

---

---

# WATER INDUSTRY INFORMATION & GUIDANCE NOTE

---

---

**IGN 4-05-01**

2014: Issue 1.0

(Page 1 of 28)

ISSN 2042-3101

UK Water Industry

---

## GUIDANCE ON ALLOCATION AND CALCULATION OF COSTS FOR SELF LAY OF WATER MAINS

---

### CONTENTS

1. INTRODUCTION AND SCOPE OF THIS GUIDANCE.
2. THE SELF LAY REGIME
3. RECOVERY OF SPECIFIC COSTS BY WATER COMPANIES
4. WORKED EXAMPLES

### APPENDIX A EXTRACTS FROM THE WATER INDUSTRY ACT 1991

#### 1. INTRODUCTION AND SCOPE OF THIS GUIDANCE

- 1.1 The Water Act 2003 introduced a new statutory regime (sections 51A – E) into the Water Industry Act 1991 (the Act), expressly permitting persons other than water undertakers to lay new water mains and service pipes which are to be used for the supply of water for domestic purposes. Water mains and service pipes constructed in accordance with these provisions will subsequently vest in the relevant water undertaker. This regime is commonly known as the self lay regime.

- 1.2 This Guidance is designed to explain:

- 1.2.1 what water companies can charge self lay organisations (SLOs) for in respect of the self lay main; and

- 1.2.2 how the payment due to SLOs in relation to the self lay main is calculated.

It does not describe the requisitioning process or the self lay application process in full. Readers should refer to water companies' guidance documents on these topics. Also it does not deal with payments for service pipes.

- 1.3 Alongside the development of this guidance, Water UK will issue a new form of model agreement for the self lay of water mains and service pipes. The agreement offers a more user-friendly, lighter-touch and modernised model of contracting for self lay works.

- 1.4 Ultimately it is for each water company to decide itself the extent to which it uses this guidance and the model form of agreement as part of its wider suite of policies regarding self lay. Similarly it is for each water company to assess and take its own legal advice on the compliance of its overall self lay policies with competition law.

- 1.5 This guidance seeks to cover the principal questions of 'who is paid for what' arising in the context of self lay but it is impossible to cover all possible circumstances. In the event of any doubt, legal advice should be obtained.

---

This document has been prepared for the Water UK Standards Board. Further copies can be obtained on the Water UK website at <http://www.water.org.uk/publications/WIS-IGN> and technical queries should be addressed to the Standards Board via Brian Spark Technical Secretary to the Board., Water UK, 36 Broadway, London SW1H 0BH or e-mail [brian.spark@ntlworld.com](mailto:brian.spark@ntlworld.com) telephone +44 (0) 1480 351865 fax +44 (0) 1480 351865.

1.6 This guidance does not affect Ofwat's powers to determine disputes relating to self-lay matters but the guidance does aim to reduce the scope for disputes.<sup>1</sup> Users of this guidance should have regard for determinations made by Ofwat from time to time on disputes involving the financial provisions for self lay mains.

1.7 This document provides guidance to parties on the interpretation of the self-lay provisions of the Water Industry Act 1991. Use of this guidance is not mandatory for any party. Water UK does not accept any responsibility for loss resulting from reliance on the guidance.

## **2. THE SELF LAY REGIME**

### *Introduction*

2.1 The self lay regime makes provision for SLOs to compete with water companies in the laying of new water mains and service pipes to supply water for domestic purposes.

2.2 Under the Act, water companies are able to enter into agreements with persons constructing or proposing to construct new water mains and service pipes<sup>2</sup>. If the pipes are constructed in accordance with the terms of the agreement, the water company must connect them to the existing network and take over responsibility for them. We refer to these agreements as self lay agreements.

2.3 It is of course open for water companies to come to separate agreements with SLOs where the self lay main is not solely for domestic purposes as defined in the legislation.

### *Who does what?*

2.4 Under normal main requisitioning, the water company does all of the work of installing the main. Under self lay, as a general summary the SLO puts in the self lay main and the water company does the work on the network

necessary to incorporate the self lay main into its existing system.

### *Who is paid for what?*

2.5 Under normal main requisitioning, all the work is done by the water company and so any payment due is made to it. This payment is calculated using the costs reasonably incurred by the water company in providing the new main, less an amount that recognises the revenue that it will receive from new connections to that main.

2.6 Under self lay, however, the payment position is more complicated. The SLO must pay the water company for the work on the network to enable the self lay main. The SLO is paid an asset payment<sup>3</sup> by the water company that recognises the revenue that the water company receives from connections to the self lay main after it is adopted. The asset payment is calculated using the lower of (i) the costs that would have been reasonably incurred by the water company in providing the new main and the work to the network and (ii) the revenue that the water company will receive from connections to the main. This calculation is done on a yearly basis and then summed for the whole of the twelve year period referred to in the legislation.

2.7 The crucial points to understand are that under the Act:

2.7.1 the water company is only entitled to be paid by the SLO for certain specified costs incurred by the water company in relation to the self lay main.<sup>4</sup> There is no general right for the water company to recover all of its costs reasonably incurred in respect of the self lay; and

2.7.2 the payment to which the SLO is entitled is not based on actual costs incurred by it. It

<sup>1</sup> Section 51B of the Act

<sup>2</sup> Section 51A(1) of the Act

<sup>3</sup> In the Act this is referred to as the discounted offset amount

<sup>4</sup> Section 51C(2) and (3)

is a theoretical calculation, calculated as if the main had been requisitioned, using the lower of (i) the costs that would have been reasonably incurred by the water company in providing the main and the work to the network and (ii) the revenue that the water company will receive from the main<sup>5</sup>.

- 2.7.3 In assessing the payment due to the SLO, the water company's theoretical calculation will include the costs reasonably incurred had the main been requisitioned. Whilst there are a number of reasonable costs included in the theoretical calculation, the costs that a water company can recover from an SLO are limited to those specifically allowed.

*Payments due to the water company*

- 2.8 The costs potentially payable to the water company in the self lay scenario are as follows:

- 2.8.1 costs reasonably incurred in providing such other water mains and such tanks, service reservoirs and pumping stations as are necessary as a result of the incorporation of the self laid main into the water company's supply system.<sup>6</sup> We refer to these costs as Network Reinforcement Costs;

- 2.8.2 a reasonable proportion of the costs reasonably incurred in providing or procuring the provision of additional capacity in an already constructed main, (requisitioned or vested in the water company in the 12 years preceding the provision of the self lay main) which is now being used as a result of the incorporation of the self laid main into the company's supply system.<sup>7</sup> In this way, those making use of previously built capacity contribute to the costs which have been incurred in the provision of the capacity (claw back).

The references to the procurement of the provision of the already constructed main mean that this will catch tanks, service reservoirs or pumping station provided in connection with that main. Also if the earlier capacity was not provided pursuant to a requisition or vesting declaration, the relevant proportion of its costs will not be recoverable by the water company. We refer to these costs as Additional Capacity Costs;

- 2.8.3 costs of the provision by the water company of associated infrastructure at or downstream of the point of connection with its supply system which is necessary as a result of incorporating the new self lay main into the company's supply system.<sup>8</sup> We refer to these costs as Associated Infrastructure Costs;

Together, we refer to these costs as Self Lay Provision Costs.

- 2.9 Under the Act, the Self Lay Provision Costs are the only costs that the water company can demand to be paid as a condition of the self lay agreement. The water company would be expected to provide reasonable evidence of the need to carry out the works for which it is seeking payment from the SLO.

- 2.10 However under the Act the water company may also agree with the SLO in the self lay agreement that the SLO will carry out, or procure the carrying out of certain reasonable obligations which are not just the payment of the water companies' costs, at their own expense. This includes the provision of Associated Infrastructure i.e. infrastructure at or downstream of the point of connection with the water company's supply system which is necessary as a result of incorporating the new self lay main into the supply system.

- 2.11 The water company may also require the SLO to provide security for Network Reinforcement, Additional Capacity and

<sup>5</sup> Section 51C(5)-(11) As noted, this is initially calculated on a yearly basis before being summed for the twelve year period in the Act.

<sup>6</sup> Section 51C(3) and section 43(4)(a)

<sup>7</sup> Section 51C(3) and section 43(4)(b)

<sup>8</sup> Section 51A(7)(a)

Associated Infrastructure Costs<sup>9</sup> or for the performance of the other reasonable obligations agreed with the SLO.<sup>10</sup> Security can be taken by way of a deposit payment up front or it can be set off against the asset payment when paid later in the process. Companies should provide objective justification for the level of security that is being requested.

#### *Payments due to the SLO*

2.12 The asset payment is the principal payment due to the SLO. It is payable when the main is vested in (or adopted by) the water company<sup>11</sup>. The calculation of the asset payment is based on the lesser of (i) the revenue that it is estimated will be received from newly connected properties and (ii) the annual borrowing cost for the costs that would have been reasonably incurred by the water company in the provision of the self lay main (whether on or off-site) if they had carried out the work themselves as part of a requisition. This runs as follows.

2.13 The asset payment is the sum of the estimated offsets for each of the 12 years following the adoption of the self lay main, in each case discounted to a net present value<sup>12</sup>. The estimated offset for each year is the lesser of:

2.13.1 the estimated revenue from the self lay main; and

2.13.2 the annual borrowing costs of a hypothetical loan for the costs reasonably incurred in providing the main.<sup>13</sup>

<sup>9</sup> Section 51C(4)

<sup>10</sup> Section 51A(1)

<sup>11</sup> Section 51C(5)

<sup>12</sup> Section 51C(6) and (9). See Ofwat Information Notice IN11/05 at

[https://www.ofwat.gov.uk/regulating/charges/prs\\_in1105interest.pdf](https://www.ofwat.gov.uk/regulating/charges/prs_in1105interest.pdf) and

[http://www.ofwat.gov.uk/regulating/charges/prs\\_in1105interestapp1.pdf](http://www.ofwat.gov.uk/regulating/charges/prs_in1105interestapp1.pdf)

<sup>13</sup> Section 51C(7)

Disputes about the level of the asset payment can be referred to Ofwat for determination.<sup>14</sup> Ofwat can consider these disputes after the work has been completed and the payment becomes payable.

2.15 The SLO is also entitled to payment for the expenses reasonably incurred by it in oversizing its main at the water company's request to cater for other future development.<sup>15</sup>

*Responsibility for costs for network reinforcement, capacity in an earlier main or incorporating additional capacity into the self lay main*

2.16 So for both water companies and SLOs, costs of either new or existing capacity in the system may need to be attached to either the SLO's development, or some future additional development. Measures of costs of additional capacity must be reasonable and so are calculated according to the proportion of capacity used.

#### *Summary of payment flows and obligations*

2.17 These, then, are the principles of the payment flows and obligations owed between the water company and the SLO that have been implemented in the new model self lay agreement.

2.18 In many cases, a charge cannot be made by the water company to the SLO for the costs to the water company of a specific item of work, but the costs of that work will still be included in the calculation of the costs that would reasonably be incurred by the water company for the purposes of calculating the asset payment.

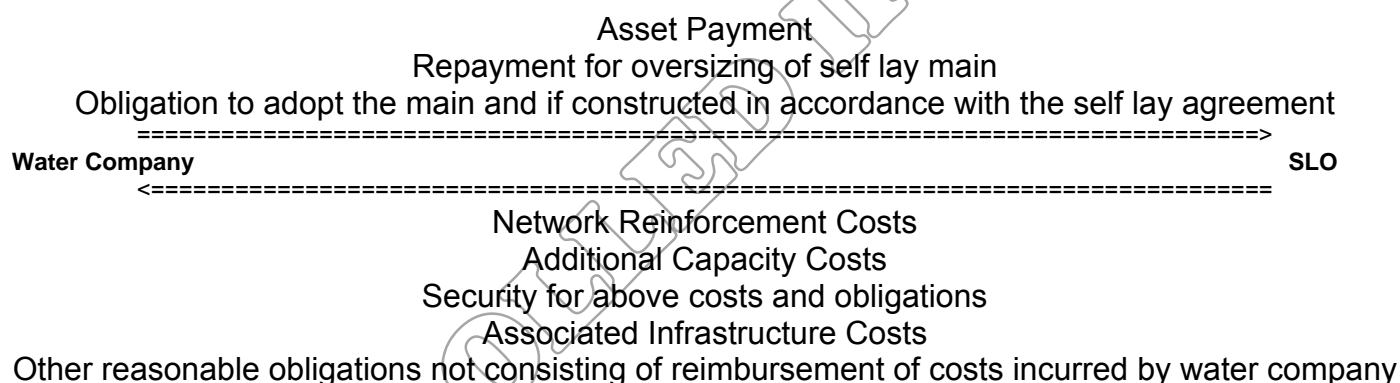
2.19 Also in many cases, where the water company cannot charge the SLO for work done by it, instead it can nevertheless reasonably oblige the SLO to do the work itself or to engage a third party to do the work, in each case at the expense of the SLO.

<sup>14</sup> Section 51C(11)

<sup>15</sup> Section 51A(7)(c)

2.20 In some cases, an SLO may reasonably be obliged to meet the costs of an item but not be able to include the costs in the calculation of the asset payment because they were not reasonably incurred (e.g. abortive costs of third party inspection works), or were not incurred in the provision of the main (e.g. costs of security for failure to comply with terms of the agreement).

2.21 In summary, then, the principal payment flows and obligations owed are as follows. Note that the time of payment of these costs will vary and will depend on the payment options agreed by the SLO and water company:



### 3 RECOVERY OF SPECIFIC COSTS BY WATER COMPANIES

3.2 This section of the guidance therefore focuses on the question, "can a water company directly recover costs incurred by it from a SLO?".

3.1 The list of costs that can be included in the calculation of the asset payment is familiar to water companies. The same analysis applies as if the main was being requisitioned from the water company. More difficult is the question of what costs can be recovered directly by water companies from an SLO.

Cost	Recoverable?	Reasoning
Audit fee for verification of billing address of houses being connected	X	Not specified in <a href="#">ss51C(3)</a> and <a href="#">43(4)</a> or <a href="#">51A(7)(a)</a>
Cost of setting up customer account	X	Not specified in <a href="#">ss51C(3)</a> and <a href="#">43(4)</a> or <a href="#">51A(7)(a)</a>
Prequalification check on SLO and medical check	X	As above
Application fee	X	Not specified in <a href="#">ss51C(3)</a> and <a href="#">43(4)</a> or <a href="#">51A(7)(a)</a>
Application fee set off against other legitimate charges if application proceeds	✓ (once set off)	Not specified in <a href="#">ss51C(3)</a> and <a href="#">43(4)</a> or <a href="#">51A(7)(a)</a> , until set off
Checking and approving of materials	X	Not specified in <a href="#">ss51C(3)</a> and <a href="#">43(4)</a> or <a href="#">51A(7)(a)</a>
Design of self lay main	X	Design costs by water company of self lay main are not recoverable - not specified in <a href="#">ss51C(3)</a> and <a href="#">43(4)</a> or <a href="#">51A(7)(a)</a>
Approval of design of self lay main	X	As above
Supervision & inspection of self lay main	X	As above
Design of connection of self lay main to water company's supply system by water company where connected by water company	✓	Allowed under <a href="#">s51A(7)(a)</a> insofar as applies to associated infrastructure at or downstream of the point of connection
Supervision and inspection of connection of self lay main to water company's supply system by water company	✓	As above
Connection of self lay main to network by water company.	✓	As above
Provision of associated infrastructure by the water company at or downstream of the point of connection to the water company's supply system. NB this includes works on existing main at the point of connection to install new valves as a result of the new connection	✓	Specifically allowed under <a href="#">s51A(7)(a)</a>

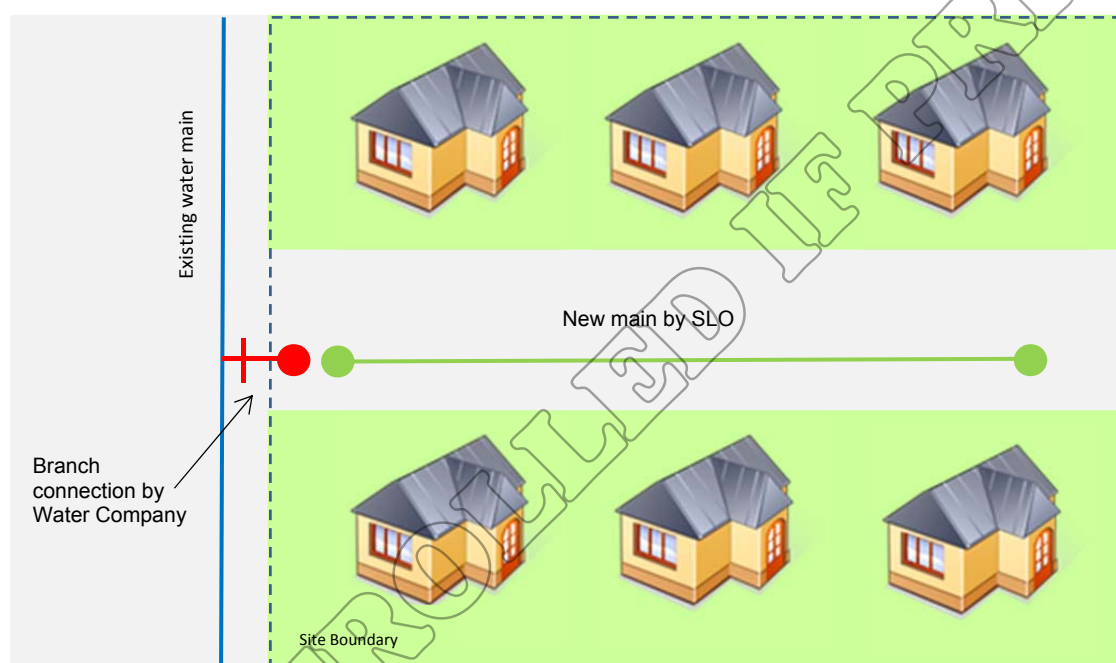


Cost	Recoverable?	Reasoning
Swabbing, testing and disinfecting of self lay main	X	Not specified in <a href="#">ss51C(3)</a> and <a href="#">43(4)</a> or <a href="#">51A(7)(a)</a> .
Design of reinforcement	✓	Recoverable by water company as cost reasonably incurred in providing network reinforcement – <a href="#">ss51C(3)</a> and <a href="#">43(4)</a> - or if at or downstream of point of connection – <a href="#">s.51A(7)(a)</a> .
Network logging, modelling etc	✓ (provided linked to provision of Network Reinforcement)	Allowed under <a href="#">s43(4)(a)</a> as costs reasonably incurred in providing Network Reinforcement. If no Network Reinforcement is provided, or if the logging, modelling etc cannot be linked to the Network Reinforcement, costs will not be recoverable
Testing and sampling of reinforcement by water company	✓	As above for 'Design of reinforcement'
Costs of additional capacity used as a result of self lay main, provided requisitioned or subject to vesting declaration	✓	Specifically allowed under <a href="#">s.43(4)(b)</a>
Costs of additional capacity used as a result of self lay main, where constructed on sole initiative of water company, without requisition or vesting declaration	X	Does not qualify under <a href="#">s.43(4)(b)</a> and <a href="#">(5)</a>
Redesign of self lay main by water company following alterations	X	Design costs by water company of self lay main are not recoverable - not specified in <a href="#">ss51C(3)</a> and <a href="#">43(4)</a> or <a href="#">51A(7)(a)</a>
Fire service liaison	✓	Not domestic supply therefore <a href="#">s51A-E</a> does not apply
Legal costs of water company – self lay agreement, easement for self lay main and easement for reinforcement	X	The first two are not specified in <a href="#">ss51C(3)</a> and <a href="#">43(4)</a> or <a href="#">51A(7)(a)</a> , the third is not in provision of the reinforcement under section <a href="#">43(4)(a)</a> .

## 4. WORKED EXAMPLES

- 4.1 Clearly the position here is complex. How does it apply in practice? The following examples explain.

**Scenario 1:** The SLO applies to the Water Company to build a main on its development site. The Water Company carries out the connection of the self lay main to the existing network. No network reinforcement, use of earlier capacity, oversizing of the self lay main is required.



### Key:

- Existing network
- New infrastructure constructed only by Water Company
- New infrastructure constructed only by SLO

- 4.2 **Scenario 1:** The SLO applies to the Water Company to build a main on its development site. The Water Company carries out the connection of the self lay main to the existing network. No network reinforcement, use of earlier capacity, oversizing of the self lay main is required.

- 4.2.1 The Water Company is entitled to be paid for the costs of provision of associated infrastructure at or downstream of the point

of connection. All works will be at the expense of the SLO and deductible from the asset payment. The Water Company is not entitled to payment of any other costs for work done by it.

- 4.2.2 Those costs will be also rolled into the amount of costs reasonably incurred in the calculation of the asset payment due to the SLO.



**Scenario 2:** Scenario 2: As for Scenario 1, but the associated infrastructure works at or downstream the point of connection include valves on the existing main to which the self lay main will connect, as well as a valve on the self lay main itself.



**Key:**

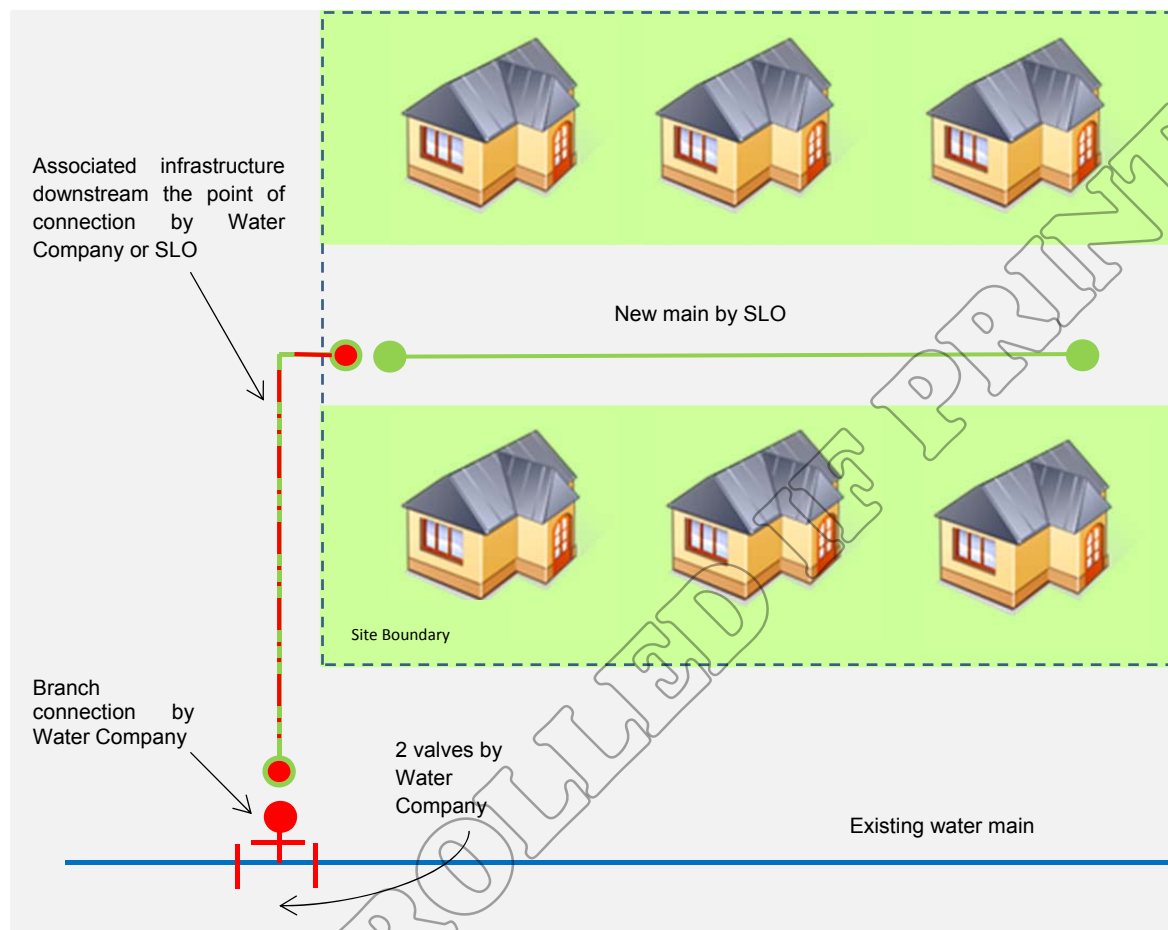
- Existing network
- New infrastructure constructed only by Water Company
- New infrastructure constructed only by SLO

4.3 **Scenario 2:** As for Scenario 1, but the associated infrastructure works at or downstream the point of connection include valves on the existing main to which the self lay main will connect, as well as a valve on the self lay main itself.

4.3.1 The answer is the same as for Scenario 1. Provision of associated infrastructure on the

existing main as a result of the incorporation of the self lay main into the existing system will qualify as works "at the point of connection" with the existing network.

**Scenario 3:** As for Scenario 2, but the Water Company may agree that the SLO provide associated infrastructure at or downstream of the point of connection with the existing network.



**Key:**

- Existing network
- New infrastructure constructed only by Water Company
- New infrastructure constructed only by SLO
- — New infrastructure constructed by either Water Company or SLO

**4.4 Scenario 3:** As for Scenario 2, but the Water Company may agree that the SLO provide associated infrastructure at or downstream of the point of connection with the existing network.

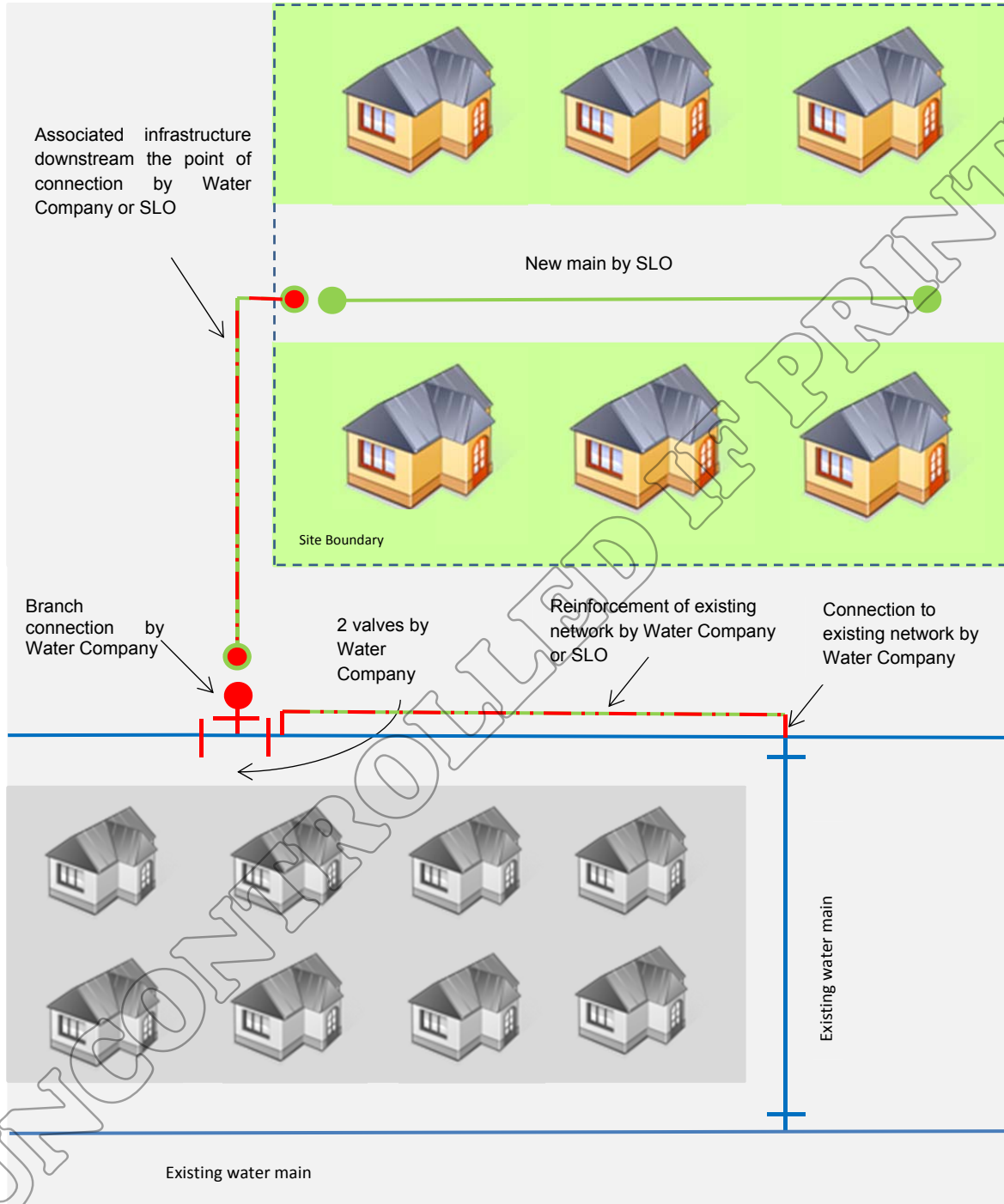
**4.4.1** The SLO can agree to provide this infrastructure at its own expense provided it is necessary as a result of the incorporation of the self lay main into the existing system.

**4.4.2** The costs reasonably incurred by the SLO in doing so will be rolled into the amount of

costs of providing the self lay main for the purposes of the calculation of the asset amount due to the SLO for the self lay main.

**4.4.3** The same would apply if the SLO required that the Water Company provided the associated infrastructure at the SLO's expense.

**Scenario 4:** As for Scenario 3, but reinforcement of the existing network is required, in the shape of other water mains, new tanks, service reservoirs or pumping stations (e.g. to provide the necessary capacity to supply the new development).

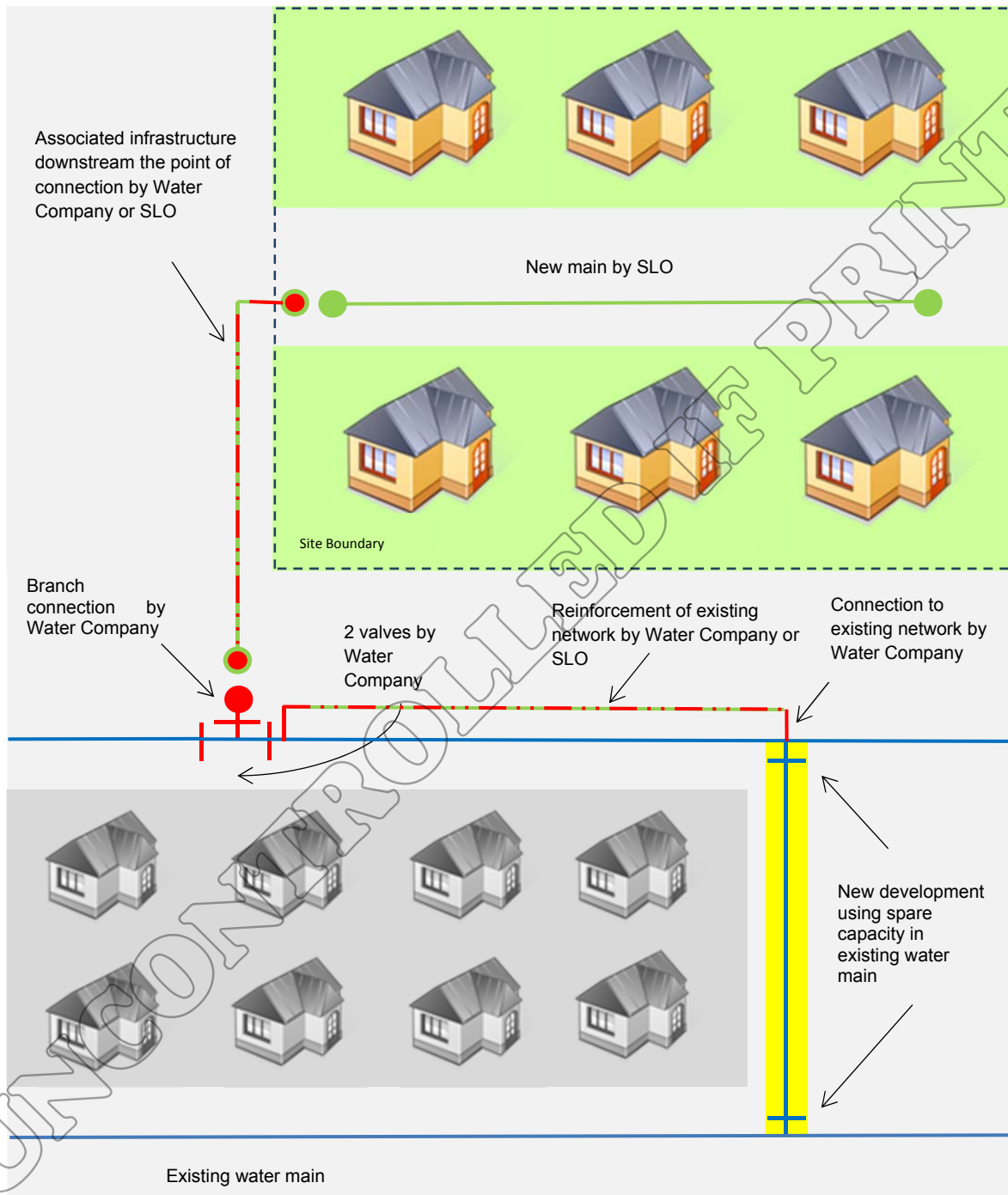


## Key:

- Existing network
- New infrastructure constructed only by Water Company
- New infrastructure constructed only by SLO
- — New infrastructure constructed by either Water Company or SLO

- 4.5 **Scenario 4:** As for Scenario 3, but reinforcement of the existing network is required, in the shape of other water mains, new tanks, service reservoirs or pumping stations (e.g. to provide the necessary capacity to supply the new development).
- 4.5.1 The Water Company is entitled to payment of costs reasonably incurred in making the reinforcement as a result of the incorporation of self lay main into its system.
- 4.5.2 It is also entitled to take security for those costs.
- 4.5.3 Those costs will be also rolled into the amount of costs reasonably incurred in the calculation of the asset payment due to the SLO.
- 4.5.4 Note! Reinforcement to the existing network in the shape of water mains may be undertaken by the SLO. The costs reasonably incurred by the SLO in doing so will be rolled into the amount of costs of providing the self lay main for the purposes of the calculation of the asset amount due to the SLO for the self lay main. Only the Water Company may make the connections to the existing network.

**Scenario 5:** As for Scenario 4, but the new development is also making use of spare capacity intentionally built into the existing network to provide capacity for future developments. That spare capacity was provided as part of a requisition made to the Water Company in the previous 12 years. It consists of mains capacity, but also tank, service reservoir and pumping station capacity alongside it.



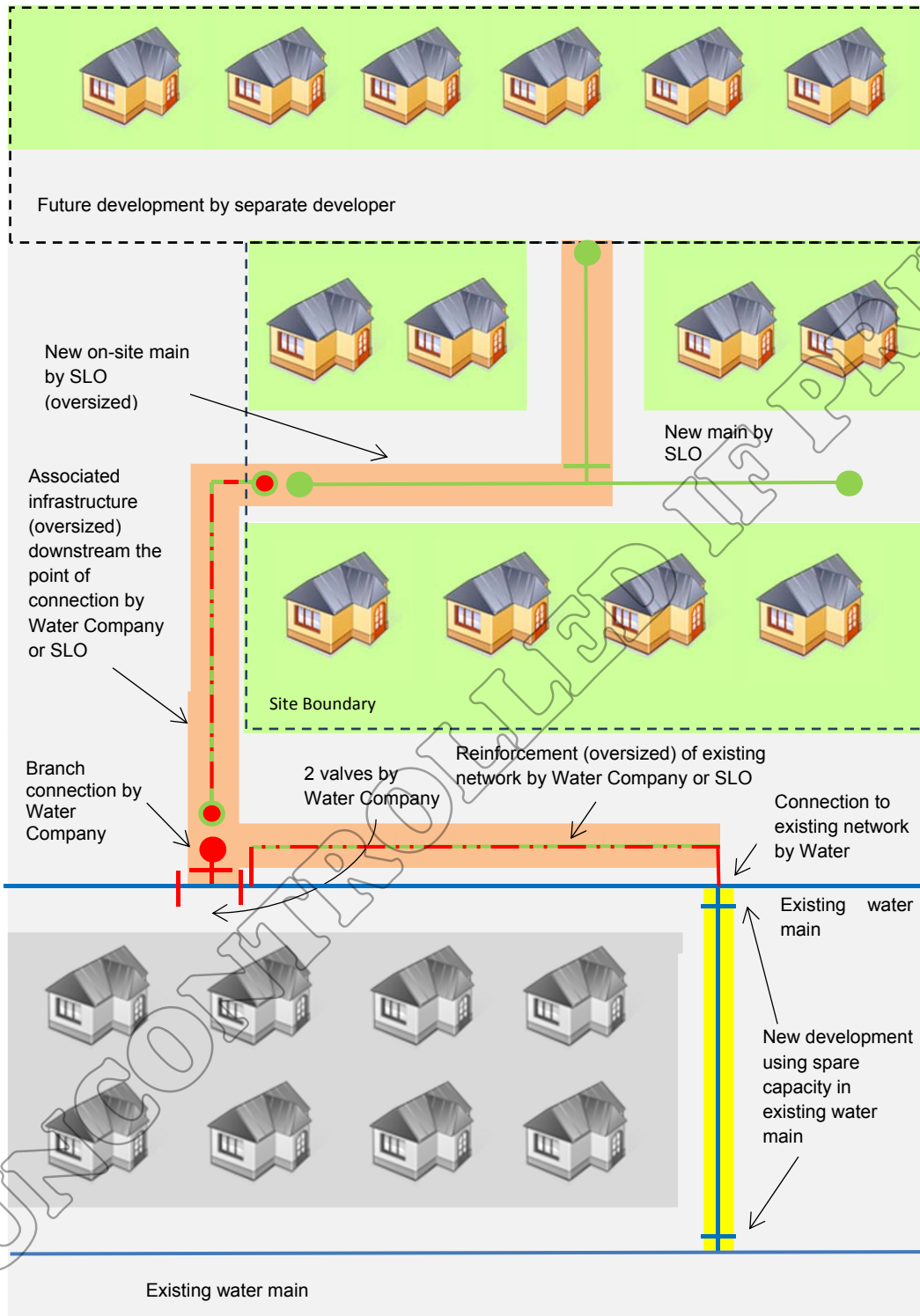
## Key:

- Existing network
- New infrastructure constructed only by Water Company
- New infrastructure constructed only by SLO
- - - New infrastructure constructed by either Water Company or SLO
- Main laid by requisition for a previous development oversized for new SLO development

- 4.6 **Scenario 5:** As for Scenario 4, but the new development is also making use of spare capacity intentionally built into in the existing network to provide capacity for future developments.. That spare capacity was provided as part of a requisition made to the Water Company in the previous 12 years specifically to cater for future development downstream. It consists of mains capacity, but also tank, service reservoir and pumping station capacity alongside it.
- 4.6.1 As well as the payment under Scenario 4, the Water Company is entitled to payment of a reasonable proportion of the costs reasonably incurred in providing or procuring the provision of the additional capacity which will be used as a result of the incorporation of the self lay main into the existing supply system.
- 4.6.2 So the Water Company is entitled to a reasonable proportion of the reasonable costs of providing all of that earlier capacity. This would be calculated by reference to the proportion of the capacity to be used by the development, applied to those reasonable costs.
- 4.6.3 Earlier capacity will include not just mains, but tanks, service reservoirs and pumping stations too, which will meet the test of being reasonably incurred in *procuring* the provision of the additional capacity in the earlier main.
- 4.6.4 Again the Water Company is entitled to take security for those costs.
- 4.6.5 Again those costs would also be rolled into the amount of costs reasonably incurred in the calculation of the asset payment due to the SLO.










**Scenario 6:** As for Scenario 5, but the Water Company requires that the self lay main being laid by the SLO is oversized, to cater for an expected further development by a separate developer adjacent to that of the SLO.



Note Key is overleaf.

## Key:

	Existing network
	New infrastructure constructed only by Water Company
	New infrastructure constructed only by SLO
	New infrastructure constructed by either Water Company or SLO
	Main laid by requisition for a previous development oversized for new SLO development
	New main oversized to provide for future development
	New main oversized to provide for future development

4.7 **Scenario 6:** As for Scenario 5, but the Water Company requires that the self lay main being laid by the SLO is oversized, to cater for an expected further development by a separate developer adjacent to that of the SLO.

4.7.1 The SLO is obliged to do the oversizing works. However it is also entitled to repayment by the Water Company of the extra expense reasonably incurred by it in doing those works. That cost will be calculated by reference to the proportion of capacity used.

4.7.2 The costs of the oversizing will not be rolled into the amount of costs reasonably incurred in the calculation of the asset payment due to the SLO. This makes sense, since they are

repaid to the SLO separately anyway.

4.7.3 **Note!** In this scenario it is logical that there may be capacity in the associated infrastructure downstream the point of connection (Scenario 2) and reinforcement (Scenario 4) to cater for the further development for which the main being laid by the SLO is oversized. Where this is the case only the proportion of the costs actually incurred in the associated infrastructure and the reinforcement to supply the new development may be charged and rolled up into the calculation for the asset payment. The cost of any oversizing paid to the SLO for additional capacity to serve future development will be borne by the Water Company until that additional capacity is required, subject to the 12 year rule.

**APPENDIX A**  
**EXTRACTS FROM THE WATER INDUSTRY ACT 1991**

Crown copyright information is reproduced with the permission of the Controller of HMSO and the Queen's Printer for Scotland

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) In this section “local authority”, in relation to the Inner Temple and the Middle Temple, includes, respectively, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple.

#### Annotations:

#### Amendments (Textual)

- F170** Words in s. 41(2)(d)(i) substituted (1.12.2008) by [Housing and Regeneration Act 2008 \(c. 17\), ss. 56, 325, Sch. 8 para. 56](#); [S.I. 2008/3068, art. 2\(1\)\(w\)](#) (with savings and transitional provisions in [arts. 6-13](#))
- F171** Words in s. 41(2)(d)(ii) repealed (1.10.1998) by [1998 c. 38, s. 152, Sch. 18 Pt.IV](#) (with [ss. 137\(1\), 139\(2\), 143\(2\)](#)); [S.I. 1998/2244, art. 4](#)

#### Marginal Citations

- M15** [1981 c. 64.](#)  
**M16** [1980 c. 65.](#)

## 42 Financial conditions of compliance.

- (1) The conditions mentioned in section 41(1)(c) above are satisfied in relation to a requirement for the provision of a water main by a water undertaker if—
- such undertakings as the undertaker may have reasonably required in accordance with subsection (2) below have been given by the person or persons who have required the provision of the main; and
  - such security as the undertaker may have reasonably required has been provided for the discharge of any obligations imposed by those undertakings on any person who, under subsection (3) below, may be required to secure his undertakings.
- (2) The undertakings which a water undertaker may require for the purposes of subsection (1) above in respect of any water main are undertakings which—
- [<sup>F172</sup>(a) bind the person or persons mentioned in that subsection to pay to the undertaker either (at the election of such person or persons)—
- in respect of each of the twelve years following the provision of the main, an amount not exceeding the relevant deficit (if any) for that year on that main; or
  - following provision of the main, a single amount not exceeding the discounted aggregate deficit on that main; and]
    - in the case of undertakings binding two or more persons, bind them either jointly and severally or with liability to pay apportioned in such manner as they may agree.

(3) For the purposes of subsection (1)(b) above a person may be required to secure his undertakings in relation to the provision of a water main if—

    - it was by virtue of section 41(2)(a) or (b) above that he required, or joined in requiring, the provision of the main; and
    - he is not a public authority.

(4) Where for the purposes of subsection (1)(b) above any sums have been deposited with a water undertaker by way of security for the discharge of any obligation, the undertaker shall pay interest at such rate as may be determined either—

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) by the undertaker with the approval of the Director; or
  - (b) in default of a determination under paragraph (a) above, by the Director, on every sum of 50p so deposited for every three months during which it remains in the hands of the undertaker.
- (5) An approval or determination given or made by the Director for the purposes of subsection (4) above—
- (a) may be given or made in relation to the provision of a particular water main, in relation to the provision of mains of a particular description or in relation to the provision of water mains generally; and
  - (b) may be revoked at any time.
- (6) Any dispute between a water undertaker and any other person as to—
- (a) the undertakings or security required by the undertaker for the purposes of this section; or
  - (b) the amount required to be paid in pursuance of any such undertaking,
- [<sup>F173</sup> may be referred to the Authority for determination under section 30A above by either party to the dispute.]
- [<sup>F174</sup>(7) In this section “relevant deficit” and “discounted aggregate deficit” have the meanings given by sections 43 and 43A below, respectively.]

#### Annotations:

##### Amendments (Textual)

- F172** S. 42(2)(a) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 90(2)(5)**, 105(3); S.I. 2004/641, **art. 4(a)** (with [art. 6](#), [Sch. 3](#))
- F173** Words in s. 42(6) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 90(3)(5)**, 105(3); S.I. 2004/641, **art. 4(a)** (with [art. 6](#), [Sch. 3](#))
- F174** S. 42(7) substituted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 90(4)(5)**, 105(3); S.I. 2004/641, **art. 4(a)** (with [art. 6](#), [Sch. 3](#))

## 43 Calculation of “relevant deficit” for the purposes of section 42.

- (1) For the purposes of section 42 above the relevant deficit for any year on a water main is the amount (if any) by which the [<sup>F175</sup>relevant revenue in respect of that main for that year is] exceeded by the annual borrowing costs of a loan of the amount required for the provision of that main.
- (2) The annual borrowing costs of a loan of the amount required for the provision of a water main is the aggregate amount which would fall to be paid in any year by way of payments of interest and repayments of capital if an amount equal to so much of the costs reasonably incurred in providing that main as were not incurred in the provision of additional capacity had been borrowed, by the water undertaker providing the main, on terms—
- (a) requiring interest to be paid and capital to be repaid in twelve equal annual instalments; and
  - (b) providing for the amount of the interest to be calculated at such rate, and in accordance with such other provision, as may have been determined for the purposes of this subsection.
- (3) A determination for the purposes of subsection (2) above shall be made either—

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) by the undertaker with the approval of the Director; or
  - (b) in default of such a determination, by the Director.
- (4) For the purposes of this section the costs reasonably incurred in providing a water main (“the new main”) shall include—
- (a) the costs reasonably incurred in providing such other water mains and such tanks, service reservoirs and pumping stations as it is necessary to provide in consequence of the provision of the new main; and
  - (b) such proportion (if any) as is reasonable of the costs reasonably incurred in providing [<sup>F176</sup>or procuring the provision of] any such additional capacity in an earlier main as falls to be used in consequence of the provision of the new main.
- [<sup>F177</sup>(5) In subsection (4) above the reference to an earlier main, in relation to the new main, is a reference to any water main which—
- (a) has been provided in pursuance of a water main requisition; or
  - (b) has been vested (by virtue of a declaration made under this Chapter) in the water undertaker,
- in the period of twelve years immediately before the provision of the new main.]
- (6) Any reference in this section to the provision of additional capacity in a water main provided in pursuance of a requirement under any enactment is a reference to such works carried out or other things done in connection with the provision of that main as are carried out or done for the purpose of enabling that main to be used for purposes in addition to those for which it is necessary to provide the main in order to comply with the requirement.
- [<sup>F178</sup>(7) Any reference in this section to the relevant revenue in respect of a main provided by a water undertaker for any year is—
- (a) in relation to premises connected with the main which are supplied with water by the undertaker, is a reference to so much of the aggregate of any charges payable to the undertaker in respect of services provided in the course of that year as represents charges which—
    - (i) have been imposed by the undertaker in relation to those premises; and
    - (ii) are reasonably attributable to the provision of a supply of water (whether or not for domestic purposes) to those premises by means of that main;
  - (b) in relation to premises connected with the main which are supplied with water by a licensed water supplier, is a reference to so much of the aggregate of any charges made during the course of that year which—
    - (i) are payable by the supplier to the undertaker in respect of the duty under section 66A(2)(b), 66B(3)(b) or 66C(2)(b)(ii) below; and
    - (ii) are reasonably attributable to the use of that main for the purpose of the supplier supplying water to those premises.]
- (8) An approval or determination given or made by the Director for the purposes of subsection (2) above—
- (a) may be given or made in relation to the provision of a particular water main, in relation to the provision of mains of a particular description or in relation to the provision of water mains generally; and



*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) may be revoked at any time except in relation to a water main [<sup>F179</sup>in respect of which the conditions referred to in section 42(1) above have already been satisfied.] .
- (9) In this section “water main requisition” means—
- (a) a requirement under section 41 above (including, by virtue of paragraph 1 of Schedule 2 to the <sup>M17</sup>Water Consolidation (Consequential Provisions) Act 1991, a requirement under section 40 of the <sup>M18</sup>Water Act 1989);
  - (b) a requirement under the provisions of section 36 or 37 of the <sup>M19</sup>Water Act 1945 or of section 29 of Schedule 3 to that Act (water main requisitions); or
  - (c) a requirement under any local statutory provision corresponding to section 41 above or to any of those provisions of that Act of 1945.

#### Annotations:

##### Amendments (Textual)

**F175** Words in s. 43(1) substituted (1.12.2005) by [Water Act 2003 \(c. 37\), ss. 101\(4\), 105\(3\), Sch. 8 para. 14\(2\); S.I. 2005/2714, art. 3\(c\)](#) (with [Sch. para. 8](#))

**F176** Words in s. 43(4)(b) inserted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 91\(1\)\(a\)\(4\), 105\(3\); S.I. 2004/641, art. 4\(a\)](#) (with [art. 6, Sch. 3](#))

**F177** S. 43(5) substituted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 91\(1\)\(b\)\(4\), 105\(3\); S.I. 2004/641, art. 4\(a\)](#) (with [art. 6, Sch. 3](#))

**F178** S. 43(7) substituted (1.12.2005) by [Water Act 2003 \(c. 37\), ss. 101\(1\), 105\(3\), Sch. 8 para. 14\(3\); S.I. 2005/2714, art. 3\(c\)](#) (with [Sch. para. 8](#))

**F179** Words in s. 43(8)(b) substituted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 91\(1\)\(c\)\(4\), 105\(3\); S.I. 2004/641, art. 4\(a\)](#) (with [art. 6, Sch. 3](#))

##### Marginal Citations

**M17** 1991 c. 60.

**M18** 1989 c. 15.

**M19** 1945 c. 42.

#### [<sup>F180</sup>43A Calculation of “discounted aggregate deficit” for the purposes of section 42

#### Annotations:

##### Amendments (Textual)

**F180** S. 43A inserted (28.5.2004) by [Water Act 2003 \(c. 37\), ss. 91\(2\)\(4\), 105\(3\); S.I. 2004/641, art. 4\(a\)](#) (with [art. 6, Sch. 3](#))

- (1) For the purposes of section 42 above the discounted aggregate deficit on a water main is the amount equal to the sum of the estimated relevant deficits for each of the twelve years following the provision of the main, in each case discounted in accordance with subsection (6) below.
- (2) The estimated relevant deficit for any year is the amount (if any) by which the estimated revenue in respect of the water main for that year would be exceeded by the annual borrowing costs of a loan of the amount required for the provision of that main.

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) Subsections (2) to (6), (8) and (9) of section 43 above (which relate to the annual borrowing costs of a loan of the amount required for the provision of a water main) shall apply for the purposes of this section as they apply for the purposes of that.
- (4) Any reference in this section to the estimated revenue in respect of a water main for any year—
- (a) in relation to premises expected to be connected with the main and supplied with water by a water undertaker, is a reference to so much of the aggregate of any charges expected to be payable to the undertaker for the provision of services in the course of that year as would represent charges—
    - (i) imposed by the undertaker in relation to those premises, and
    - (ii) reasonably attributable to the provision of a supply of water (whether or not for domestic purposes) to those premises by means of that main; and
  - (b) in relation to premises expected to be connected with the main and supplied with water by a licensed water supplier, is a reference to so much of the aggregate of any charges expected to be made during the course of that year as would be—
    - (i) payable by the supplier to the undertaker in respect of the duty under section 66A(2)(b), 66B(3)(b) or 66C(2)(b)(ii) below; and
    - (ii) reasonably attributable to the use of that main for the purpose of the supplier's supplying water to those premises.
- (5) For the purpose of calculating estimated revenue under subsection (4) above, a thing is expected to be the case if, at the time the calculation is made, it is reasonably likely to occur.
- (6) The estimated relevant deficit for a year mentioned in subsection (1) above shall be discounted in order to determine its net present value by applying such factor, and in accordance with such other provision, as may be determined by the Authority.
- (7) A determination made by the Authority for the purposes of subsection (6) above—
- (a) may be made in relation to the provision of a particular water main or in relation to the provision of water mains generally; and
  - (b) may be revoked at any time except in relation to a water main in respect of which the conditions referred to in section 42(1) above have already been satisfied.]

#### **44 Determination of completion date and route for requisitioned main.**

- (1) A water undertaker shall not be in breach of a duty imposed by section 41 above in relation to any locality unless—
- (a) the period of three months beginning with the relevant day has expired; and
  - [<sup>F181</sup>(b) the water undertaker has not, before the end of that period, so laid the water main to be provided as to enable (as the case may be)—
    - (i) service pipes to premises in that locality; or
    - (ii) a water main which is the subject of an agreement under section 51A below (“the self-laid main”),
 to connect with the main at the place or places determined under subsection (3) below.]

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Where this section applies, the water undertaker on which the connection notice is served shall not be entitled to make the reconnection subject to any such condition as, apart from this section, may be imposed by virtue of section 47(2)(e) above unless the undertaker would have been entitled under section 64 below to require the provision of a separate service pipe if the reconnection had already been made.

## 51 Time for performance of connection etc. duties.

- (1) A water undertaker shall not be in breach of a duty imposed by virtue of the service of a connection notice unless—

- (a) in the case of a duty to lay any service pipe or to connect any service pipe to which such a duty relates, it has failed to lay that pipe or to make that connection as soon as reasonably practicable after the relevant day;
- (b) in the case of a duty to connect a service pipe the whole of which has already been laid when the notice is served on the undertaker, it has failed to make the connection before the end of the period of fourteen days beginning with the relevant day.

- (2) In any case in which a water undertaker is subject to any such duty as is mentioned in subsection (1)(a) above, it shall be presumed, unless the contrary is shown in relation to that case, that the period of twenty-one days beginning with the relevant day is the period within which it is reasonably practicable for a water undertaker—

- (a) to lay so much of any service pipe; and
- (b) to fit such stopcock,

as it is necessary to lay or fit in that case for connecting a water main in a street with a service pipe at the boundary of any premises which abut on the part of the street where the main is situated.

- (3) Where—

- (a) a connection notice is served in respect of any premises; and
- (b) at the time when the notice is served, the customer's part of the service pipe to those premises has not been laid,

the duties of the undertaker under sections 45 and 46 above shall not arise by virtue of that notice until the person serving the notice, having obtained the necessary consents from the owners and occupiers of any affected land, has, at his own expense, laid so much of the service pipe as it is necessary, for the purpose of making the connection, to lay otherwise than in a street or in land mentioned in subsections (3) to (5) of section 46 above.

- (4) In subsection (3) above the reference to the customer's part of the service pipe to any premises is a reference to so much of the service pipe to those premises as falls to be laid otherwise than by the water undertaker in pursuance of section 46 above.

- (5) Where—

- (a) a person who has served a connection notice on a water undertaker has failed to comply with his obligation under section 45(3)(a) above to supplement that notice with information required by the undertaker; and
- (b) that requirement was made by the undertaker at such a time before the end of the period within which the undertaker is required to comply with the duties imposed by virtue of the notice as gave that person a reasonable opportunity to provide the required information within that period,

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

the undertaker may delay its compliance with those duties until a reasonable time after the required information is provided.

(6) In this section “the relevant day”, in relation to a duty imposed on a water undertaker by virtue of a connection notice, means the day after whichever is the latest of the following days, that is to say—

- (a) the day on which the notice was served on the undertaker;
- (b) in a case where it is necessary for the person serving the notice to lay any service pipe after serving the notice, the day on which a notice stating that the pipe has been laid is served on the undertaker;
- (c) the day on which all such conditions are satisfied as the undertaker has, under sections 47 to 50 above, made conditions of its compliance with that duty.

*[<sup>F197</sup> Adoption of water mains and service pipes*

**Annotations:**

**Amendments (Textual)**

**F197** Ss. 51A–51E and preceding cross-heading inserted (28.5.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 92\(1\), 105\(3\)](#); [S.I. 2004/641](#), [art. 4\(a\)](#) (with [art. 6](#), [Sch. 3](#))

**51A Agreements to adopt water main or service pipe at future date**

(1) Subject to subsections (2) and (10) below, a water undertaker may agree with any person constructing or proposing to construct—

- (a) any water main; or
- (b) any service pipe,

that, if the water main or service pipe is constructed in accordance with the terms of the agreement, the undertaker will, upon completion of the work, at some specified date or on the happening of some future event, declare the water main or (as the case may be) so much of the service pipe as the undertaker could otherwise, by virtue of sections 45 to 51 above, be required to lay, to be vested in that undertaker.

(2) Subsection (1) above shall not apply in the case of water mains or service pipes which are to be used (in whole or in part) for the purpose of supplying water other than for domestic purposes, but—

- (a) nothing in this section shall prevent a water undertaker from agreeing apart from this section to declare any such water main or service pipe (or a part of it, as specified in the agreement) to be vested in the undertaker; and
- (b) such a declaration shall take effect as a declaration made under this Chapter.

(3) A person constructing or proposing to construct a water main or a service pipe to which subsection (1) above applies may make an application in writing to a water undertaker requesting the undertaker to make an agreement under this section.

(4) An application under subsection (3) above shall be accompanied and supplemented by all such information as the undertaker may reasonably require; but subject to subsection (5) below and without prejudice to the effect (if any) of any other contravention of the requirements of this section in relation to such an application, a failure to provide information in pursuance of the obligation to supplement such an application shall not invalidate the application.

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(5) Where—

- (a) a person who has made an application to a water undertaker under subsection (3) above has failed to comply with his obligation under this section to supplement that application with information required by the undertaker; and
- (b) that requirement was made by the undertaker at such a time before the end of the period within which the undertaker is required, by virtue of section 51B below, to respond to the application as gave that person a reasonable opportunity to provide the required information within that period, the undertaker may delay its response to the application until a reasonable time after the required information is provided.

(6) In deciding whether or on what terms to grant an application under subsection (3) above, a water undertaker shall have regard in particular to any effect or potential effect on the quality of water supplies and to any increased danger to life or health which it considers may result.

(7) The terms of an agreement under subsection (1) above relating to a water main may, in particular, include terms—

- (a) for the provision (at the expense of the person constructing or proposing to construct the water main) by—
  - (i) that person; or
  - (ii) the water undertaker,
 of such associated infrastructure at or downstream of the point of connection with the undertaker's supply system as it is necessary to provide in consequence of incorporating the new water main into that system;
- (b) providing that, if the water main and the associated infrastructure are constructed in accordance with the terms of the agreement, the undertaker will, in addition to declaring the water main to be vested in it, declare the associated infrastructure to be so vested;
- (c) where the undertaker considers that the proposed main is, or is likely to be, needed for the provision of water supply services in addition to those for which the person is proposing to construct the main—
  - (i) requiring that person to construct the main in a manner differing, as regards material or size of pipes, depth or otherwise, from the manner in which that person proposes, or could otherwise be required by the undertaker, to construct it; and
  - (ii) providing for the repayment by the undertaker of any extra expense reasonably incurred by that person in complying with that requirement;
- (d) for the connection of the new water main to the undertaker's existing supply system at the point or points specified in the agreement;
- (e) for any service pipes which the person constructing or proposing to construct the new water main proposes to connect to that main to be constructed in accordance with the terms of the agreement and, subject to that, to be vested in the undertaker at the same time as the main.

(8) The terms of an agreement under subsection (1) above relating to a service pipe may, in particular, include terms—

- (a) for the connection of the new service pipe to the undertaker's existing supply system at the point or points specified in the agreement;



*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (b) for such requirements of the kind referred to in section 47(2) above as may be applicable to be complied with before connection takes place.
- (9) An agreement made under this section by a water undertaker shall be enforceable against the undertaker by the owner or occupier for the time being of any premises connected or to be connected with the water main or service pipe to which it relates.
- (10) A water undertaker shall not make an agreement under this section with respect to a water main or a service pipe situated within the area of another water undertaker, until either—
  - (a) that other undertaker has consented in writing to the making of the agreement; or
  - (b) the Secretary of State, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.

#### **51B Appeals with respect to adoption**

- (1) Subject to section 51A(5) above, a person constructing or proposing to construct a water main or service pipe may appeal to the Authority where the water undertaker—
  - (a) has refused an application under section 51A above;
  - (b) has offered to grant such an application on terms to which that person objects; or
  - (c) has failed, before the end of two months from the making of such an application, either to refuse the application or to give notice to the applicant of the terms on which it is prepared to grant the application.
- (2) On the hearing of an appeal under this section, the Authority may—
  - (a) uphold the refusal of the undertaker to grant the application or to modify the terms offered; or
  - (b) on behalf of the undertaker, refuse the application or enter into any agreement into which the undertaker might have entered on the application.
- (3) Where the Authority makes an agreement under subsection (2)(b) above on behalf of a water undertaker, it may do so on such terms as it considers reasonable or, as the case may be, on the terms offered by the undertaker subject to such modifications as it considers appropriate for ensuring that the terms of the agreement are reasonable.
- (4) An agreement entered into on behalf of a water undertaker under subsection (2)(b) above shall be deemed, for the purposes of this Act, to have been entered into under section 51A above.
- (5) In deciding on an appeal under this section, the Authority may include such incidental, supplemental and consequential provision (including provision requiring either party to pay a sum in respect of the costs or expenses incurred by the Authority) as it thinks fit, and any such provision as to costs or expenses shall be enforceable as if it were a judgment of a county court.

#### **51C Financial conditions of compliance**

- (1) This section applies where an agreement is, or is to be, entered into under section 51A above in relation to a water main (“the adopted main”) by, or on behalf of, a water undertaker and a person constructing or proposing to construct that water main.



*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) Where this section applies, the water undertaker may, as a condition of the undertaker's compliance with the agreement, require that person to pay to it the costs mentioned in subsection (3) below.
- (3) The costs are those reasonably incurred by the undertaker in connection with the adopted main equivalent to the costs referred to in section 43(4)(a) and (b) above, as if references there (and in section 43(5)) to the provision of the new main were references to the incorporation of the adopted main into the undertaker's supply system.
- (4) For the purposes of any payment required to be made by virtue of subsection (2) above, the water undertaker may require the person to provide such security as it may reasonably request, and the provisions of subsections (4) and (5) of section 42 above shall apply to any security so required as they apply to security required under that section.
- (5) Where this section applies, the water undertaker shall pay to the person referred to in subsection (1) above, upon declaring the water main to be vested in the undertaker, a sum equal to the discounted offset amount.
- (6) For the purposes of subsection (5) above, the discounted offset amount is the sum of the estimated offsets for each of the twelve years following the vesting in the undertaker of the water main, in each case discounted in accordance with subsection (9) below.
- (7) The estimated offset for any year is the lesser of—
  - (a) the estimated revenue (if any) in respect of the adopted main for that year; and
  - (b) the annual borrowing costs of a loan of the amount required for the provision of that main.
- (8) The amounts referred to in paragraphs (a) and (b) of subsection (7) above shall be calculated in accordance with the provisions of subsections (3) to (5) of section 43A above as if the adopted main had been provided in pursuance of a water main requisition (as defined in section 43 above).
- (9) The estimated offset for a year shall be discounted in order to determine its net present value by applying such factor, and in accordance with such other provision, as may be determined by the Authority.
- (10) A determination made by the Authority for the purposes of subsection (9) above—
  - (a) may be made in relation to a particular water main or in relation to water mains generally; and
  - (b) may be revoked at any time except in relation to an adopted main in respect of which the agreement referred to in subsection (1) above has already been made.
- (11) Any dispute between the water undertaker and the other person as to the payments required to be made or the security required to be provided by virtue of this section may be referred to the Authority for determination under section 30A above by either party to the dispute.

## **51D Prohibition on connection without adoption**

- (1) Where a person (other than a water undertaker) constructs a water main or service pipe which is to be used, in whole or in part, for supplying water for domestic or food production purposes, no water undertaker may permit that water main or service pipe

*Status: This version of this Act contains provisions that are prospective.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Industry Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

to become connected with its supply system unless it vests (to the relevant extent) in a water undertaker.

- (2) In subsection (1) above, “the relevant extent” means the extent specified in the agreement for the vesting in the undertaker of the water main or service pipe in question.
- (3) The prohibition imposed on a water undertaker by subsection (1) above shall be enforceable under section 18 above by the Authority.

## **51E Sections 51A to 51D: supplementary**

- (1) For the purposes of sections 51A to 51D above, the definition of “water main” in section 219(1) below shall be treated as if the words “not being a pipe for the time being vested in a person other than the undertaker” were omitted.
- (2) In sections 51A to 51C above, references to so much of the service pipe as the undertaker could otherwise, by virtue of sections 45 to 51 above, be required to lay shall be construed disregarding section 46(8) above.
- (3) In this Act, references to vesting or the making of a declaration of vesting with respect to a service pipe refer to so much of the service pipe as is specified for those purposes in the relevant vesting agreement.]

## *Domestic supplies*

## **52 The domestic supply duty.**

- (1) The domestic supply duty of a water undertaker in relation to any premises is a duty, until there is an interruption of that duty—
  - (a) to provide to those premises such a supply of water as (so far as those premises are concerned) is sufficient for domestic purposes; and
  - (b) to maintain the connection between the undertaker’s water main and the service pipe by which that supply is provided to those premises.
- (2) Subject to the following provisions of this section and to section 53 below, a water undertaker shall owe a domestic supply duty in relation to any premises to which this section applies <sup>F198</sup> . . . if—
  - (a) a demand for a supply of water for domestic purposes has been made, in accordance with subsection (5) below, to the undertaker in respect of those premises; or
  - (b) those premises are premises to which this section applies by reason of a supply of water provided before 1st September 1989,and there has been no interruption of the domestic supply duty in relation to those premises since that demand was made or, as the case may be, since the beginning of 1st September 1989.
- (3) [<sup>F199</sup>Subject to subsection (4A) below,] this section applies to any premises if—
  - (a) they consist in the whole or any part of a building and are connected by means of a service pipe to [<sup>F200</sup>one of the water undertaker’s water mains]; and
  - (b) the requirements of subsection (4) below are satisfied in relation to those premises.