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WELSH STATUTORY INSTRUMENTS

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**2004 No. 701 (W.75)**

**WATER INDUSTRY, ENGLAND AND WALES**

**The Water Industry (Prescribed Conditions) (Undertakers Wholly or Mainly in Wales) Regulations 2004**

<i>Made</i>	- - - -	<i>10th March 2004</i>
<i>Laid before Parliament</i>		<i>15th March 2004</i>
<i>Coming into force</i>	- -	<i>13th April 2004</i>

The National Assembly for Wales, in exercise of the powers conferred upon the Secretary of State by sections 144A(5)(b), 144B(1)(c) and 213(2) of the Water Industry Act 1991<sup>(1)</sup> and now exercisable by the National Assembly for Wales<sup>(2)</sup>, hereby makes the following Regulations:

**Citation, commencement, application and interpretation**

1.—(1) These Regulations may be cited as the Water Industry (Prescribed Conditions) (Undertakers Wholly or Mainly in Wales) Regulations 2004 and come into force on 13 April 2004.

(2) These Regulations apply to any water or sewerage undertaker whose area is wholly or mainly in Wales.

(3) In these Regulations, “the National Assembly” means the National Assembly for Wales.

**Prescribed conditions**

2. The conditions prescribed under sections 144A(5)(b) (additional conditions in relation to the revocation of a measured charges notice) and 144B(1)(c) (additional conditions in relation to the fixing of charges by reference to volume) of the Water Industry Act 1991 are that—

- (a) in the case of premises which are not used solely as a person’s home, that other use is not the principal use of the premises;
- (b) the water supplied to the premises is not used—

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(1) 1991 c. 56; sections 144A and 144B were inserted by sections 6 and 7 of the Water Industry Act 1999 (c. 9). See section 219 (1) of the Water Industry Act 1991 for the definition of “prescribed”.

(2) The functions of the Secretary of State under sections 144A and 144B of the Water Industry Act 1991 are exercisable by the National Assembly for Wales in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales, by virtue of Article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), as amended by Article 4 of, and Schedule 3 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253 (W.5)). The functions of the Secretary of State under section 213 of that Act are exercisable by the National Assembly for Wales to the same extent as the powers, duties and other provisions to which that section applies, by virtue of the same provisions of those Orders.

- (i) for watering a garden, other than by hand, by means of any apparatus;
  - (ii) for automatically replenishing a pond, or a swimming pool, with a capacity greater than 10,000 litres;
  - (iii) in a bath with a capacity (measured to the centre line of overflow) greater than 230 litres;
  - (iv) in a shower unit of a type specified under paragraph 4(c) of the Table to regulation 5 of the Water Supply (Water Fittings) Regulations 1999(3); or
  - (v) in a unit which incorporates reverse osmosis; and
- (c) the premises are not in an area which has been determined by the National Assembly, under regulation 3 below, to be an area of water scarcity for the purposes of these Regulations.

### **Areas of water scarcity**

3.—(1) The National Assembly may, on the application of a water undertaker, determine a part or the whole of that undertaker's area to be an area of water scarcity for the purposes of these Regulations if it considers it appropriate to do so having regard to—

- (a) the likely demand for water in that area over the period of 10 years following the application;
- (b) the water resources which are, or could be made, available for meeting that demand; and
- (c) the measures that the undertaker could take for meeting or managing that demand.

(2) A determination under this regulation is to have effect for such period as is specified by the National Assembly and may be revoked by it.

(3) Before making or revoking a determination under this regulation, the National Assembly must consult —

- (a) the Director(4);
- (b) the Environment Agency;
- (c) where the proposed action is likely to affect any part of Wales, the Countryside Council for Wales;
- (d) where the proposed action is likely to affect any part of England, English Nature; and
- (e) bodies appearing to it to be representative of the customers of the water and sewerage undertakers in the relevant area.

Signed on behalf of the National Assembly for Wales

10th March 2004

*John Marek*  
The Deputy Presiding Officer of the National  
Assembly

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(3) S.I. 1999/1148, amended by S.I. 1999/1506.

(4) See section 1(1) of the Water Industry Act 1991, which defines the "Director" as the Director General of Water Services.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 144A of the Water Industry Act 1991 (“the Act”) enables a consumer to serve a notice upon a water undertaker requiring the undertaker to fix charges in respect of the water supply to the consumer’s home by reference to the volume of water supplied. It also provides that a consumer may revoke such a notice where certain conditions in that section, and any additional conditions prescribed by regulations, are satisfied.

Section 144B of the Act enables a water or sewerage undertaker, subject to certain conditions, to begin fixing charges by reference to volume where the consumer has consented or there has been a change in the occupation. This power is subject to certain conditions in that section, and to any additional conditions prescribed by regulations.

Section 213(2) of the Act enables the inclusion of certain provisions in regulations made under the Act.

The power to make regulations for the above purposes is vested in the National Assembly for Wales in relation to water or sewerage undertakers whose areas are wholly or mainly in Wales.

These Regulations, which apply in relation to such undertakers, prescribe additional conditions which must be satisfied before a consumer may revoke his notice under section 144A, and before a relevant undertaker may begin fixing charges by reference to volume under section 144B.