

Self-Lay Financial Security Arrangements for Vesting Assets

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1. Introduction

Irish Water, the national water utility, has responsibility for the delivery of water and wastewater services to homes and businesses across the Republic of Ireland, including the provision of connections to new developments.

Any person seeking a new water supply or wastewater connection must make an application directly to Irish Water and this is subject to entering into a Connection Agreement with Irish Water. The granting of a water supply or wastewater connection is a matter solely for Irish Water and is independent of the planning process.

For housing and mixed use developments, Irish Water is now using a standard template Self Lay Connection Agreement to facilitate connection(s) to its Network(s). The Self-Lay Connection Agreement sets out the basis of the customer's contractual agreement with Irish Water for the provision of Water Services. This Self Lay Connection Agreement provides for the vesting in Irish Water of Water and Wastewater Services Infrastructure installed by a developer following quality assurance of the Self-Lay Works and connection to the Irish Water Network(s).

Where Water and Wastewater Services Infrastructure is vested in the ownership of Irish Water through a Self-Lay Connection Agreement, there is no requirement for a Local Authority (LA) to take such infrastructure in charge.

In certain circumstances, elements of the water supply and wastewater collection assets relating to commercial developments and private developments may not be vested in Irish Water and will remain the property and responsibility of the commercial/private development owner (this will be specified in the Self-Lay Connection Agreement).

As part of the Connection Charging Policy, the Self-Lay Connection Agreement will include for the provision of financial security to Irish Water (the IW Self-Lay Financial Security Arrangements) in certain circumstances. This approach represents a change from the existing regime whereby LAs procure the relevant security. At present, the LAs' financial security also covers water services infrastructure which will be taken-in-charge by the LA under Section 180 of the Planning and Development Act and subsequently transferred to Irish Water. Where water services infrastructure is not the subject of the new Self-Lay Connection Agreement approach, Section 180 of the Planning and Development Act will continue to

apply and LAs will continue to take in charge relevant developments. Irish Water is not a planning authority and the obligation to take in charge water supply and wastewater collection infrastructure remains with LAs for developments where such infrastructure has not already been vested in Irish Water through a Connection Agreement. Financial security is required to protect IW against any costs that may be incurred by IW in rectifying any non-compliant water supply and wastewater collection assets before being taken-in-charge by Irish Water. At present, the LA financial security also covers these water supply and wastewater collection assets where there is a failure or refusal of the developer to complete or rectify defects arising in this infrastructure.

The provision of financial security will continue to ensure an adequate and effective security mechanism for the Water and Wastewater Services Infrastructure to be vested in Irish Water. Irish Water is working to ensure that the Water and Wastewater Services Infrastructure will be of good quality and consistent with its Standard Details and Codes of Practice through its Quality Assurance (QA) regime at both the detailed design and construction stages.

Where pump stations or other stand-alone infrastructure are provided as part of the Water and Wastewater Services Infrastructure in a development, Irish Water will, through the Connection Agreement, require the developer to operate and maintain these ancillary assets for the duration of the Defects Liability Period at the developer's cost.

This document describes Irish Water's requirements for financial security in relation to assets to be vested in Irish Water under Self-Lay Connection Agreements. The Department of Housing, Planning and Local Government has issued a Circular letter¹ to the LA's outlining that from the 1st April 2019, it will no longer be necessary to include conditions in a grant of planning permission requiring bonds and / or cash securities in respect of water supply and waste water collection infrastructure that are to be vested in Irish Water. This takes account of the approach that the Water and Wastewater Services Infrastructure will be vested in Irish Water before the other services in the development (e.g. roads, footpaths, lighting, etc.) are taken-in-charge by the LA under the Planning and Development Act.

¹ Circular Letter PL 02/2019

2. Infrastructure to be vested by Irish Water

The Water and Wastewater Services Infrastructure to be vested in Irish Water under the Self-Lay Connection Agreements and which will be the subject of IW Self-Lay Financial Security Arrangements includes water supply and wastewater collection pipework, pumping stations (where these are being vested in Irish Water pursuant to the Self-Lay Connection Agreement) and associated accessories such as manholes, fire hydrants, sluice valves, etc.

3. Financial Security for Self-Lay in Residential Developments

IW is the responsible authority for the delivery of Water Services to homes and businesses across the Republic of Ireland, including the provision of connections to new developments. As such it is appropriate that IW collects and holds the required financial security relating to the remediation of Water and Wastewater Services Infrastructure.

In conjunction with the CRU consultation in January 2018 on the national Connection Charging Policy, IW invited feedback from stakeholders on its proposed Self-Lay Financial Security Arrangements for vesting assets.

IW considered all feedback received from stakeholders before determining the following Financial Security Arrangements for vesting assets:

- Standard Residential Connection in a Development
 - A risk exposure of €1,125 per dwelling has been set as the proportionate value as financial security for a standard connection to a unit (detached or semi-detached house) within a development.
 - Where only one service (either water or wastewater) is being connected, the level of security will be reduced by 50% (i.e. €562 per unit).

- Apartment and Duplex Development
 - A risk exposure of €750 per dwelling has been set as the proportionate value as financial security for a standard connection to an apartment or duplex unit within a development.
 - Where only one service (either water or wastewater) is being connected, the level of security will be reduced by 50% (i.e. €375 per apartment or duplex unit).

- In addition to the risk exposures outlined above for the Water and Wastewater Services Infrastructure, an additional risk exposure for pump stations (this includes other stand-alone infrastructure facilities) in a development will apply as follows:
 - up to 40% of the total cost of the pump station or stand-alone infrastructure for the duration of the Defects Liability Period; and/or
 - up to 100% of the annual estimated cost of operation and maintenance of these facilities for the duration of the Defects Liability Period.

- IW Quality Assurance (QA) Process
 - A QA process has been established by IW to ensure that developer self-lay design proposals comply with IW's Codes of Practice and Standard Details (available at www.water.ie/connections/). This process also ensures that the Water and Wastewater Services Infrastructure complies with these Codes of Practice and Standard Details so that it is robust and fit for purpose.
 - The Self-Lay Connection Agreements will result in Irish Water taking ownership of developer laid infrastructure on the connection of this infrastructure to the IW Network(s). This will ensure that IW will have full control of the infrastructure to the boundary of customers' premises.

- Release of Financial Security
 - IW will release financial security back to a developer as specified in the Connection Agreement, typically at the end of the Defects Liability Period (usually twelve months after the provision of the last service connection to premises within the development).
 - In the case of phased developments, IW will release the financial security for the relevant phase at the end of the Defects Liability Period for that phase (usually 12 months after the last service connection is provided to premises within that phase).

- Acceptable Forms of Financial Security
 - The IW Financial Security Policy sets out the forms of financial security that will be acceptable to IW.

GLOSSARY OF TERMS

“Conformance Certificate” means a written certificate in the form specified in the Connection Agreement indicating that Irish Water is satisfied that the Water and Wastewater Services Infrastructure complies with its Standard Details and Codes of Practice;

“Connection Offer” means the conditional offer letter issued by Irish Water to the developer relating to the connection of the Water & Wastewater Services Infrastructure to the Network(s) and which forms part of the Connection Agreement;

“Connection Agreement” means the agreement between the developer and Irish Water to facilitate the connection of the Water & Wastewater Services Infrastructure to the Network(s), which shall be comprised of the Connection Offer;

“Defects Liability Period” which means a period of 12 months from the date of the Conformance Certificate or 12 months after the developer’s connection of the water service connection and boundary box to the last premises in the development, whichever is the later, (save where such period is extended by Irish Water);

“Network(s)” means the Waterworks and/or the Wastewater Works, as applicable and specified on the face of the Connection Offer, and any related lands, which are owned by, vested in, controlled or used by Irish Water;

“Premises Pipe Work” means the pipe, related fittings and associated accessories to be laid by the developer within the boundary of a premises in accordance with relevant standards, requisite consents and applicable laws and the distribution system (if connecting to the Waterworks) and drains (if connecting to the Wastewater Works), to be used to connect the premises with the Water & Wastewater Services Infrastructure;

“Self-Lay Connection Agreement” is a Connection Agreement specifically used for developments where water supply and wastewater collection infrastructure is provided by Self-Lay Works.

“Self-Lay Works” means all works to be carried out by the developer in connection with the construction of the Water & Wastewater Services Infrastructure, the Premises Pipe Work (which includes the distribution system and the drains) and any related works required to provide Water Services to the premises within the development, including:

(a) the provision, installation, testing and commissioning of the Water & Wastewater Services Infrastructure within the boundary of the development; and

(b) the provision, installation, testing and commissioning of the Premises Pipe Work within the boundary to the curtilage of the premises necessary to connect the premises, distribution system (if connection is to Waterworks) and drain(s) (if connection is to Wastewater Works) to the Water & Wastewater Services Infrastructure.

These works shall be approximately in the position and at the levels indicated on drawing or drawings in the specification and in accordance with the design that has been submitted with the connection application.

“Standard Details and Codes of Practice” means technical documents published by Irish Water outlining its requirements for the provision of the Water and Wastewater Services Infrastructure and which are available on the Irish Water website at www.water.ie/connections/.

“Wastewater” means sewage or other sewage effluent discharged, or to be discharged, to a drain, service connection or sewer but does not include storm water;

“Wastewater Works” means sewers and their accessories, and all other associated physical elements used for collection, storage, measurement or treatment of Wastewater, and any related lands, which are owned by, vested in, controlled or used by Irish Water;

“Water Services” means all services, including the provision of water intended for human consumption, which provide storage, measurement, treatment or distribution of surface water, ground water, and/or Wastewater collection, storage, measurement, treatment or disposal;

“Water & Wastewater Services Infrastructure” means (where according to the Connection Offer connection is to be made to the Waterworks) the water supply pipework and/or (where according to the Connection Offer connection is to be made to the Wastewater Works) the Wastewater collection pipework and all related fixtures, fittings and accessories to be constructed and laid by the developer within the development, as applicable, pursuant to this Connection Agreement, including all connections and pipework

extending to the outer boundary of any individual premises but excluding any Premises Pipe Work;

“Waterworks” means water sources, water mains and their accessories, and all other associated physical elements used for the abstraction, treatment, storage, measurement or distribution of water, and any related land, which are owned by, vested in, controlled or used by Irish Water.