

# **Waterworks Regulations**

**Guide for collecting water charge from tenants**

April 2024

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## LIST OF ACRONYMS AND ABBREVIATIONS

<i>FAQ</i>	<i>Frequently Asked Questions</i>
<i>LTCO</i>	<i>Landlord and Tenant (Consolidation) Ordinance (Cap. 7)</i>
<i>RC</i>	<i>Registered Consumer</i>
<i>RVD</i>	<i>Rating and Valuation Department</i>
<i>SDU</i>	<i>Subdivided Unit</i>
<i>WA</i>	<i>Water Authority</i>
<i>WSD</i>	<i>Water Supplies Department</i>
<i>WWR</i>	<i>Waterworks Regulations (Cap. 102A)</i>

## **Chapter 1 - Introduction**

### ***Background***

1. Although the Waterworks Regulations (Cap. 102A, “WWR”) has been amended by a private Member’s Bill in 2021 to make clear that the registered consumer (usually the landlords, “RC”) can only recover from the occupants of the premises (usually the tenant) the water charge paid to the Water Supplies Department (“WSD”) and cannot include other fees (such as maintenance cost of the water pipeworks in the premises), it is still difficult for the Water Authority (“WA”) to obtain sufficient evidence to prosecute those suspected of overcharging for water after the legislative amendment due to the lack of sufficient power for enforcement.

2. To strengthen the protection of public from being overcharged for water, the administration has carried out further legislative amendments, including strengthening the power of the WSD in evidence collection during the investigation of suspected cases of overcharging for water, increasing the penalty level for water overcharging, as well as enabling the WA and the Commissioner of the Rating and Valuation Department (“RVD”) to disclose information obtained from investigation of water overcharging cases to each other.

3. This Guide, together with the summary of the requirements, illustrations and advice of the relevant legislations, are for general reference only. Readers should refer to the actual provisions in the relevant legislations for a complete and definitive statement of the law. As each case needs to be considered in its own circumstances, the information in this Guide should not be regarded as a substitute for legal advice. Readers should consider seeking independent legal advice when necessary.

### *Effective Date*

4. Except for regulation 47C of the WWR (regarding the requirements for giving receipts and keeping copies of receipts, please refer to Chapter 4 for details), the effective date of the remaining parts of the Waterworks (Amendment) Ordinance 2024 is 19 April 2024. Whereas the effective date of Regulation 47C of the WWR (requirements for giving receipts and keeping copies of receipts) is 19 July 2024.

5. For details of the provisions, please visit the dedicated WSD website ( [www.wsd.gov.hk/en/core-businesses/customer-services/law-enforcement/waterworks-amendment-ordinance-2024-requiremen/index.html](http://www.wsd.gov.hk/en/core-businesses/customer-services/law-enforcement/waterworks-amendment-ordinance-2024-requiremen/index.html) ).



## Chapter 2 – Regulation on Sale of Water (including Overcharging for Water)

### *Scope*

6. The Waterworks (Amendment) Ordinance 2024 aims to strengthen enforcement against overcharging for water. According to regulation 47(1) of the WWR, no person shall sell or offer for sale water from the waterworks without the permission in writing of the WA.

7. According to regulation 47(2) and (3) of the WWR, a person is to be regarded as selling (or offering for sale) water from the waterworks to another person if the person charges that other person for using the water, and this is within the ambit of the regulations.

### **Examples**

<p>Regarded as selling (or offering for sale) water</p>	<ul style="list-style-type: none"> <li>● A landlord charged <i>tenants for water (regarded as selling water)</i></li> <li>● A landlord specified that he/she would charge the tenant for water separately in a tenancy (regarded as offering for sale water)</li> </ul>
<p>Not regarded as selling (or offering for sale) water (Not within the ambit of the regulations)</p>	<ul style="list-style-type: none"> <li>● A tenant (not a WSD RC) paid WSD directly according to the WSD water bill</li> <li>● A tenant took up the WSD consumer account and paid the water charge to the WSD directly</li> </ul>

**FAQ1: Scenarios of a person charging another person for using water may also occur between persons who are not in a landlord-tenant relationship (e.g. households in a "three-nil" building collecting water charges from other households at nominal rates for providing the water used by the building's cleaning workers to cleanse the communal area of the building). Are these scenario within the ambit of the regulations?**

Answer 1: Regarding whether a permission from the WA under regulation 47(1) of the WWR is required for the cleansing of building, it would depend on whether an act of sale of water is involved. There are various building management arrangements for "three-nil" buildings. For example, one of the landlords of the building may take charge of hiring workers for general cleansing services (including rubbish collection and cleansing of stairs, etc.) and provide water to the workers for the cleansing purpose. The landlord then collects fee from other residents for the cleansing service. In this example, the landlord who collects cleansing service fee acts a similar role as a building manager. Apparently, illegal sale of water is not involved.

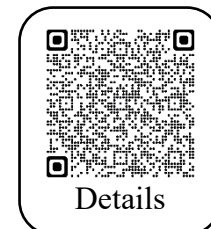
8. According to regulation 47(4) and (5) of the WWR, a landlord is allowed to charge their tenant for water without obtaining the permission of the WA if the following conditions are fulfilled.

- (i) The landlord charges a tenant for water after the water bill has been issued by the WSD and the corresponding payment has been made; and
- (ii) The amount received by the landlord does not exceed the proportionate portion of the amount on the water bill for the water used by the tenant.

**FAQ2: What is the meaning of ‘proportionate portion’ for the water charge in the context of subdivided units (SDUs)?**

Answer 2: Landlords shall apportion the water charge based on the amount shown on the water bill. In principle, landlords should derive the proportionate portion of the charge on the water bill for the tenants based on their respective water consumptions. If the SDUs are installed with separate meters, landlords can make use of the meter readings as references. For those SDUs not yet installed with individual water meters, landlords shall adopt methods which are more constant and relevant to water consumption (e.g. the area of the premises for each tenant household, or number of SDUs) to derive the amount to be reimbursed. Nevertheless, landlords should consider to install separate WSD water meter for each SDU so that separate water bills can be issued for each water meter which is the fairest basis for apportionment of the water charge. If the tenant pays the water bill by himself, the SDU landlord can also avoid the bother of providing receipts, copies of the bills, producing apportionment accounts and apportioning the water charge for the tenants.

For details of the scheme, please visit the WSD website ([www.wsd.gov.hk/en/customer-services/application-for-water-supply/pilot-scheme-for-installation-of-separate-water-me/index.html](http://www.wsd.gov.hk/en/customer-services/application-for-water-supply/pilot-scheme-for-installation-of-separate-water-me/index.html)).



**FAQ3: What should the landlord do if he needs to settle the water bill with his tenant before the end of the four-month billing cycle without a water bill on hand?**

Answer 3: The WSD has established a mechanism to allow RCs to apply for issuance of non-routine water bills (such as tenants terminating their tenancy before the issuance of the WSD regular water bills) on which they can use as a basis for reimbursement of the water charge from their tenants. For enquiries about the arrangements, please call the WSD enquiry hotline 2824 5000.

9. In addition, SDU landlords should pay attention to the requirements of section 120AAZM of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7, “LTCO”). The provision requires the landlord of the regulated tenancy<sup>1</sup>, when requiring the tenant to pay for the reimbursement of any specified utilities and services charges (including water charges) as a separate payment from rent, to produce copies of the bills to the tenant; to provide an account in writing to the tenant showing how the amounts are apportioned and that the aggregate of the apportioned amounts does not exceed the billed amounts. Failure to fulfill such requirements is an offence. For more information on the regulated tenancies under Part IVA of the LTCO, please visit the dedicated page on the regulation of tenancies on the RVD website. ( [www.rvd.gov.hk/en/our\\_services/part\\_iva.html](http://www.rvd.gov.hk/en/our_services/part_iva.html) ).



**FAQ4: Are landlords allowed to collect deposits from tenants for using water?**

Answer 4: Although regulation 47 of the WWR does not regulate the collecting of deposits, a landlord of the regulated tenancy (mainly SDUs) contravenes the requirements under section 120AAZL of the LTCO if the landlord collects deposit for using water from the tenants.

***Offence and Penalty***

10. According to regulation 47(6) of the WWR, a person who contravenes regulation 47(1) of the WWR commits an offence and is liable on a first conviction to a fine at level 3 (\$10,000) and on subsequent convictions the maximum penalty will be increased to a fine at level 4 (\$25,000). Regulation 47(7) of the WWR also specifies that the court must order the convicted to repay the money in excess of that the convicted may lawfully receive.

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<sup>1</sup> A tenancy which fulfils the following conditions is a “regulated tenancy” and under the regulation of Part IVA of the LTCO: The tenancy commences on or after 22 January 2022, the tenancy is a domestic tenancy, the subject premises are a SDU, the tenant is a natural person, the purpose of the tenancy is for the tenant’s own dwelling, and the tenancy is not an excluded tenancy.



## **Examples**

The following acts of landlords constitute contraventions of regulation 47(1) of the WWR:

- A landlord charged a tenant before the issuance of the water bill by the WSD
- A landlord charged a tenant for using water with a rate of higher than \$12/m<sup>3</sup>
- A landlord collected a total of \$500 water charges from all the tenants in a unit while the amount shown on the water bill was only \$200.

## **Chapter 3 – The relevant powers of the Water Authority**

### ***Power to request for information***

11. According to regulation 47A(1) of the WWR, the WA may request any relevant person of any premises to provide any information or any reference documents for the enforcement actions of the WA (including handling suspected cases of overcharging for water). According to regulation 47A(2), the WA may specify the time and place in which any information or reference document is to be provided, and the way and form in which any information or reference document is to be provided.

### **Relevant Person**

In relation to any premises, means —

- a landlord or a former landlord of the premises;
- a consumer or former consumer of the inside service;
- a person (other than the WA) who has charged an occupier or a former occupier of the premises for using water supplied through the inside service that exists in the premises;
- a tenant (or former tenant), or sub-tenant (or former sub-tenant);
- an occupier or a former occupier; or
- an agent or a former agent of the person above

### **Reference Document**

- a tenancy in writing
- an invoice, a bill, demand note, payment record, and receipt, for rent or charges for water

**FAQ5: Under what circumstances will the WSD request for information? What way and form of provision of information will be specified when making the request?**

Answer 5: When there is suspected overcharging for water, the WA may by notice request any relevant person to provide any information or reference documents. The notice will specify the "way" (i.e. method) of providing the information, such as by post, email and in person, etc. It will also specify the "form" (i.e. medium) of the information or documents requested, such as whether the information or documents are to be provided orally and recorded, written/printed or electronically, etc.

**FAQ6: Will the WSD request the tenants to provide information with this power?**

Answer 6: The purpose of the regulation is mainly to protect tenants from being overcharged for water by the landlords. In principle, WSD will mainly request landlords or their agents to provide information or documents related to the tenancy or water consumption in the premises. Those person who, without reasonable excuse, fails to comply with such request commits an offence and the WSD will take prosecution actions.

**FAQ7: Does the WSD have power to request the landlord to provide any information?**

Answer 7: According to regulation 47A(1) of the WWR, the WSD may request landlords to provide information for the purpose of regulation 47 (prohibition of sale of water).

### ***Offence and Penalty***

12. According to regulation 47A(3) of the WWR, a person who, without reasonable excuse, fails to comply with a request made under regulation 47A(1) commits an offence and is liable on conviction to a fine at level 3 (\$10,000) and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.

#### **FAQ8: What circumstances will constitute a continuing offence?**

Answer 8: There are many circumstances that may constitute a continuing offence. The following is an example.

*If a person provides the information requested by the WSD (e.g. receipt of the water charge) 10 days after the deadline specified by the WSD, the court may impose fine for each day during which the offence continues in addition to the base fine (i.e. maximum \$10,000). The maximum fine that can be imposed each day is \$1,000. That means the maximum fine is: \$10,000 (base fine) + 10 (days) × \$1,000 (daily fine) = \$20,000.*

### ***Power to disclose information between WSD and RVD***

13. Regulation 47A(4) of the WWR and section 120AAZZA of the LTCO empowered the WSD and RVD to disclose the information related to suspected cases of overcharging for water to each other, with a view to creating synergy in investigation and prosecution as well as increasing enforcement effectiveness. If the WA considers that the disclosure of any information or reference document obtained for the purposes of regulation 47 of the WWR to RVD officers will enable or assist them to perform functions under Part IVA of the LTCO, the WA may disclose such information or reference document to the RVD officers.

***Providing false or misleading information or documents are not allowed***

14. According to regulation 47B of the WWR, a person knowingly or recklessly provide any information or document, which is false or misleading in material particular, to the WA during the investigation of suspected cases of overcharging for water commits an offence and is liable on conviction to a fine at level 4 (25,000) and to imprisonment for 6 months.

15. If the WSD finds that the illegal acts may also involve the offences related to false instruments under the Crimes Ordinance (Cap. 200) during the investigation, the WSD will contact the police for appropriate follow-up actions.

**FAQ9: What is the meaning of false or misleading?**

Answer 9: False means information that is not true. For example, a landlord provides a receipt with an altered amount to the WSD. Misleading means that the information provided may not necessarily be false, but it will cause misunderstanding to others. For example, a tenant paid a landlord twice for using water during a single period, and the landlord issued two receipts for the payments. However, the landlord only provided one of the receipts when the WSD requested for information, causing the officer of the WSD to misunderstand that the amount received by the landlord did not exceed the amount shown on the water bill.

**FAQ10: If the landlord is a company, is the penalty of imprisonment applicable?**

Answer 10: If the landlord is a company, the penalty of imprisonment does not apply. However, according to section 101E of the Criminal Procedure Ordinance (Cap. 221), where a person by whom an offence under any Ordinance has been committed is a company and it is proved that the offence was committed with the consent or connivance of a director or other officer concerned in the management of the company, or any person purporting to act as such director or officer, the director or other officer shall be guilty of the like offence. The penalty of imprisonment is applicable to the director or other officer concerned in the management.

## Chapter 4 – Requirements of Giving Receipts and Keeping Copies of Receipts

### *Detailed Requirements*

16. According to regulation 47C of the WWR, if a landlord charges a tenant for using water, the landlord must give a receipt to the tenant within 7 days after the date on which the amount is paid and keep a copy of the receipt for 2 years beginning on the date of payment. The receipt must show the following information.

- Names (or company name) of the payer and payee
- Address of the payer
- Amount of charges paid
- Period to which the charges relate
- Date of payment

Please refer to **Appendix I** for the template for receipts.

#### **FAQ11: Does regulation 47C of the WWR require the issuance of receipts and the keeping of copies of receipts in paper form?**

Answer 11: Currently, landlords and tenants usually communicate through electronic means for the information related to collection of water charges. Such information (transmitted electronically) will generally be automatically recorded on the device of the relevant person. Regulation 47C of the WWR does not limit the form of receipts/receipt copies. To meet the requirements in the future, the landlord only needs to add other necessary information as required to the current message. Of course, landlords can also choose to handle relevant matters in paper form.

### *Offence and Penalty*

17. A person who, without reasonable excuse, contravenes the above requirements commits an offence and is liable on conviction to a fine at level 3 (10,000).

## **Chapter 5 – How to Avoid Inadvertent Contravention**

### ***Installation of WSD separate water meter for SDUs***

18. The WSD has launched a Scheme to encourage SDU landlords to apply for installation of WSD separate water meters for their SDUs. Under the Scheme, every such water meter account will have a separate water bill and tenants can pay the water charge directly to the WSD. The SDU landlord can also avoid the bother of providing receipts, copies of the bills, producing apportionment accounts and apportioning the water charge for the tenants as well as avoid any contravention to regulation 47(1) and 47C of the WWR. In addition, the first 12 m<sup>3</sup> of water consumed for each four-month period will be free of charge, thus reducing the burden for water charge of SDU tenants.

19. The WSD has waived the payment of the water fee deposit for each water meter installed (\$400) and the charge for providing each meter (\$120) under the Scheme since 1 April 2023. The WSD has also further simplified the technical requirements thus reducing relevant plumbing works and lowering the corresponding costs for the works and the time required for approval. Currently, the average time required from application to completion of meter installation is about one month and the fastest cases can be completed within two weeks. In addition, a non-governmental organization (Hong Kong Lutheran Social Service) cooperated with the plumbing trades to provide volunteer services for further support of the Scheme to encourage more landlords to join the Scheme.

20. While applications for installing separate water meters in SDUs are to be submitted by the landlords, the SDU tenants can also make requests for installations directly to the WSD. The WSD will then approach the landlords concerned for follow-up action and provide appropriate technical support. Details of the Scheme can be obtained from the WSD's website shown in FAQ2 (p.5).



### *Points to Note for Agents*

21. In some cases, agents (such as friends/relatives of the landlords or estate agents) will assist the landlord in collecting water charges. If illegal activities are involved, they may also have legal responsibilities. Please note that any person who aids, abets, counsels or procures another person to commit any offence under the WWR shall be guilty of the same offence.

22. In view of the possible legal consequence that agents may face under the WWR, they should not assist, encourage, counsel or procure the landlord in the commission of an offence under the WWR. To avoid doubt, the agent should obtain written confirmation from the landlord that the agent acts solely as an intermediary to help collecting water charges and transfer all the charges to the landlord. Also, these water charges are not the agent's income. If the agency service involves fees, the landlord is advised to pay separately to avoid misunderstandings caused by the muddled accounts.

23. If the agent is an estate agent, he can remind the landlord of the relevant requirements, offences and penalties mentioned in Chapters 1 to 4. He can also provide the landlord with the template for receipt prepared by the WSD and the template for tenancy agreement (applicable for regulated tenancies under Part IVA of the LTCO) prepared by the Housing Bureau (if applicable). This will make it easier for everyone to understand the legal requirements and comply with them.

**FAQ12: Can an agent collect water charge on behalf of the landlord? Can he take a part of the water charge as his charge for agency service?**

Answer 12: In principle, the landlord is the payee of water charges. In some cases, the agent will assist the landlord in collecting water charges. If the agent actually takes the water charges (or part of the amount), he may also be regarded as the payee and have the responsibility for giving receipts and keeping copies of the receipts under regulation 47C of the WWR. If there are other illegal acts (such as overcharging for water), he may also have criminal liability.

However, the WWR does not regulate the actual operation of money transactions. For example, the agent will transfer the rent and water charge collected from the tenants to the landlord in quarterly intervals. For keeping down the transaction procedures between both parties, the agent may deduct the service fee from the amount collected and transfer the remaining to the landlord (i.e. no need for the landlord to pay service fee to the agent separately). For better protection for the agent, it is recommended that the agent should issue a clear account for the transaction if there is no arrangement of paying the service fee separately. The account should show the individual transaction of the water charge and the service fee and clearly indicating that the amount deducted from the water charge is the service fee, but not the water charge taken by the agent.

## Appendix I - Template for Receipt

收據編號 Receipt no. _____	
<b>水費收據 Receipt for water charge</b>	
收款人 Payee	(姓名 及 簽署/公司蓋印) (NAME & SIGNATURE/ COMPANY'S CHOP)
於 on	(年/月/日) (YYYY/MM/DD)
茲收到 Received from	(付款人姓名) (NAME OF PAYER)
交來金額 the sum of	港幣 \$ _____ HKD
用以支付以下時段及處所的用水費 for the payment of water charge in the period and premises stated below	
(年/月/日) (YYYY/MM/DD)	(年/月/日) (YYYY/MM/DD)
由 From	至 To
房號 Room	室 Flat
	樓 Floor
	大廈 Building
屋苑 Estate	街號 Street no.
	街 Street
	香港/ 九龍/ 新界 Hong Kong/ Kowloon/ New Territories
地區 District	區域 Area

Note: The WWR does not have statutory requirements for the format and form of receipts (such as written or electronic format). The public can use other suitable formats as appropriate, but the receipt must clearly show the information specified in the WWR (i.e. names of payer and payee, water usage Address, charges paid, relevant period of using water and date of payment).