



Communities  
& Justice

# NSW Community Housing Water Charging Guidelines 2021



# Document approval

The NSW Community Housing Water Charging Guidelines have been endorsed and approved by:



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**The Hon. Alister Henskens, MP**

Minister for Families, Communities and Disability Services

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## **Contents**

1. Legislation .....	4
2. Scope .....	4
3. General requirements .....	4
4. Calculating water usage charges .....	5
5. Adjustments to tenants' water charging .....	6
6. Allowances .....	6
7. Exemptions .....	6
8. Appeals and reviews .....	7

## Introduction

These Ministerial Guidelines for Community Housing Water Charging are made pursuant to Section 139 of the *Residential Tenancies Act 2010*.

### 1. Legislation

The *Residential Tenancies Act 2010* (s139) makes provision for water charges payable by tenancies covered under a social housing tenancy agreement in Part 7 of the Act.

This Section states: “A tenant under a social housing tenancy agreement must pay to the landlord any charges, determined in accordance with guidelines approved by the appropriate Minister, in respect of water usage by the tenant”.

The Standard Form Tenancy Agreement used by community housing providers is Schedule 1 of the *Residential Tenancies Regulation 2010*. The references to water charging in the standard form agreement are based on s39 and will not be consistent with s139 of the Act. However, S137 of the *Residential Tenancies Act 2010* states that Part 7 of the Act will prevail over any other provision of this Act or the regulations in the event of any inconsistency.

### 2. Scope

These Guidelines apply to tenancy agreements where the community housing provider is the landlord of social and/or affordable housing. The Guidelines cover both capital and leasehold properties.

The Guidelines will apply to all tenancies managed under a social housing tenancy agreement, including affordable housing, unless the property is exempted from water usage charges. Information on tenancies that are exempt from water usage charges is detailed in Section 7 of these Guidelines.

Where a provider chooses to raise water charges for tenants it will do so only in accordance with these guidelines. These guidelines do not compel a provider to raise water charges where the provider considers for operational reasons it prefers to absorb these costs.

Providers may only levy water charges to tenants where the account is generated from a recognised water authority and the provider is responsible for the payment of the water account.

### 3. General requirements

The provider will develop and document a fair and transparent water charging policy. The policy must be made available free of charge to any tenant at sign-up, and as requested.

The water charging policy is to address:

- which tenants will be required to pay water charges
- the method/s for calculating the charge and how frequently the tenant will be charged<sup>1</sup>

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<sup>1</sup> Where more than one method to calculate water charges is being used by the provider, the policy should outline the methods and how it determine which method to apply to which tenancies.

- whether the method/s will be reviewed, and the basis and frequency of any review
- how water charging for head leased properties will be managed
- the information that will be provided to tenants regarding their water usage
- how the provider will ensure it is not collecting more for water charges overall than it is paying
- how the provider will ensure the water charging process is fair to all tenants
- any allowances available or exemptions
- arrangements for handling payment difficulties
- arrangements for handling complaints or disputes regarding water charges.

Community housing providers should engage regularly with tenants about ways to minimise water use.

## 4. Calculating water usage charges

### 4.1 Overview

Consistent with s139 (2) of the *Residential Tenancies Act 2010*, community housing providers can calculate water charges with reference to:

- actual water use (where a property has a separate water meter)
- estimated use (taking into account property configuration and household type)
- the income of the household, or
- rent payable by the tenant (with or without rent rebate).

Providers may use a method to apportion costs amongst tenants – for example, where there is no separate water meter or to support a common water charging approach across tenancies.

Providers may use a combination of methods as long as these are fair to all tenants and the methods used and how they are applied are clearly articulated in the water charging policy.<sup>2</sup>

A provider should not collect more from tenants overall than it pays for the water bills it receives.

Water usage charges should not include charges for common area water use, water connection or sewerage.

### 4.2 Charges in properties with separate water meters

For tenants living in properties with separate water meters<sup>3</sup>, the provider must charge based on actual water use. Providers can implement this by charging based on actual bills received from the water authority or by applying an apportionment method to water charging and conducting regular

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<sup>2</sup> Where a CHP is managing Aboriginal Housing Office properties, the *Water Usage Charging – Ministerial Guidelines for Aboriginal Community Housing Providers* applies to water charging for these properties

<sup>3</sup> A separate meter must be readily accessible for reading by the water authority and generate an individual water reading. Where individual meters are located inside the dwelling (e.g. in older units) the provider should manage the water usage charges as though it was a shared meter dwelling.

reconciliations of charges to actual use, rectifying over- or under- charging as needed.<sup>4</sup>

Where water charges are based on actual usage, new tenants may have their water charges estimated and levied from the start of their tenancy.

#### **4.3 Advising tenants of water charges**

Tenants should be advised of the method being used to calculate their water charges at the start of their tenancy, and provided with a copy of the provider's water policy at sign-up.

Water usage charges must be listed as an item separate to rent on the tenant's account.

#### **4.4 Absences from dwelling**

There is no exemption from water usage charges for tenants temporarily away from their dwelling.

### **5. Adjustments to tenants' water charging accounts**

Tenants who are leaving their current dwelling or are transferring to another social housing or affordable housing dwelling are required to pay any water charges outstanding at the end of the tenancy, adjusted for the termination date.

Community housing providers are required to adjust water charges on tenants' accounts in cases of under/over-charging from the water authority arising from problems with faulty water meters or other billing problems (e.g. under-reads, bill estimates and high bills due to leaks and faults).

### **6. Allowances**

Consistent with the approach taken by Department of Communities and Justice, community housing providers may choose to grant a water usage allowance to households that require considerably higher amounts of water for a particular reason. For example, where a household member is on kidney dialysis or has a health condition or disability which means they need to use significantly more water than normal or the household has 6 or more members.

Whether a provider offers a water usage allowance will generally depend on the method being used to calculate the water charge. The conditions of any water allowance a provider offers, including when it will be offered, must be clearly documented in the provider's water usage policy

### **7. Exemptions**

Crisis accommodation properties managed by community housing providers are exempt from water charging. Crisis accommodation is defined as short term accommodation (usually 3 months or less) for people experiencing

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<sup>4</sup> When advising tenants of actual water charges or of the outcomes of a reconciliation, this should include details such as the billing period/s included, meter readings at the start and end of the billing period/s, the number of kilolitres of water used, the dollar amount of water usage charged by the water authority for the period/s, the amount of water use to be charged to the tenant for the period/s and any additional charge or refund from the reconciliation or adjustments, if relevant.

homelessness or people at risk of homelessness. Usually, clients do not enter into a social housing tenancy agreement when in crisis accommodation.

Tenants in transitional housing where individual residential tenancy agreements are not appropriate (e.g. congregate care) and/or where a tenant cannot afford to pay social housing rent will also be exempt from water usage charges.

## **8. Appeals and reviews**

Community housing providers must have an appropriate process in place to manage concerns, complaints or appeals from tenants in relation to water usage charging.

If a tenant has a concern over an aspect of their water usage charge, they should first speak to their housing provider. For example, tenants may want to:

- discuss how the charge is calculated
- report a leak or advise of a delay in the water leak being fixed
- query or dispute a water meter reading
- apply for an exemption (if relevant) or an allowance.

A tenant cannot appeal being charged for water or the amount they are charged. However, they can appeal if they think the provider's water charging policy has not been applied properly or they do not agree with the provider's decision about an application for a water allowance. As with other appeals, a tenant should first appeal to their housing provider. If they are not satisfied with the outcome, they can then appeal to the Housing Appeals Committee.

A tenant may complain about the services provided by the local water authority. For example, a complaint could be:

- disputing the accuracy of the bill or meter readings provided by the local water authority
- about affordability issues, such as payment assistance or access to concealed leak rebates
- about the quality, reliability, or restriction of the water supply
- about health and safety issues relating to the water authorities' network assets.

A tenant may complain directly to the Energy and Water Ombudsman NSW (EWON) if the water authority involved is a member of EWON (visit [www.ewon.com.au](http://www.ewon.com.au) for a complete list of water authority members). A housing provider may complain directly to EWON on behalf of the tenant with their consent.

Where the water authority is not a member of EWON, the provider should refer the matter to the NSW Ombudsman.

Concerns about the fairness and transparency of a provider's water charging policy in compliance with the Regulatory Code can be referred to the Registrar of Community Housing.



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