupied would be a dwelling.
- (3) Where a dwelling is in receipt of one service in respect of water services provided by Irish Water, that is to say—
- (a) the supply of water to the dwelling, or
 - (b) the removal of waste water from it,
- then the maximum charge that Irish Water may charge for that service in respect of the dwelling is an amount that is 50 per cent less than the amount that would be charged for water services to the dwelling in accordance with *subsection (1)* but for this subsection.
- (4) A late payment charge under this section is deemed to be a charge payable by the customer concerned under section 21(3) of the No. 2 Act of 2013.

Water conservation grant

5. (1) The Minister may, after consultation with the Minister for Social Protection and subject to such regulations as may be made by the Minister under *subsection (5)*, pay, out of moneys provided by the Oireachtas, an annual grant to a person in respect of a dwelling for the purposes of water conservation.
- (2) A grant under this section payable in respect of the year 2015 shall only be paid where the occupier of a dwelling—

- (a) has, not later than such date as the Minister specifies by order, registered with Irish Water details of the water supply to the dwelling and the treatment of waste water discharged from the dwelling, and
 - (b) has provided to the Minister for Social Protection information specified under regulations made under *subsection (5)*.
- (3) For the purposes of this section, a person shall be regarded as the occupier of a dwelling if for reasons of physical or intellectual disability he or she is not resident in that dwelling, other than where the dwelling is rented to another person.
- (4) Irish Water shall send to the Minister for Social Protection particulars in relation to persons (whether or not they are customers of Irish Water) drawn from the particulars of registration received by it in respect of the registration process referred to in *subsection (2)(a)*, which particulars shall be sent at the time and in the form and manner agreed between Irish Water and the Minister for Social Protection.
- (5) The Minister may make regulations for the purposes of this section to provide for the following:
- (a) the amount of the grant;
 - (b) eligibility criteria;
 - (c) application procedures;
 - (d) information to be provided by persons making an application under this section;
 - (e) general administration procedures;
 - (f) any consequential or ancillary matters that the Minister considers necessary for the proper functioning of the scheme.

Prohibition on reduction of supply to dwelling

6. Section 21 of the No. 2 Act of 2013 is amended by substituting for subsection (8) the following:

“(8) Irish Water shall not, by reason of a charge in respect of a dwelling being wholly or partly unpaid, reduce or discontinue the supply of water to that dwelling either temporarily or permanently.”

Public Water Forum

7. (1) The Commission shall establish a customer consultative forum to be known as the Public Water Forum which is in this section referred to as the “Forum”.
- (2) The Forum shall consist of at least 12 and not more than 60 members (including a chairperson).
- (3) (a) The Minister shall appoint a person to be the chairperson of the Forum who, in the opinion of the Minister, has appropriate expertise and experience.

- (b) An appointment under *paragraph (a)* shall be for such period not exceeding 3 years as specified by the Minister when appointing the person and shall be on such terms as may be determined by the Minister with the consent of the Minister for Public Expenditure and Reform.
 - (c) The chairperson shall chair the meetings of the Forum.
 - (d) In the event of the chairperson being unable to attend a meeting of the Forum, the members of the Forum who are present shall choose one of their number to chair the meeting.
 - (e) In the event of the office of chairperson being vacant, the Minister shall designate one of the members of the Forum to chair its meetings until a chairperson is appointed.
- (4) The Minister shall make regulations in respect of the composition of, and the conditions of membership of, the Forum.
- (5) The Forum shall have the following functions:
- (a) to represent the interests of customers of Irish Water;
 - (b) to provide Irish Water with comments and suggestions in relation to the performance by Irish Water of its functions;
 - (c) to provide the Commission with comments and suggestions in relation to the performance by Irish Water of its functions;
 - (d) to comment on any policy document produced by Irish Water, when requested to do so in writing by Irish Water;
 - (e) to comment on any consultation document produced by the Commission in respect of public water and waste water services, when requested to do so by the Commission;
 - (f) to carry out such other activities in respect of such other matters as the Minister by order specifies.
- (6) The Commission shall provide the Forum with such administrative services, including technical advice, as it requires to discharge its functions.
- (7) The Commission shall—
- (a) not later than 6 months after the passing of this Act, prepare and submit to the Minister a plan for the administrative arrangements for the Forum in respect of the period of 3 years immediately following the year in which the plan is so submitted, and
 - (b) not later than 3 months before each third anniversary of the submission to the Minister of the first plan, prepare and submit to the Minister a plan in respect of the 3 years immediately following the year in which it is submitted.

Customer dispute resolution

8. (1) Subject to this section, the Commission shall provide a dispute resolution service to any customer of Irish Water having an unresolved complaint relating to Irish Water and shall publish the procedures and details of this service on its website on the internet.
- (2) The Commission shall not provide the dispute resolution service where the complaint—
- (a) is or has been the subject of legal proceedings before a court,
 - (b) is made after the expiration of 6 years from the date on which the cause of the complaint is alleged to have occurred,
 - (c) relates to a matter that does not concern the functions or objectives of the Commission under the *Water Services Acts 2007 to 2014*, or
 - (d) is one to which *subsection (4) or (7)* relates.
- (3) For the purpose of *paragraph (b) of subsection (2)*, a matter of a continuing nature is taken to have occurred at the time when it stopped and conduct that consists of series of acts or omissions is taken to have occurred when the last of those acts or omissions occurred.
- (4) A person is not entitled to make a complaint unless—
- (a) at the time to which the complaint relates he or she—
 - (i) was registered with Irish Water as a customer,
 - (ii) has previously communicated the substance of his or her complaint to Irish Water in writing, and
 - (iii) has exhausted any complaints procedures provided by Irish Water in accordance with a code of practice approved by the Commission under section 32 of the No. 2 Act of 2013,and
 - (b) a final decision on the complaint has been issued by Irish Water to the customer in writing.
- (5) A complaint shall be submitted by the customer to the Commission in writing, other than where the Commission considers it appropriate to accept a complaint that is not in writing.
- (6) Where the Commission accepts a complaint that is not in writing, it shall reduce the complaint to writing as soon as possible after receiving it.
- (7) The Commission may decide not to provide a dispute resolution service in relation to a complaint where the complaint is, in the opinion of the Commission, vexatious or frivolous or not made in good faith.

- (8) Irish Water and any customer availing of the dispute resolution service shall comply with all reasonable requests for information by the Commission in carrying out an investigation into a complaint received by the Commission.
- (9) The Commission shall notify the customer concerned in writing of the reasons for its decision.
- (10) The Commission shall issue a determination to Irish Water in writing regarding its decision on the matter in dispute (including, where appropriate a requirement to pay a refund or compensation, which shall be proportionate).
- (11) Where the subject of a complaint impacts on any other customers of Irish Water, then, the Commission in making its determination under *subsection (10)* may require Irish Water to comply with the determination in respect of those other customers.
- (12) Irish Water shall comply with any requirement made of it in a determination under *subsection (10)*.
- (13) The Commission shall prepare and submit an annual report to the Minister on—
 - (a) the number and type of complaints received and their resolution,
 - (b) any decision by the Commission not to provide a dispute resolution service, and
 - (c) the service levels provided by Irish Water.
- (14) The Commission may publish an annual report it has submitted to the Minister under *subsection (13)*.
- (15) The Commission may, in the public interest, publish an outline of any complaint received (other than any personal information relating to the customer).
- (16) Costs may not be awarded to a party under this section.
- (17) In this section—

“complaint” means a complaint made by a customer of Irish Water to the Commission under this section;

“customer” in relation to a complaint under this section, includes a former customer of Irish Water to whom *subsection (4)(a)(i)* applies;

“dispute resolution service” means the service provided under *subsection (1)*.

Superannuation

9. (1) Section 28 of the No. 2 Act of 2013 is amended—
 - (a) by inserting after subsection (1) the following:

“(1A) A scheme prepared under subsection (1) shall have effect, with respect to the pensionable service of a person mentioned in that subsection, on and from the day the person was accepted into the employment of Irish Water in accordance with section 19 or was appointed under section 27, as the case may be.”,

(b) in subsection (1)(b), by substituting for subparagraph (ii) the following:

“(ii) members of the staff of a local authority or the Local Government Management Agency (unless their contracts of employment provide for a defined contribution scheme).”

and

(c) in subsection (7) by substituting for paragraphs (b) and (c) the following:

“(b) Irish Water shall not have any financial liability or responsibility in respect of any scheme made by the Minister under *subsection (4) of section 9 of the Water Services Act 2014* for the granting of superannuation benefits in respect of service with the Minister or a local authority or the Local Government Management Agency, as the case may be, before the day the person is accepted under section 19 or appointed under section 27 into the employment or service of Irish Water, except as provided for in paragraph (c).

(c) Any increases in superannuation benefits payable under a scheme under this section which arise due to Irish Water increasing relevant pensionable remuneration or net pensionable remuneration shall be the responsibility of Irish Water.”

(2) Section 29(2) of the No. 2 Act of 2013 is amended by inserting “or the Local Government Management Agency” after “local authority” in both places it occurs.

(3) Section 28 of the No. 2 Act of 2013 is amended by inserting after subsection (9) the following:

“(10) For the purposes of this section, an appointment under section 27 includes an appointment by Ervia prior to the formation and registration of Irish Water under the Companies Acts of persons who were members of the staff of a local authority immediately before such appointment and commenced employment with Irish Water immediately on ceasing employment with Ervia.”

(4) Where a person—

(a) is accepted into the employment of Irish Water in accordance with section 19 of the No. 2 Act of 2013, or

(b) is appointed under section 27 of that Act, and, immediately before the appointment, was an officer of the Minister or a member of staff of a local authority,

the Minister shall, with the consent of the Minister for Public Expenditure and Reform, make a scheme for the granting of superannuation benefits (within the meaning of section 24 of the No. 2 Act of 2013) in respect of service with the Minister or the local authority concerned, as the case may be, before the day the person is accepted or appointed into the employment or service of Irish Water.

- (5) Irish Water does not have any financial liability or responsibility in respect of a scheme prepared by the Minister under *subsection (4)*.
- (6) The Minister shall cause every scheme made under *subsection (4)* to be laid before each House of the Oireachtas as soon as may be after it is made, and if either such House, within the next 21 days on which that House sits after the scheme is laid before it, passes a resolution annulling the scheme, the scheme shall be annulled accordingly, but without prejudice to anything previously done thereunder.
- (7) Subsection (5) of section 27 of the No. 2 Act of 2013 is repealed.
- (8) Section 4(2) of the No. 2 Act of 2013 is amended by deleting “, 18A (inserted by section 47 of the Gas Regulation Act 2013)”.
- (9) A reference in section 18 of the Gas Act 1976 to an officer or servant of the Board includes a reference to a member of the staff of Irish Water who was a member of a scheme under that section immediately before being accepted into the employment of Irish Water.

Loans relating to property

10. (1) Notwithstanding section 13 of the No. 2 Act of 2013, where property is transferred on a property vesting day to Irish Water in accordance with section 12 of that Act, then any financial loan relating to that property does not, vest in Irish Water.
- (2) Section 12 of the No. 2 Act of 2013 is amended by inserting after subsection (6) the following:

“(6A) The vesting of any property (including land or an interest in land) in Irish Water, on a property vesting day, is not to be considered as a disposal of the property by the water services authority concerned, but as a transfer to Irish Water.”.
- (3) The Minister may request the Minister for Finance to make payments up to a total amount of €460,000,000 to local authorities for the purpose of repaying any Housing Finance Agency water related loans under section 5 of the Housing Finance Agency Act 1981 held by local authorities. The Minister for Finance shall make any such payments, subject to such conditions (if any) as he or she may determine, out of the Central Fund or the growing produce thereof.

Abolition of power of Irish Water to require PPS numbers of its customers

11. (1) Schedule 5 to the Social Welfare Consolidation Act 2005 is amended in paragraph 1(4) by deleting “Irish Water”.
- (2) Section 20 of the Social Welfare and Pensions Act 2014 is repealed.
- (3) This section comes into operation on such day as the Minister for Social Protection, after consultation with the Minister, may appoint by order.

Public water services property not rateable

12. Schedule 4 to the Valuation Act 2001 is amended by inserting after paragraph 20 (inserted by section 16 of the Health Service Executive (Financial Matters) Act 2014) the following:

“21. The entire network (within the meaning of section 2(1) of the Water Services Act 2007) used for the provision of water services (within the meaning of that subsection) by Irish Water or a person who holds a water services licence under section 79 of the Water Services Act 2007 or land and buildings occupied by Irish Water or such a licence holder.”.

Increase in membership of board of Ervia

13. The First Schedule to the Gas Act 1976 is amended by substituting for Article 2 (inserted by section 40(a) of the Gas Regulation Act 2013) the following:

“2. The Board shall consist of a chairperson and such number of other members, not being more than 10, as the majority shareholding Minister may determine.”.

Regulations and orders

14. (1) The Minister may make regulations for the purpose of enabling any provision of this Act to have full effect.
- (2) Every regulation or order (other than an order under *section 2(2), 3(5) or 11(3)*) made 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 the regulation or order is passed by either such House within the next 21 days on which that House has sat after the regulation or order is laid before it, the regulation or order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses

15. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Short title and collective citation

16. (1) This Act may be cited as the Water Services Act 2014.
- (2) The Water Services Acts 2007 to 2013 and this Act may be cited together as the Water Services Acts 2007 to 2014.