



Isle of Man

Ellan Vannin

SEWERAGE (AMENDMENT) BILL 2014

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Explanatory Memorandum

1. This Bill is promoted by Mr Cannan on behalf of the Manx Utilities Authority (referred to in the amendments which the Bill makes and the Sewerage Act 1999 as “the Sewerage Authority”).
2. *Clause 1* provides for the short title of the resulting Act, *clause 2* for its commencement and effect.
3. *Clause 3* amends the Sewerage Act 1999, replacing the existing section 11 (under which sewerage charges may be imposed) with a series of provisions enabling the Sewerage Authority to impose (subject to approval by Tynwald) a sewerage rate by reference to the rateable value of the premises provided with sewerage services by the Authority. The new provision made by clause 3 divides the existing Part 2 of the 1999 Act into a number of Parts and then replaces section 11 with six new sections (10A to 10F and the Schedule) the first five of which are modelled on the corresponding provisions of the Water Act 1991, enabling the Authority to operate the two sets of rating provisions in a similar way. Section 10F prescribes the sewerage rate for 2015-16 as 61.29 pence in the pound.
4. *Clause 4* repeals a paragraph of section 49(1) of the *Rating and Valuation Act 1953* which is spent as a consequence of the restructuring of the Sewerage Act 1999 effected by clause 3.
5. *Clause 5* provides for the expiry of the resulting Act on the day following the later of its promulgation and the commencement of the last of its provisions, but without affecting the continuing operation of any amendment or repeal made by it.
6. An impact assessment has been prepared in relation to the Bill and the proposed rates to be levied under it.
7. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the *Human Rights Act 2001*.



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SEWERAGE (AMENDMENT) BILL 2014

- 1 **A BILL** to amend the Sewerage Act 1999 to make provision for the levying of a
 2 sewerage rate; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

3 **1 Short title**

4 The short title of this Act is the Sewerage (Amendment) Act 2014.

5 **2 Commencement and effect**

6 (1) The repeals of provisions in the *Sewerage Act 1999* contained in section
 7 3(4) and (6)(a) come into operation on such day or days as the Manx
 8 Utilities Authority may by order appoint.

9 Despite section 45(2) of the *Sewerage Act 1999*, the Manx Utilities
 10 Authority need not consult the Department of Infrastructure before
 11 making an order under this subsection.

12 (2) Subject to subsection (1), this Act has effect for the financial year
 13 beginning on 1 April 2015 and subsequent financial years.

14 (3) Section 42(4) of the *Sewerage Act 1999* (as amended by section 3(5) of this
 15 Act) applies for the construction of “financial year” in subsection (2).

16 **3 Sewerage Act 1999 amended**

17 (1) The *Sewerage Act 1999* is amended as follows.

18 (2) Part 2 is divided into Divisions and accordingly for the italic cross-
 19 heading specified in column 1 of the table below there is substituted the
 20 Division number and heading specified in column 2.
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<i>Cross heading</i>	Division created, and its heading
<i>Powers to lay sewers and construct disposal works</i>	DIVISION 1: POWERS TO LAY SEWERS AND CONSTRUCT DISPOSAL WORKS
<i>Communication with public sewers</i>	DIVISION 2: COMMUNICATION WITH PUBLIC SEWERS
<i>Adoption of sewers etc.</i>	DIVISION 3: ADOPTION OF SEWERS ETC
<i>Requisition for sewer</i>	DIVISION 4: REQUISITION FOR SEWER
<i>Miscellaneous</i>	DIVISION 6: MISCELLANEOUS

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(3) After section 10 (requisition for sewer) insert —

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“DIVISION 5: SEWERAGE RATE

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10A Sewerage rate

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(1) The Sewerage Authority may, for the performance of its functions under this Act, levy and charge in respect of every financial year a rate (a “**sewerage rate**”) for the expenses of sewerage on all hereditaments liable to rates, other than exempt premises, according to the valuation for the time being in force for rating purposes.

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This is subject to the following provisions of this Division.

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(2) A sewerage rate is to be calculated at a rate poundage —

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(a) in the case of a house or of any premises not used solely for business, trade or manufacturing purposes or for the exercise of the functions of a public authority, on the rateable value of the house or premises;

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(b) in the case of any other premises, on such proportion of the rateable value as the Sewerage Authority may determine.

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(3) A decision by the Sewerage Authority to levy a sewerage rate is of no effect unless, before the beginning of the financial year to which the rate relates, it is approved by a resolution of Tynwald.

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This subsection does not apply to the financial year beginning on 1 April 2015 (see section 10F).

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10B Exemption from sewerage rate

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- (1) If the Sewerage Authority considers that in any financial year it would be unreasonable in relation to a particular hereditament to demand the sewerage rate levied because of the absence of a connection (directly or indirectly) to its sewers, the Authority may exempt any person liable to pay the rate from the liability in respect of that year.
- (2) If, after application by a person to the Sewerage Authority for exemption under subsection (1), the Sewerage Authority refuses the application, the person who made it may apply to the High Court, who may by order grant such exemption as it thinks fit.

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10C Liability for sewerage rate

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- (1) The sewerage rate is due and payable to the Sewerage Authority in advance on 1 April in the financial year for which it is levied.
- (2) The sewerage rate is a charge on the hereditament ranking equally with the rates —
 - (a) referred to in section 49 of the *Rating and Valuation Act 1953*;
 - (b) rates levied by local authorities; and
 - (c) rates levied by the Sewerage Authority under section 25 of the *Water Act 1991*.This is subject to subsection (4).
- (3) The liability for sewerage rate is determined as follows —
 - (a) the sewerage rate is to be paid by the first occupier;
 - (b) if the first occupier defaults in paying the sewerage rate, it is to be paid by the subsequent occupier; and
 - (c) the owner is liable (subject to subsection (4)) to pay the sewerage rate if —
 - (i) both the first occupier and the subsequent occupier default in paying the sewerage rate; or
 - (ii) the first occupier defaults in paying the sewerage rate and there is no subsequent occupier.
- (4) The sewerage rate payable for a period before the current financial year is not enforceable against the property or the owner unless the Sewerage Authority has given notice in writing to the owner during, or within one month of the end of the financial year to which it relates.
- (5) For the purposes of this section a person defaults in payment of the sewerage rate if he or she fails to pay it within a reasonable time after a notice of liability for the rate has been served.

- (6) In this section —
- “first occupier” means the first person in actual occupation of the hereditament in the financial year in question; and
- “subsequent occupier” means the person (if any) in actual occupation of the hereditament after the first occupier in the financial year in question.

10D Alternative basis of charging

- (1) The Sewerage Authority, instead of charging a sewerage rate, may agree with any person requiring the provision of sewerage services to provide those services on such basis (including metering) and on terms and conditions as it may determine.
- (2) Charges payable under this section (including charges for any meter supplied by the Sewerage Authority) are recoverable in the same way as sewerage rates.

10E Further provision about sewerage rates and charges

Schedule 1A has effect.

10F Rate for the financial year 2015-16

- (1) The sewerage rate for the financial year commencing on 1 April 2015 is 61.29 pence in the pound.
- (2) This section, and the proviso to section 10A(3) which relates to it, are repealed on 1 April 2016, but the repeals do not affect the previous operation of section 10A or this section, or the liability for the rate imposed by subsection (1).”
- (4) Sections 11 and 11A (sewerage charges) are repealed.
- (5) In section 42(4) (interpretation – general), insert the following definitions at the appropriate places in the alphabetical list —
- ““**financial year**” means the period beginning on 1 April of one year and ending on 31 March of the following year;”
- ““**sewerage rate**” means a rate levied under section 10A;”.
- (6) In section 43(1) (subordinate legislation) the following are repealed —
- (a) the reference in paragraph (a) to section 11; and
- (b) paragraph (b).
- (7) After Schedule 1 insert the Schedule set out as the Schedule to this Act.

4 Repeal

Section 49(1)(g) of the *Rating and Valuation Act 1953* is repealed.

- 1 **5 Expiry**
- 2 (1) This Act expires on —
- 3 (a) the day following its promulgation, if all its provisions are then in
- 4 operation; or
- 5 (b) if all its provisions are not then in operation, the day following
- 6 that on which the last of its provisions commences.
- 7 (2) The expiry does not —
- 8 (a) revive any enactment that this Act amended or repealed as the
- 9 enactment operated before the amendment or repeal commenced;
- 10 (b) revive anything not in operation or not existing when the
- 11 amendment or repeal took effect; or
- 12 (c) affect the continuing operation of the amendment or repeal.

SCHEDULE

SCHEDULE 1A TO THE SEWERAGE ACT 1999

[Section 3(7)]

“SCHEDULE 1A

SEWERAGE RATES AND CHARGES

[Section 10E]

1 Sewerage rates

- (1) For the purpose of computing the amount of any sewerage rate, the rateable value of any premises is to be taken as that appearing in the valuation list in force on the first day of the financial year in question.
- (2) If no rateable value appears in the list in relation to any premises, or if the sewerage rate is chargeable on a part of any premises entered in that list, the rateable value of the premises supplied is to be taken to be such sum, or, as the case may be, such fairly apportioned part of the rateable value of the whole premises, as may be agreed or, in default of agreement, determined by arbitration.
- (3) If there is communication otherwise than by a highway between buildings or parts of buildings in the occupation of the same person, those buildings or parts of buildings are, if the Sewerage Authority so decides, to be treated for the purpose of charging sewerage rates, as one building having a rateable value equal to the aggregate of their rateable values.
- (4) If a person is aggrieved by a decision of the Sewerage Authority under sub-paragraph (3), the matter is to be determined by arbitration.
- (5) For the purposes of the *Arbitration Act 1976* —
- (a) a matter falling to be determined by arbitration is to be determined by two arbitrators, one appointed by the Sewerage Authority and one by the person aggrieved; and
 - (b) the appointments of the arbitrators are to be treated as having been made by virtue of an arbitration agreement which provided—
 - (i) for their appointment; and
 - (ii) for the parties to the arbitration to be jointly and severally liable for the costs of the arbitration.

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2 Discount for prompt payment

- (1) The Sewerage Authority may allow discounts or rebates in consideration of prompt payment of sewerage rates and charges.
- (2) Discounts or rebates under this paragraph must be at the same rate under like circumstances to all persons and must not in any case exceed 5%.
- (3) If and so long as the Authority allows such discounts or rebates, notice of the effect of this paragraph must be endorsed on every demand note for sewerage rates and charges.”

IN THE KEYS

SEWERAGE (AMENDMENT) BILL 2014

A **BILL** to amend the Sewerage Act 1999 to make provision for the levying of a sewerage rate; and for connected purposes.

Approved by the Council of Ministers
for introduction in the House of Keys.

MR CANNAN

NOVEMBER 2014