



Water Industry Act 1991

1991 CHAPTER 56

PART II

APPOINTMENT AND REGULATION OF UNDERTAKERS

[^{F1}CHAPTER 1A

LICENSING OF WATER SUPPLIERS

[^{F1}Granting of licences

Textual Amendments

- F1** Pt. 2 Ch. 1A inserted (1.4.2004 for specified provisions and purposes and 1.8.2005 for further specified provisions and purposes and 1.10.2005 for further specified provisions and 1.12.2005 otherwise) by [Water Act 2003 \(c. 37\), ss. 56, 105\(3\), Sch. 4 para. 2](#); S.I. 2004/641, [art. 3\(l\)](#), Sch. 1 (with [art. 6, Sch. 3](#)); S.I. 2005/968, [art. 3\(b\)](#) (with savings in [art. 4, Sch. 1, 2](#)); S.I. 2005/2714, [arts. 2\(h\), 3\(a\)](#) (with Sch. para. 5)

17A Licensing of water suppliers

- (1) Subject to the following provisions of this Chapter—
- (a) the Secretary of State; or
 - (b) with the consent of or in accordance with a general authorisation given by the Secretary of State (after consulting the Assembly), the Authority,
- may grant to a company a licence (a “water supply licence”) giving it the retail authorisation referred to in subsection (2) below, or both that and the supplementary authorisation referred to in subsection (5) below.
- (2) The retail authorisation is an authorisation to the company to use a water undertaker’s supply system for the purpose of supplying water to the premises of customers of the

Status: Point in time view as at 14/07/2014.

Changes to legislation: Water Industry Act 1991, Cross Heading: Granting of licences is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- company (subject to subsection (3) below) in accordance with Chapter 2A of Part 3 of this Act.
- (3) The following requirements must be satisfied in relation to each of the premises supplied by the company—
- (a) the requirement that the premises are not household premises (as defined in section 17C below);
 - (b) the threshold requirement (construed in accordance with section 17D below); and
 - (c) the requirement that the premises are not being supplied with water by another company pursuant to a water supply licence,
- and those requirements shall be enforceable under section 18 below by the Authority.
- (4) A water supply licence which gives a company only the retail authorisation is referred to in this Chapter as a “retail licence”.
- (5) The supplementary authorisation is an authorisation to the company to introduce water into a water undertaker’s supply system, by means of which any particular supply of water in accordance with the retail authorisation is to take place, in connection with that supply and in accordance with Chapter 2A of Part 3 of this Act.
- (6) A water supply licence which gives a company also the supplementary authorisation is referred to in this Chapter as a “combined licence”.
- (7) Before granting a combined licence—
- (a) the Secretary of State shall consult the Assembly; and
 - (b) the Authority shall consult the Secretary of State and the Assembly.
- (8) A water supply licence shall not be granted to a company unless—
- (a) it is a limited company; and
 - (b) it is not a relevant undertaker.
- (9) The Authority may, with the approval of the Secretary of State, issue guidance as to the factors which are, or are not, to be taken into account in determining the extent of any premises for the purposes of subsection (3) above.
- (10) Before giving his approval to any guidance issued under subsection (9) above, the Secretary of State shall consult the Assembly.

Modifications etc. (not altering text)

- C1** S. 17A(1) applied (1.4.2005) by [The Water Industry \(Determination of Turnover for Penalties\) Order 2005 \(S.I. 2005/477\)](#), {art. 2}
- C2** S. 17A(3)(b): power to repeal conferred (14.7.2014) by [Water Act 2014 \(c. 21\)](#), **ss. 3(2)**, 94(2)(a) (with s. 3(3)(5))
- C3** S. 17A(3)(b): power to repeal conferred (14.7.2014) by [Water Act 2014 \(c. 21\)](#), **ss. 3(1)**, 94(2)(a) (with s. 3(3)(5))

17B Section 17A: supplementary

- (1) The Authority shall publish guidance issued under section 17A(9) above in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.

Status: Point in time view as at 14/07/2014.

Changes to legislation: Water Industry Act 1991, Cross Heading: Granting of licences is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The Authority may, with the approval of the Secretary of State, revise the guidance so issued.
- (3) Before giving his approval to guidance revised under subsection (2) above, the Secretary of State shall consult the Assembly.
- (4) Subsection (1) above applies to guidance revised under subsection (2) above as it applies to guidance issued under section 17A(9) above.
- (5) In this Chapter, references to the supply system of a water undertaker are to the system comprising the following—
 - (a) any water mains and other pipes which it is the water undertaker’s duty to develop and maintain by virtue of section 37 below and which are used for the purpose of conveying water from the undertaker’s treatment works to the premises of customers; and
 - (b) any water mains and other pipes which—
 - (i) are used by the undertaker for the purpose of conveying non-domestic water from any of its sources to the premises of customers; and
 - (ii) are not connected to any water mains or pipes falling within paragraph (a) above or to any water mains or other pipes connected to the treatment works mentioned in that paragraph (whether directly or indirectly),and in sub-paragraph (i) above the reference to non-domestic water is to water supplied other than for domestic or food production purposes.
- (6) In subsection (5)(a) above, the reference to treatment works is a reference to the works designated from time to time by the Secretary of State as treatment works for the purposes of this subsection.
- (7) Before designating any works for the purposes of subsection (6) above, the Secretary of State shall consult the Assembly.
- (8) A list of any works designated for the purposes of subsection (6) above shall be published from time to time by the Secretary of State in such manner as he considers appropriate for the purpose of bringing the designations to the attention of persons likely to be affected by them.
- (9) References in this Act to a licensed water supplier are references to a company which is the holder for the time being of a water supply licence.

17C Meaning of household premises

- (1) For the purposes of section 17A(3)(a) above, “household premises” means premises in which, or in any part of which, a person has his home.
- (2) The fact that a person has his home in, or in part of, any premises does not mean that the premises are household premises unless the principal use of the premises is as a home.
- (3) The Secretary of State may by regulations make provision as to—
 - (a) the circumstances in which a person is or is not to be treated as having his home in, or in part of, any premises for the purposes of this section; and
 - (b) the factors which are, or are not, to be taken into account in determining the principal use of any premises for those purposes.

Status: Point in time view as at 14/07/2014.

Changes to legislation: Water Industry Act 1991, Cross Heading: Granting of licences is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The power to make regulations under subsection (3) above is exercisable by the Assembly (and not by the Secretary of State) in relation to premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in Wales.

17D The threshold requirement

- (1) This section applies for the purpose of construing the reference to the threshold requirement in section 17A(3)(b) above in relation to the supply of water to any premises.
- (2) The requirement is that, at the time when the licensed water supplier first enters into an undertaking with a customer to give the supply, the total quantity of water estimated to be supplied to the premises annually pursuant to the undertaking [^{F2}is not less than—
- (a) 5 megalitres, in the case of premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in England, and
 - (b) 50 megalitres, in the case of premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in Wales].
- (3) Any estimate of the quantity of water to be supplied to any premises for the purposes of subsection (2) above shall be made in accordance with guidance issued by the Authority with the approval of the Secretary of State.
- (4) Any guidance issued under subsection (3) above may, in particular—
- (a) specify—
 - (i) the factors to be, and not to be, taken into account;
 - (ii) the assumptions to be made; and
 - (iii) the method of calculation to be employed, in making estimates; and
 - (b) make provision as to the commencement of the annual periods by reference to which estimates are to be made.
- (5) Before giving his approval to any guidance issued under that subsection, the Secretary of State shall consult the Assembly.
- (6) Subsections (1) to (4) of section 17B above apply to guidance issued under subsection (3) above as they apply to guidance issued under section 17A(9) above.
- (7) The Secretary of State may make provision by regulations as to the circumstances in which a licensed water supplier is not, for the purposes of subsection (2) above, to be treated as entering into an undertaking with a new customer to give a supply of water to any premises (subject to subsection (12) below).
- (8) The Secretary of State may by regulations amend subsection (2) above by substituting, for the quantity of water for the time being specified there, a different quantity of water (subject to subsection (12) below).
- (9) Regulations under subsection (8) above—
- (a) shall include provision for the amendment made by the regulations not to apply in relation to any undertaking entered into before the date on which the regulations come into force; and
 - (b) may include provision for that amendment not to apply in relation to any undertaking which is proposed, but not entered into, before that date.

Status: Point in time view as at 14/07/2014.

Changes to legislation: Water Industry Act 1991, Cross Heading: Granting of licences is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (10) A statutory instrument containing regulations under subsection (8) above shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (11) Before making regulations under subsection (8) above, the Secretary of State shall consult—
 - (a) the Authority; and
 - (b) such other persons (if any) as the Secretary of State thinks it appropriate to consult.
- (12) The powers to make regulations under subsections (7) and (8) above are exercisable by the Assembly (and not by the Secretary of State) in relation to premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in Wales.
- (13) Subsections (9) and (11) above apply in relation to regulations made by the Assembly under subsection (8) above by virtue of subsection (12) above as they apply in relation to regulations made by the Secretary of State under subsection (8) above.

Textual Amendments

- F2** Words in s. 17D(2) substituted (15.12.2011) by [The Water Supply \(Amendment to the Threshold Requirement\) Regulations 2011 \(S.I. 2011/3014\)](#), regs. 1(1), 2 (with reg. 1(2))

17E Determinations by the Authority

- (1) The Authority may determine, in a case referred to it by a licensed water supplier or a potential customer of a licensed water supplier, whether a proposed supply of water by the supplier to the customer would be in accordance with the retail authorisation given to the supplier in the licence.
- (2) The matters which the Authority may determine include the following matters—
 - (a) the extent of the premises to be supplied for the purposes of section 17A(3) above;
 - (b) whether the premises to be supplied are household premises (as defined in section 17C above); and
 - (c) whether the threshold requirement is satisfied in relation to the premises to be supplied (construed in accordance with section 17D above),and also include any other matter the determination of which is relevant to those matters.

17F Procedure for granting water supply licences

- (1) An application for—
 - (a) a water supply licence;
 - (b) the variation of a retail licence so that it gives also the supplementary authorisation; or
 - (c) the variation of a combined licence so that it gives only the retail authorisation,shall be made in such form and manner, and shall contain, or be accompanied by, such information and documents and such fee (if any), as may be prescribed.

Status: Point in time view as at 14/07/2014.

Changes to legislation: Water Industry Act 1991, Cross Heading: Granting of licences is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

^{F3}(2)

^{F4}(3)

(4) If the Secretary of State or the Authority proposes to refuse the application, he or it shall give to the applicant a notice—

- (a) stating that he or it proposes to refuse the application;
- (b) stating the reasons why he or it proposes to refuse the application; and
- (c) specifying the time within which representations or objections with respect to the proposed refusal may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

^{F5}(5)

(6) A licence shall be in writing and, unless revoked or suspended in accordance with any condition contained in it, shall continue in force for such period as may be specified in or determined by or under the licence.

(7) As soon as practicable after granting a licence or variation of a licence, the Secretary of State or the Authority shall serve a copy of the licence or licence as varied—

- (a) on the licence holder;
- (b) on the Assembly;
- (c) on the Chief Inspector of Drinking Water;
- (d) on the Environment Agency;
- [on the NRBW;]

^{F6}(da)

- (e) on the Council;
- (f) on each relevant undertaker;
- (g) on each licensed water supplier (other than the holder of the licence in question);
- (h) if the licence or variation is granted by the Secretary of State, on the Authority;
- (i) if the licence or variation is granted by the Authority, on the Secretary of State.

(8) Any sums received by the Secretary of State or by the Authority by virtue of this section shall be paid into the Consolidated Fund.]

Textual Amendments

F3 S. 17F(2) repealed (14.7.2014) by [Water Act 2014 \(c. 21\)](#), **ss. 25(3)**, 94(2)(f)

F4 S. 17F(3) repealed (14.7.2014) by [Water Act 2014 \(c. 21\)](#), **ss. 25(3)**, 94(2)(f)

F5 S. 17F(5) repealed (14.7.2014) by [Water Act 2014 \(c. 21\)](#), **ss. 25(3)**, 94(2)(f)

F6 S. 17F(7)(da) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), **art. 1(2)**, **Sch. 2 para. 227** (with Sch. 7)

Status:

Point in time view as at 14/07/2014.

Changes to legislation:

Water Industry Act 1991, Cross Heading: Granting of licences is up to date with all changes known to be in force on or before 18 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.