
STATUTORY INSTRUMENTS

2013 No. 1582

The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013

Specification of infrastructure projects

4.—(1) Subject to the following provisions of this regulation, the Secretary of State or the Authority may by notice specify an infrastructure project.

(2) The Secretary of State may by notice served on the Authority delegate the Secretary of State's power under paragraph (1) to the Authority.

(3) The Secretary of State or the Authority may exercise the power under paragraph (1) only if the Secretary of State or the Authority respectively is of the opinion that—

- (a) the infrastructure project is of a size or complexity that threatens the incumbent undertaker's ability to provide services for its customers; and
- (b) specifying the infrastructure project is likely to result in better value for money than would be the case if the infrastructure project were not specified, including taking into account—
 - (i) the charges fixed or likely to be fixed under Chapter 1 of Part 5 of the Act^{M1} (financial provisions, charges); and
 - (ii) the powers of the Secretary of State under section 154B of the Act^{M2} (financial assistance for major works).

(4) The Secretary of State must—

- (a) subject to paragraph (6), before exercising the power under paragraph (1), prepare draft reasons for exercising the power and consult—
 - (i) the incumbent undertaker;
 - (ii) the Authority;
 - (iii) where any part of the infrastructure in question is or is to be in Wales, the Welsh Ministers; and
 - (iv) any other person the Secretary of State thinks appropriate;
- (b) include in any notice issued by the Secretary of State under paragraph (1) a description of the scope of the infrastructure project; and
- (c) serve any such notice on the persons mentioned in sub-paragraph (a).

(5) The Authority must—

- (a) subject to paragraph (6), before exercising the power under paragraph (1), prepare draft reasons for exercising the power and consult—
 - (i) the incumbent undertaker;
 - (ii) the Secretary of State;
 - (iii) where any part of the infrastructure in question is or is to be in Wales, the Welsh Ministers; and
 - (iv) any other person the Authority thinks appropriate;

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Changes to legislation: There are currently no known outstanding effects for the *The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013, Section 4.* (See end of Document for details)

- (b) include in any notice issued by it under paragraph (1) a description of the scope of the infrastructure project; and
 - (c) serve any such notice on the persons mentioned in sub-paragraph (a).
- (6) Paragraphs (4)(a) and (5)(a) do not apply to the extent that the Secretary of State or the Authority (as the case may be) has prepared draft reasons and consulted the persons specified in those paragraphs before these Regulations come into force.
- (7) Where the Secretary of State or the Authority is of the opinion—
- (a) that the conditions in paragraph (3) continue to be satisfied, the Secretary of State or the Authority respectively may by notice vary the notice issued by the Secretary of State or the Authority (as the case may be) under paragraph (1); or
 - (b) that either condition in paragraph (3) is no longer satisfied, the Secretary of State or the Authority respectively may, having regard to any subsisting project licence, by notice revoke the notice issued by the Secretary of State or the Authority (as the case may be) under paragraph (1).
- (8) Paragraphs (4) and (5) apply to a notice issued under paragraph (7) as they apply to a notice issued under paragraph (1).
- (9) Subject to paragraph (10), the Authority must publish guidance to be followed by it in determining whether to exercise its powers under paragraph (1) or (7).
- (10) Paragraph (9) does not apply where the Authority has published such guidance before these Regulations come into force.

Marginal Citations

- M1** The provisions in Chapter 1 of Part 5 were amended by sections 36 and 53 of the [Competition and Service \(Utilities\) Act 1992 \(c. 43\)](#), [section 120](#) of, and Schedule 22 to, the Environment Act 1995, sections 3 to 9 and 15 of, and Schedule 3 to, the [Water Industry Act 1999 \(c. 9\)](#), [sections 59](#) and 101(1) of, and Schedule 8 to, the Water Act 2003 and section 45 of the Flood and Water Management Act 2010. There are other amendments, but none is relevant.
- M2** [Section 154B](#) was inserted by section 2 of the [Water Industry \(Financial Assistance\) Act 2012 \(c. 8\)](#).

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