



Number 6 of 2013

WATER SERVICES ACT 2013

REVISED

Updated to 25 May 2018

This Revised Act is an administrative consolidation of the *Water Services Act 2013*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Data Protection Act 2018 (7/2018)*, enacted 24 May 2018, and all statutory instruments up to and including *Data Protection Act 2018 (Establishment Day) Order 2018 (S.I. No. 175 of 2018)*, made 24 May 2018, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.



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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Water Services Acts 2007 to 2017: this Act is one of a group of Acts included in this collective citation to be construed together as one (*Water Services Acts 2007 to 2017* (29/2017), s. 1(2)). The Acts in this group are:

- *Water Services Act 2007* (30/2007)
- *Water Services (Amendment) Act 2012* (2/2012)
- *Water Services (No. 2) Act 2013* (50/2013)
- *Water Services Act 2014* (44/2014)
- *Environment (Miscellaneous Provisions) Act 2015* (29/2015), part 10
- *Water Services Act 2017* (29/2017)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1985, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Data Protection Act 2018 (7/2018)*
- *ESB (Electronic Communications Networks) Act 2014 (5/2014)*
- *Water Services (No. 2) Act 2013 (50/2013)*
- *Gas Regulation Act 2013 (39/2013)*

All Acts up to and including *Data Protection Act 2018 (7/2018)*, enacted 24 May 2018, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Electricity Regulation Act, 1999 (Water) Levy Order 2017 (S.I. No. 581 of 2017)*
- *Electricity Regulation Act, 1999 (Water) Levy Order 2016 (S.I. No. 591 of 2016)*
- *Electricity Regulation Act, 1999 (Water) Levy Order 2015 (S.I. No. 559 of 2015)*
- *Water Services Act 2013 (Prescribed Persons) Order 2015 (S.I. No. 84 of 2015)*
- *Electricity Regulation Act, 1999 (Water) Levy Order 2014 (S.I. No. 557 of 2014)*
- *Electricity Regulation Act, 1999 (Water) Levy Order 2014 (S.I. No. 101 of 2014)*
- *Water Services Act 2013 (Prescribed Persons) Order 2013 (S.I. No. 269 of 2013)*
- *Water Services Act 2013 (Commencement) Order 2013 (S.I. No. 108 of 2013)*

All statutory instruments up to and including *Data Protection Act 2018 (Establishment Day) Order 2018 (S.I. No. 175 of 2018)*, made 24 May 2018, were considered in the preparation of this revision.



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ACTS REFERRED TO

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| Local Government (Financial Provisions) (No. 2) Act 1983 | 1983, No. 21 |
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| Planning and Development Act 2000 | 2000, No. 30 |
| Property Services Regulation Act 2011 | 2011, No. 40 |
| Residential Tenancies Act 2004 | 2004, No. 27 |

[No. 6.]

Water Services Act 2013

[2013.]

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WATER SERVICES ACT 2013

REVISED

Updated to 25 May 2018

AN ACT TO MAKE PROVISION IN RELATION TO THE INSTALLATION AND MAINTENANCE OF WATER METERS IN DWELLINGS; FOR THAT PURPOSE TO PROVIDE FOR THE FORMATION OF A SUBSIDIARY COMPANY BY BORD GÁIS ÉIREANN AND THE PERFORMANCE OF CERTAIN FUNCTIONS UNDER THE WATER SERVICES ACT 2007 BY BORD GÁIS ÉIREANN AND THAT SUBSIDIARY COMPANY; TO AMEND THE GAS ACT 1976 AND THE WATER SERVICES ACT 2007; TO PROVIDE FOR THE COLLECTION OF CERTAIN INFORMATION BY BORD GÁIS ÉIREANN AND THAT SUBSIDIARY COMPANY; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[20th March, 2013]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Editorial Notes:

- E1** Levy for 2018 imposed on Irish Water (31.12.2017) by *Electricity Regulation Act, 1999 (Water) Levy Order 2017* (S.I. No. 581 of 2017, art. 1(2)).
- E2** Previous affecting provision: levy for 2017 imposed on Irish Water (31.12.2016) by *Electricity Regulation Act, 1999 (Water) Levy Order 2016* (S.I. No. 591 of 2016), in effect as per art. 1(2); revoked (1.01.2018) by *Electricity Regulation Act, 1999 (Water) Levy Order 2016* (S.I. No. 581 of 2017, art. 1(3)).
- E3** Previous affecting provision: levy for 2016 imposed on Irish Water (31.12.2015) by *Electricity Regulation Act, 1999 (Water) Levy Order 2015* (S.I. No. 559 of 2015), in effect as per art. 1(2); revoked (1.01.2017) by *Electricity Regulation Act, 1999 (Water) Levy Order 2016* (S.I. No. 591 of 2016), art. 1(3).
- E4** Previous affecting provision: levy for 2015 imposed on Irish Water (1.01.2015) by *Electricity Regulation Act, 1999 (Water) Levy Order 2014* (S.I. No. 557 of 2014), in effect as per art. 1(2); revoked (1.01.2016) by *Electricity Regulation Act, 1999 (Water) Levy Order 2015* (S.I. No. 559 of 2015), art. 1(3).
- E5** Previous affecting provision: levy for 2014 imposed on Irish Water (1.03.2014) by *Electricity Regulation Act, 1999 (Water) Levy Order 2014* (S.I. No. 101 of 2014); revoked (1.01.2015) by *Electricity Regulation Act, 1999 (Water) Levy Order 2014* (S.I. No. 557 of 2014), art. 1(3).

PART 1

PRELIMINARY AND GENERAL

Short title and commencement.

1.— (1) This Act may be cited as the Water Services Act 2013.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Annotations

Editorial Notes:

E6 Power pursuant to section exercised (29.03.2013) by *Water Services Act 2013 (Commencement) Order 2013* (S.I. No. 108 of 2013).

2. The 29th day of March 2013 is appointed as the day upon which the Water Services Act 2013 (No. 6 of 2013) (other than sections 28 and 29) shall come into operation.

Definitions.

2.— In this Act—

“Act of 1963” means the Companies Act 1963;

“Act of 1976” means the Gas Act 1976;

“Act of 1999” means the Electricity Regulation Act 1999;

“Act of 2001” means the Local Government Act 2001;

“Act of 2007” means the Water Services Act 2007;

“Board” means Bord Gáis Éireann;

“Commission” means the Commission for Energy Regulation established under section 8 of the Act of 1999;

“material interest” shall be construed in accordance with section 2(3) of the Ethics in Public Office Act 1995;

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

“subsidiary” has the meaning assigned to it by *section 4*;

“water services authority” has the same meaning as it has in the Act of 2007.

Annotations

Modifications (not altering text):

C1 Name Bord Gáis Éireann construed (20.06.2014) by *ESB (Electronic Communications Networks) Act 2014* (5/2014), s. 8, S.I. No. 287 of 2014.

Change of name of Bord Gáis Éireann to Ervia

8. (1) The name of the body (established by section 7 of the Gas Act 1976) the present name of which is, in the Irish language, Bord Gáis Éireann and, in the English language, The Irish Gas Board, shall, on and from such day as the Minister appoints by order, be Ervia.

(2) References in any enactment, statutory instrument, legal proceedings or any other document to Bord Gáis Éireann or The Irish Gas Board shall, on and from the day appointed under subsection (1), be construed as references to Ervia.

Expenses. 3.— 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.

PART 2

SUBSIDIARY COMPANY

Formation of company. 4.— The Board shall, after consultation with the Minister, the Minister for Communications, Energy and Natural Resources and the Minister for Public Expenditure and Reform, cause a private company limited by shares (in this Act referred to as the “subsidiary”) conforming to the conditions laid down in this Act to be formed and registered under the Companies Acts.

Name and share capital of subsidiary. 5.— (1) The subsidiary shall be known, in the Irish language, as Uisce Éireann and, in the English language, as Irish Water.

(2) Paragraph (b) of subsection (1) of section 6 (inserted by section 3 of, and the First Schedule to, the Companies (Amendment) Act 1983) of the Act of 1963 shall not apply to the subsidiary.

(3) The memorandum of association of the subsidiary shall not specify an authorised share capital that differs from such amount as may be determined by the Minister, with the consent of the Minister for Finance and the Minister for Public Expenditure and Reform.

(4) One share in the company shall be issued to the Board, and, of the remaining shares in the company, half shall be issued to the Minister and half shall be issued to the Minister for Finance.

(5) No voting rights in the company shall attach to any of the shares issued to the Minister or the Minister for Finance in accordance with *subsection (4)*.

F1[(6) (a) The Board shall not alienate the share issued to it in accordance with subsection (4).

(b) The Minister shall not alienate the shares issued to him or her in accordance with subsection (4).

(c) The Minister for Finance shall not alienate the shares issued to him or her in accordance with subsection (4).]

Annotations

Amendments:

F1 Substituted (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), s. 46(a), S.I. No. 575 of 2013.

Memorandum and articles of association of subsidiary.

6.— (1) The memorandum of association of the subsidiary shall be in such form consistent with this Act as may be approved by the Minister with the consent of the Minister for Communications, Energy and Natural Resources and the Minister for Public Expenditure and Reform.

(2) The articles of association of the subsidiary shall be in such form consistent with this Act as may be approved by the Minister with the consent of the Minister for

Communications, Energy and Natural Resources and the Minister for Public Expenditure and Reform.

(3) Notwithstanding anything contained in the Companies Acts, no alteration of the memorandum of association or the articles of association of the subsidiary shall be valid or effectual unless made with the prior approval of the Minister given with the consent of the Minister for Communications, Energy and Natural Resources and the Minister for Public Expenditure and Reform.

Disqualification for office of director of subsidiary.

7.— (1) A director of the subsidiary shall cease to be qualified, and cease, to be a director of the subsidiary if he or she—

- (a) is adjudicated bankrupt,
- (b) makes a composition or arrangement with creditors,
- (c) is sentenced by a court of competent jurisdiction to a term of imprisonment,
- (d) is convicted of any indictable offence in relation to a company,
- (e) is convicted of an offence involving fraud or dishonesty, whether in connection with a company or not, or
- (f) is the subject of an order under section 160 of the Companies Act 1990.

(2) This section is in addition to, and not in substitution for, any provision of the Companies Acts by virtue of which a person is not qualified, or shall cease, to be a director of a company.

Membership of either House of Oireachtas or European Parliament.

8.— (1) Where a director of the subsidiary is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or
- (c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be a director of the subsidiary.

(2) Where a member of the staff of the subsidiary is—

- (a) nominated as a member of Seanad Éireann,
- (b) elected as a member of either House of the Oireachtas or to be a member of the European Parliament, or
- (c) regarded pursuant to Part XIII of the Second Schedule to the Act of 1997 as having been elected to that Parliament,

he or she shall thereupon cease to be a member of the staff of the subsidiary.

(3) A person who is for the time being entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from being a director of the subsidiary or a member of the staff of the subsidiary.

(4) In this section “Act of 1997” means the European Parliament Elections Act 1997.

Disclosure of interests by directors of subsidiary.

9.— (1) Where at a meeting of the directors of the subsidiary any of the following matters arises, namely—

- (a) an arrangement to which the subsidiary is a party or a proposed such arrangement, or
- (b) a contract or other agreement with the subsidiary or a proposed such contract or other agreement,

then, any director of the subsidiary present at the meeting who otherwise than in his or her capacity as such director has a material interest in the matter shall—

- (i) at the meeting disclose the fact of such interest and the nature thereof to the other directors of the subsidiary present,
- (ii) neither influence nor seek to influence a decision to be made in relation to the matter,
- (iii) absent himself or herself from the meeting or that part of the meeting during which the matter is being discussed,
- (iv) take no part in any deliberation relating to the matter, and
- (v) not vote on a decision relating to the matter.

(2) Where a material interest is disclosed pursuant to this section, the disclosure shall be recorded in the minutes of the meeting concerned and, for so long as the matter to which the disclosure relates is being dealt with by the meeting, the director by whom the disclosure is made shall not be counted in the quorum for the meeting.

(3) Where at a meeting of the directors of the subsidiary a question arises as to whether or not a course of conduct, if pursued by a director of the subsidiary, would constitute a failure by him or her to comply with the requirements of *subsection (1)*, the question may, subject to *subsection (4)*, be determined by the chairperson of the meeting, whose decision shall be final, and where such a question is so determined, particulars of the determination shall be recorded in the minutes of the meeting.

(4) Where, at a meeting of the directors of the subsidiary, the chairperson of the meeting is the director in respect of whom a question to which *subsection (3)* applies falls to be determined, then the other directors of the subsidiary attending the meeting shall choose one of their number to be chairperson of the meeting for the purpose of determining the question concerned.

(5) (a) Where the Minister is satisfied that a director of the subsidiary has contravened *subsection (1)*, the Minister may, if he or she thinks fit, direct the Board to remove that director from office and the Board shall comply with such direction.

(b) Where a person is removed from office pursuant to a direction under this subsection, he or she shall thenceforth be disqualified for being a director of the subsidiary.

(6) Section 194 (amended by section 2 of the Companies (Amendment) Act 2009) of the Act of 1963 shall not apply to a director of the subsidiary.

Disclosure of interests by members of staff of subsidiary.

10.— (1) Where a member of the staff of the subsidiary has a material interest, otherwise than in his or her capacity as such a member, in any contract, agreement or arrangement to which the subsidiary is a party, or any proposed such contract, agreement or arrangement, that person shall—

- (a) disclose to the subsidiary his or her interest and the nature thereof,

(b) take no part in the negotiation of the contract, agreement or arrangement or in any deliberation by the subsidiary or members of the staff of the subsidiary in relation thereto, and

(c) neither influence nor seek to influence a decision to be made in relation to the matter nor make any recommendation in relation to the contract, agreement or arrangement.

(2) *Subsection (1)* shall not apply to contracts or proposed contracts of employment of members of the staff of the subsidiary with the subsidiary.

(3) Where a person contravenes this section the subsidiary may make such alterations to the person's terms and conditions of employment as it considers appropriate or terminate the person's contract of employment.

Disclosure of confidential information.

11.— (1) A person shall not disclose confidential information obtained by him or her while performing functions as a director or a member of the staff of, or an adviser or consultant to, the subsidiary, or a member of the staff of such adviser or consultant unless he or she is duly authorised by the subsidiary to so do.

(2) *Subsection (1)* shall not operate to prohibit the disclosure of confidential information by a person referred to in that subsection to the Board.

(3) In this section "confidential information" includes—

(a) information that is expressed by the subsidiary to be confidential either as regards particular information or as regards information of a particular class or description, and

(b) proposals of a commercial nature or tenders submitted to the subsidiary by contractors, consultants or any other person.

Borrowing by Board and subsidiary.

12.—F2[...]

Annotations

Amendments:

F2 Repealed (3.12.2014) by *Water Services (No. 2) Act 2013* (50/2013), s. 4(2), S.I. No. 548 of 2014.

Guarantee of borrowings of Board and subsidiary.

13.— (1) (a) In relation to borrowings by the Board under *section 12*, the Minister for Finance, after consultation with the Minister, may guarantee, in such form and manner and in such money (including money in a currency other than the currency of the State) and on such terms and conditions as he or she thinks fit, the due repayment by the Board of the principal of any money borrowed by the Board or the due payment of instalments or other amounts of money owed by the Board under a contract entered into by the Board or the payment of interest on any money, instalment or amount or both the repayment of principal or payment of such instalments or amounts, as the case may be, and payment of the interest, and any such guarantee may include a guarantee of payment of commission and incidental expenses arising in connection with such borrowings or such contract.

(b) In relation to borrowings by the subsidiary under *section 12*, the Minister for Finance, after consultation with the Minister, may guarantee, in such form and manner and in such money (including money in a currency other than the currency of the State) and on such terms and conditions as he

or she thinks fit, the due repayment by the subsidiary of the principal of any money borrowed by the subsidiary or the due payment of instalments or other amounts of money owed by the subsidiary under a contract entered into by the subsidiary or the payment of interest on any money, instalment or amount or both the repayment of principal or payment of such instalments or amounts, as the case may be, and payment of the interest, and any such guarantee may include a guarantee of payment of commission and incidental expenses arising in connection with such borrowings or such contract.

(2) Where a guarantee under this section is or has been given, the Board or the subsidiary, as may be appropriate, shall, if the Minister for Finance so requires, give to him or her such security (including debentures) as may be specified in the requirement for the purpose of securing to the Minister for Finance the repayment of any money which he or she may be liable to pay or has paid under the guarantee.

(3) The Minister for Finance shall, as soon as may be after the expiration of every financial year, lay before each House of the Oireachtas a statement setting out with respect to each guarantee under this section given during that year or given at any time before, and in force on, the commencement of that year—

- (a) particulars of the guarantee,
 - (b) in case any payment has been made by him or her under the guarantee before the end of that year, the amount of the payment and the amount (if any) repaid to him or her on foot of the payment, and
 - (c) the amount of money covered by the guarantee which was outstanding at the end of that year.
- (4) (a) Money paid by the Minister for Finance under a guarantee to which *paragraph (a) of subsection (1)* applies shall be repaid to the Minister for Finance (with interest thereon at such rate or rates as he or she appoints) by the Board within such period from the date of payment by the Minister for Finance as may be specified by him or her after consultation with the Board.
- (b) Money paid by the Minister for Finance under a guarantee to which *paragraph (b) of subsection (1)* applies shall be repaid to the Minister for Finance (with interest thereon at such rate or rates as he or she appoints) by the subsidiary within such period from the date of payment by the Minister for Finance as may be specified by him or her after consultation with the subsidiary.

(5) Where the whole or any part of the money required by *subsection (4)* to be repaid to the Minister for Finance has not been repaid in accordance with that subsection, the amount so remaining outstanding shall be repaid to the Central Fund out of moneys provided by the Oireachtas.

(6) Notwithstanding the provision of money under *subsection (5)* to repay an amount to the Central Fund, the Board or the subsidiary, as the case may be, shall remain liable to the Minister for Finance in respect of that amount and that amount (together with interest thereon at such rate or rates as the Minister for Finance appoints) shall be repaid to the Minister for Finance by the Board or the subsidiary, as may be appropriate, at such times and in such instalments as he or she appoints and, in default of repayment as aforesaid and without prejudice to any other method of recovery, shall be recoverable by him or her from the Board or the subsidiary, as may be appropriate, as a simple contract debt in any court of competent jurisdiction.

(7) In relation to a guarantee under this section in money in a currency other than the currency of the State—

- (a) each of the references to principal, each of the references to instalments or other amounts of money, each of the references to interest and the

reference to commission and incidental expenses in *subsection (1)* shall be taken as referring to the equivalent in the currency of the State of the actual principal, the actual instalments or other amounts of money, the actual interest or the actual commission and incidental expenses, as may be appropriate,

(b) the reference to the amount of money in *paragraph (c)* of *subsection (3)* shall be taken as referring to the equivalent in the currency of the State of the actual amount of money, such equivalent being calculated according to the rate of exchange for the time being for that currency and the currency of the State, and

(c) each of the references to money in *subsections (4), (5) and (6)* shall be taken as referring to the cost in the currency of the State of the actual money.

Provision of moneys for payments out of Central Fund.

14.— (1) All money from time to time required by the Minister for Finance to meet sums which may become payable by him or her under *section 13* shall be advanced out of the Central Fund or the growing produce thereof.

(2) The Minister for Finance may, for the purpose of providing for advances out of the Central Fund under this section, borrow on the security of the Central Fund or the growing produce thereof any sums required for that purpose and, for the purpose of such borrowing, he or she may create and issue securities bearing interest at such rate and subject to such conditions as to repayment, redemption or any other matter as he or she thinks fit, and shall pay all sums so borrowed to the Exchequer.

(3) The principal of, and interest on, all securities issued under this section and the expenses incurred in connection with the issue of those securities shall be charged on and payable out of the Central Fund or the growing produce thereof.

Grants by Minister.

15.— The Minister may, for the purposes of this Act and subject to such conditions as he or she may determine, make grants out of moneys provided by the Oireachtas to—

(a) the subsidiary,

(b) the Board, or

(c) the Commission.

Subsidiary's capital commitments.

F3[16. (1) The subsidiary shall not, without the consent of the Minister given with the approval of the Minister for Public Expenditure and Reform, enter into a capital commitment the amount of which exceeds an amount specified for the time being for the purpose of this section and relating to the commitment.

(2) The Minister may from time to time, with the approval of the Minister for Public Expenditure and Reform, specify amounts for the purposes of this section and such an amount may be so specified in relation to capital commitments generally or in relation to capital commitments of a particular class or description.]

Annotations

Amendments:

F3 Substituted (23.11.2015) by *Gas Regulation Act 2013 (39/2013)*, s. 46, S.I. No. 520 of 2015.

Accounts of subsidiary.

17.— (1) Without prejudice to the requirements of the Companies Acts in relation to balance sheets and accounts, the subsidiary shall keep in such form as may be approved by the Minister, with the consent of the Minister for Communications, Energy and Natural Resources and the Minister for Public Expenditure and Reform, all proper and usual accounts of all money received or expended by it and, in particular, shall keep in such form as aforesaid all such special accounts as the Minister may, with the consent of the Minister for Communications, Energy and Natural Resources and the Minister for Public Expenditure and Reform, from time to time direct.

(2) Accounts kept by the subsidiary in pursuance of this section shall, not later than the expiration of 6 months from the end of the financial year to which they relate or on such earlier date as the Minister may, from time to time, specify, be submitted for audit to an auditor appointed by the subsidiary for that purpose and, immediately after the audit a copy of the accounts, and of such other accounts (if any) as the Minister, after consultation with the Minister for Communications, Energy and Natural Resources and the Minister for Public Expenditure and Reform, may direct, shall be presented to the Minister who shall, as soon as may be after the presentation of those copies to him or her, cause copies thereof to be laid before each House of the Oireachtas.

(3) The subsidiary shall pay to an auditor appointed under this section to audit the accounts of the subsidiary such fees as are approved by the Minister with the consent of the Minister for Communications, Energy and Natural Resources and the Minister for Public Expenditure and Reform.

Annual report of subsidiary.

18.— The subsidiary shall, not later than 30 June in each year, prepare and submit to the Minister and the Minister for Communications, Energy and Natural Resources a report on the performance by it of its functions under this Act F4[and the Water Services (No. 2) Act 2013] in the immediately preceding year, and the Minister shall, as soon as may be after receiving such report, cause copies of the report to be laid before each House of the Oireachtas.

Annotations

Amendments:

F4 Inserted (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), s. 46(b), S.I. No. 575 of 2013.

F5[Superannuation

18A. (1) As soon as may be after the coming into operation of this section, the subsidiary shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of members of staff of the subsidiary.

(2) Every such scheme shall fix the time and conditions of retirement for all persons to, or in respect of whom, superannuation benefits are payable under the scheme, and different times and conditions may be fixed in respect of different classes of persons.

(3) The subsidiary may at any time prepare and submit to the Minister a scheme amending or revoking a scheme previously submitted and approved under this section.

(4) A scheme or amending scheme submitted to the Minister under this section shall, if approved by the Minister with the consent of the Minister for Public Expenditure and Reform, be carried out by the subsidiary in accordance with its terms.

(5) Every scheme made under this section shall make provision for appeals.

(6) A superannuation benefit shall not be granted by the subsidiary to or in respect of any of its staff who are members of a scheme under this section and no other arrangement shall be entered into for the provision of any superannuation benefit to such persons on their ceasing to hold office, other than in accordance with such scheme or schemes submitted and approved under this section or an arrangement approved by the Minister and the Minister for Public Expenditure and Reform.

(7) The Minister shall cause every scheme submitted and approved under this section to be laid before each House of the Oireachtas as soon as may be after it is approved, 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.

(8) In this section ‘superannuation benefit’ means a pension, gratuity or other allowance payable on resignation, retirement or death.]

Annotations

Amendments:

- F5** Inserted (3.12.2013) by *Gas Regulation Act 2013 (39/2013)*, s. 47, commenced on enactment.
- F6** Repealed by *Water Services (No. 2) Act 2013 (50/2013)*, s. 4(2), not commenced as of date of revision.

Modifications (not altering text):

- C2** Prospective affecting provision: section repealed by *Water Services (No. 2) Act 2013 (50/2013)*, s. 4(2), not commenced as of date of revision.

18A.—F6[...]

PART 3

INSTALLATION OF WATER METERS

Definition. **19.—** In this Part “metering authority” means—

- (a) the Board, or
- (b) the subsidiary.

Performance of certain functions by metering authorities.

20.— (1) The functions of each water services authority under paragraph (f) of subsection (1) of section 32 of the Act of 2007 shall, in addition to being performable by a water services authority, be performable by a metering authority in so far only as they relate to premises that contain one or more dwellings, and references in any enactment or instrument under an enactment to a water services authority shall, to the extent that they relate to any such function, be construed as including references to a metering authority.

(2) For the purposes of this Part and subject to *subsection (3)*, the functions (other than the functions referred to in *subsection (1)*) of a water services authority under the Act of 2007 shall, in addition to being performable by a water services authority, be performable by a metering authority—

- (a) in the like manner as they would be performable by a water services authority,
- (b) subject to the like consent and conditions (if any) as would apply if the functions were being performed by a water services authority, and

(c) to the extent only that their performance is necessary or expedient for the performance of functions referred to in *subsection (1)*.

(3) For the avoidance of doubt, the functions to which this section applies shall be performable by—

(a) a water services authority,

(b) a metering authority, or

(c) jointly by both metering authorities.

Annotations

Amendments:

F7 Repealed by *Water Services (No. 2) Act 2013 (50/2013)*, s. 4(2), not commenced as of date of revision.

Modifications (not altering text):

C3 Prospective affecting provision: section repealed by *Water Services (No. 2) Act 2013 (50/2013)*, s. 4(2), not commenced as of date of revision.

20.—F7[...]

Installation of pipes.

21.— (1) Section 41 of the Act of 2007 shall apply to the performance by a metering authority of functions in accordance with this Act subject to the deletion, in subsection (2), of the words “subject to the consent of the relevant road authority where the water services authority is not the road authority for that road or place intended for a road”.

(2) For the avoidance of doubt, the provisions of the Planning and Development Act 2000 shall apply to a metering authority as, by virtue of subsection (12) of section 41 of the Act of 2007, they apply to a water services authority.

Ownership of water meters.

22.— (1) All property in meters within the meaning of Part 5 of the Act of 2007 installed pursuant to functions conferred by this Act shall vest in the subsidiary.

(2) The subsidiary shall not alienate any property vested in it by this section without the consent of the Minister and the Minister for Public Expenditure and Reform.

Immunity.

23.— Section 29 of the Act of 2007 shall apply to a metering authority as it applies to a water services authority, and accordingly references in that section to a water services authority shall be construed as including references to a metering authority.

PART 4

MISCELLANEOUS

Performance of functions generally.

24.— (1) The subsidiary shall have all such powers as are necessary or expedient for the performance of its functions under this Act.

(2) The Board shall have all such powers as are necessary or expedient for the performance of its functions under this Act.

Performance of functions preparatory to conferral of water services functions.

25.— (1) The Board may, upon the commencement of this section, do all such things as may be necessary or expedient for the purposes of the performance by it of water services functions under any enactment passed after the passing of this Act.

(2) The subsidiary may, upon the commencement of this section, do all such things as may be necessary or expedient for the purposes of the performance by it of water services functions under any enactment passed after the passing of this Act.

(3) The Board shall not perform a function under this section if the Minister gives a direction in writing to the Board requiring it not to perform the function.

(4) The subsidiary shall not perform a function under this section if the Minister gives a direction in writing to the subsidiary requiring it not to perform the function.

(5) In this section “water services functions” means functions that are the same as or similar to the functions of a water services authority under the Act of 2007.

Provision of information to Board and subsidiary.

26.— (1) The subsidiary may request a relevant person to provide the subsidiary with such information—

(a) as the subsidiary may reasonably require to enable it to perform its functions under this Act, or

(b) as the subsidiary could reasonably be expected to require, were functions (other than functions referred to in *paragraph (a)*) the same as or similar to those vested in a water services authority under the Act of 2007 conferred on it.

(2) The Board may request a relevant person to provide the Board with such information—

(a) as the Board may reasonably require to enable it to perform its functions under this Act, or

(b) as the Board could reasonably be expected to require, were functions (other than functions referred to in *paragraph (a)*) the same as or similar to those vested in a water services authority under the Act of 2007 conferred on it.

(3) A relevant person shall comply with a request under this section.

(4) The Act of 2007 is amended—

(a) in section 6, by the substitution of “water services authority, Bord Gáis Éireann, Irish Water” for “water services authority” in each place that it occurs, and

(b) in section 7, by the substitution of “water services authority, Bord Gáis Éireann, Irish Water” for “water services authority”.

(5) For the purposes of this section, each of the following is a relevant person:

(a) a local authority within the meaning of the Act of 2001;

(b) the Private Residential Tenancies Board established under section 150 of the Residential Tenancies Act 2004;

(c) the Property Services Regulatory Authority established under section 9 of the Property Services Regulation Act 2011;

(d) the holder for the time being of a licence granted under subsection (1) of section 14 of the Act of 1999 for the purposes of paragraph (g) of that subsection;

- (e) the Local Government Management Agency established by the Local Government Management Agency (Establishment) Order 2012 (S.I. No. 290 of 2012);
- (f) the Revenue Commissioners;
- (g) the Minister for Social Protection;
- (h) any other person for the time being standing prescribed by order made by the Minister after consultation with the Data Protection Commissioner;
- (i) a customer within the meaning of the Gas (Interim) (Regulation) Act 2002, or a final customer within the meaning of the Act of 1999, of the Board.

Annotations

Modifications (not altering text):

- C4** Reference to “Data Protection Commissioner” in subs. (5)(h) construed (25.05.2018, establishment day) by *Data Protection Act 2018 (7/2018)*, s. 14(2), S.I. No. 175 of 2018.

Transfer of functions of Data Protection Commissioner to Commission

14. (1) All functions that, immediately before the establishment day, were vested in the Data Protection Commissioner are transferred to the Commission.

(2) A reference in any enactment or instrument under an enactment to the Data Protection Commissioner or to the Office of the Data Protection Commissioner shall be construed as a reference to the Commission.

...

Editorial Notes:

- E7** Power pursuant to subs. (5) exercised (10.03.2015) by *Water Services Act 2013 (Prescribed Persons) Order 2015* (S.I. No. 84 of 2015).
- E8** Power pursuant to subs. (5) exercised (19.07.2013) by *Water Services Act 2013 (Prescribed Persons) Order 2013* (S.I. No. 269 of 2013).

Performance of functions by Commission.

27.— (1) The Commission may, upon the commencement of this section, do all such things as may be necessary or expedient for the purposes of the performance by it of water regulatory functions under any enactment passed after the passing of this Act.

(2) The Commission may—

(a) advise the Minister in relation to the development of policy regarding the regulation of the provision of water services, or

F8[(b) consult with the subsidiary, members of the public or such other persons as it considers appropriate in relation to the performance of any of its functions under this Act or the Water Services (No. 2) Act 2013.]

(3) In this section—

“water regulatory functions” means, in relation to the Commission, functions, as respects the provision of water services by any person, that are the same as or similar to the functions of the Commission under the Act of 1999, and includes—

(a) functions relating to the fixing of charges in respect of the provision of such water services,

(b) the specification of minimum standards of service as respects the provision of such water services,

(c) the protection of the interests of persons to whom water services are provided;

“water services” has the same meaning as it has in the Act of 2007.

Annotations

Amendments:

F8 Substituted (1.01.2014) by *Water Services (No. 2) Act 2013* (50/2013), s. 46(c), S.I. No. 575 of 2013.

Amendment of section 105 of Act of 2007.

28.— (1) Section 105 of the Act of 2007 is amended by—

(a) the deletion of subsection (1),

(b) the substitution, in subsection (2), of “subsection (4)” for “subsections (1) and (4)”, and

(c) the substitution, in subsection (11), of “Where” for “Without prejudice to subsection (1), where”.

(2) The functions of each water services authority under section 105 of the Act of 2007 in so far only as they relate to dwellings are transferred to the Board and the subsidiary, and references in any enactment or instrument under an enactment to a water services authority shall, to the extent that they relate to any of those functions, be construed as references to the Board and the subsidiary.

(3) For the purposes of this section, the functions (other than the functions transferred to the Board and the subsidiary under *subsection (2)*) of a water services authority under the Act of 2007 shall, in addition to being performable by a water services authority, be performable by the Board and the subsidiary—

(a) in the like manner as they would be performable by a water services authority,

(b) subject to the like consent and conditions (if any) as would apply if the functions were being performed by a water services authority, and

(c) to the extent only that their performance is necessary or expedient for the performance of functions transferred under *subsection (2)*.

(4) For the avoidance of doubt, the functions to which this section applies shall be performable by—

(a) either the Board or the subsidiary, or

(b) jointly by both the Board and the subsidiary.

Amendment of Local Government (Financial Provisions) (No. 2) Act 1983.

29.— Section 4 of the Local Government (Financial Provisions) (No. 2) Act 1983 is amended by—

(a) the deletion of paragraph (a) of subsection (1) (inserted by subsection (3) of section 12 of the Local Government (Financial Provisions) Act 1997), and

(b) the deletion of subsection (1B) (inserted by the said subsection (3)).

Accounts of Board.

30.— Section 15 of the Act of 1976 is amended by the insertion of the following subsection:

“(1A) The Board shall, in addition to the accounts that it is required to keep under subsection (1), keep in such form as may be approved by the Minister, with the consent of the Minister for Communications, Energy and Natural Resources and the Minister for Public Expenditure and Reform, all such proper and usual accounts of all moneys received or expended by it in respect of the performance of its functions under the *Water Services Act 2013*.”.

Annual report of Board.

31.— The Board shall, not later than 30 June in each year, prepare and submit to the Minister and the Minister for Communications, Energy and Natural Resources a report on the performance by it of its functions under this Act in the immediately preceding year, and the Minister shall, as soon as may be after receiving such report, cause copies of the report to be laid before each House of the Oireachtas.

Directions of Minister.

32.— (1) The Minister may give a direction in writing to the Board or the subsidiary, in relation to the performance by the Board or the subsidiary of its functions under this Act, requiring it to comply with such policies of the Government as are specified in the direction.

(2) The Minister may, by direction in writing, amend or revoke a direction under this section (including a direction under this subsection).

(3) The Minister shall not give a direction under this section without first obtaining the approval of the Minister for Communications, Energy and Natural Resources.

(4) The Board shall comply with a direction given to it under this section.

(5) The subsidiary shall comply with a direction given to it under this section.