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Water Act 2014

2014 CHAPTER 21

PART 1

WATER INDUSTRY

CHAPTER 1

WATER SUPPLY LICENCES AND SEWERAGE LICENCES

Expansion of water supply licensing

1 Types of water supply licence and arrangements with water undertakers

(1) For section 17A of the Water Industry Act 1991 there is substituted—

“17A Water supply licences

- (1) The Authority may grant to a person a licence in respect of the use of the supply system of a water undertaker (a “water supply licence”).
- (2) A water supply licence may give the holder of the licence one or more of the following authorisations and combination of authorisations—
 - (a) a retail authorisation;
 - (b) a wholesale authorisation;
 - (c) a restricted retail authorisation;
 - (d) a restricted retail authorisation and a supplementary authorisation.
- (3) Schedule 2A makes provision as to the authorisations (including their operation in England and Wales).
- (4) In the case of each of the authorisations, an authorisation to do a thing is an authorisation to do it in accordance with Chapter 2A of Part 3.

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- (5) The Authority may exercise the power to grant a water supply licence only in accordance with a general authorisation given by the Secretary of State.
- (6) Before giving a general authorisation as regards the Authority, the Secretary of State must consult the Welsh Ministers.
- (7) References in this Act to a water supply licensee are references to a person that is the holder for the time being of a water supply licence.

17AA Water supply licences: restrictions on grants

- (1) Before the Authority grants a water supply licence giving a wholesale authorisation, it must consult—
 - (a) the Secretary of State;
 - (b) the Chief Inspector of Drinking Water;
 - (c) the Environment Agency;
 - (d) the NRBW.
- (2) Before the Authority grants a water supply licence giving a supplementary authorisation, it must consult—
 - (a) the Secretary of State;
 - (b) the Chief Inspector of Drinking Water;
 - (c) the Environment Agency;
 - (d) the Welsh Ministers;
 - (e) the Chief Inspector of Drinking Water for Wales if there is one;
 - (f) the NRBW.
- (3) A water supply licence may not be granted to a water undertaker.
- (4) A water supply licence may not be granted to a person unless that person is a limited company.
- (5) The restriction in subsection (4) does not apply if the water supply licence gives only—
 - (a) a retail authorisation,
 - (b) a restricted retail authorisation, or
 - (c) a retail authorisation and a restricted retail authorisation.”
- (2) After Schedule 2 to the Water Industry Act 1991 there is inserted the Schedule set out in Schedule 1.
- (3) Schedule 2 (which amends Chapter 2A of Part 3 of the Water Industry Act 1991 which relates to water undertakers' duties to enable operations of water supply licensees) has effect.

Commencement Information

- I1** S. 1(3) in force at 1.9.2015 for specified purposes by [S.I. 2015/1469](#), **art. 3(a)**
- I2** S. 1(3) in force at 1.9.2015 for specified purposes by [S.I. 2015/773](#), **art. 3(a)** (with **art. 5**)

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VALID FROM 01/04/2017

2 The supply system of a water undertaker

- (1) Section 17B of the Water Industry Act 1991 (guidance and interpretation) is amended as follows.
- (2) After subsection (4) there is inserted—
 - “(4A) In this Chapter, references to the supply system of a water undertaker are, in the case of an undertaker whose area is wholly or mainly in England, references to the system comprising the following—
 - (a) any reservoirs and other places of storage and any treatment works developed or maintained by the water undertaker for the purpose of complying with its duty under section 37, and
 - (b) any water mains and other pipes which it is the water undertaker's duty to develop and maintain by virtue of section 37.”
- (3) In subsection (5) (interpretation of references to the supply system of a water undertaker), after “undertaker are” there is inserted “, in the case of an undertaker whose area is wholly or mainly in Wales, ”.

3 The threshold requirement

- (1) The Secretary of State may by order made by statutory instrument repeal section 17A(3)(b) of the Water Industry Act 1991 (the threshold requirement affecting premises in England and Wales), so far as it relates to premises supplied using the supply system of a water undertaker whose area is wholly or mainly in England.
- (2) The Welsh Ministers may by order made by statutory instrument repeal section 17A(3)(b) of the Water Industry Act 1991, so far as it relates to premises supplied using the supply system of a water undertaker whose area is wholly or mainly in Wales.
- (3) The references in subsections (1) and (2) to section 17A of the Water Industry Act 1991 are to the section 17A that is to be repealed (by substitution) by section 1 of this Act.
- (4) The Welsh Ministers may by order made by statutory instrument repeal paragraph 7(b) of Schedule 2A to the Water Industry Act 1991 (inserted by Schedule 1 to this Act).
- (5) An order under subsection (1), (2) or (4) may make such amendments of the Water Industry Act 1991 and this Act as are necessary or appropriate in consequence of the repeal made by the order.
- (6) A statutory instrument containing an order to be made by the Secretary of State under subsection (1) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (7) A statutory instrument containing an order to be made by the Welsh Ministers under subsection (2) or (4) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

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Introduction of sewerage licences

4 Types of sewerage licence and arrangements with sewerage undertakers

(1) After section 17B of the Water Industry Act 1991 there is inserted—

“17BA Sewerage licences

- (1) The Authority may grant to a person a licence in respect of the use of the sewerage system of a sewerage undertaker whose area is wholly or mainly in England (a “sewerage licence”).
- (2) A sewerage licence may give the holder of the licence one or more of the following—
 - (a) a retail authorisation;
 - (b) a wholesale authorisation;
 - (c) a disposal authorisation.
- (3) Schedule 2B makes provision as to the authorisations.
- (4) In the case of each of the authorisations, an authorisation to do a thing is an authorisation to do it in accordance with Chapter 2A of Part 4.
- (5) The Authority may exercise the power to grant a sewerage licence only in accordance with a general authorisation given by the Secretary of State.
- (6) References in this Act to a sewerage licensee are references to a person that is the holder for the time being of a sewerage licence.
- (7) References in this Chapter to the sewerage system of a sewerage undertaker are references to the system comprising—
 - (a) the system of public sewers, the facilities for emptying public sewers and the sewage disposal works and other facilities for dealing effectually with the contents of public sewers that the undertaker is required to provide by section 94, and
 - (b) the lateral drains that the undertaker is required to maintain by section 94.

17BB Sewerage licences: restrictions on grants

- (1) The Authority must consult the Secretary of State, the Environment Agency and the NRBW before granting a licence that gives—
 - (a) a wholesale authorisation, or
 - (b) a disposal authorisation.
- (2) A sewerage licence granted to a sewerage undertaker may not give the holder—
 - (a) a retail authorisation, or
 - (b) a wholesale authorisation.
- (3) A sewerage licence may not be granted to a person unless that person is a limited company.

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- (4) The restriction in subsection (3) does not apply if the sewerage licence gives only a retail authorisation.”
- (2) After Schedule 2A to the Water Industry Act 1991 (inserted by section 1) there is inserted the Schedule set out in Schedule 3.
- (3) Schedule 4 (which amends Part 4 of the Water Industry Act 1991 to add a Chapter 2A relating to arrangements between sewerage undertakers and sewerage licensees) has effect.

Commencement Information

- I3** S. 4(3) in force at 1.9.2015 for specified purposes by S.I. 2015/773, art. 3(b) (with art. 5)
- I4** S. 4(3) in force at 1.9.2015 for specified purposes by S.I. 2015/1469, art. 3(b)

PROSPECTIVE

Application as regards Wales

5 Water supply and sewerage licensing changes applied as regards Wales

Schedule 5 (which contains amendments in connection with applying licensing changes to relation to relevant undertakers whose areas are wholly or mainly in Wales) has effect.

Licensing arrangements between England and Wales and Scotland

VALID FROM 18/12/2015

6 Arrangements with the Water Industry Commission for Scotland

- (1) The Water Industry Act 1991 is amended as follows.
- (2) After section 17F (procedure for granting and varying licences) there is inserted—

“17FA Applications forwarded by the Water Industry Commission for Scotland

- (1) The Secretary of State may by regulations make provision about—
- (a) treating a 2005 Act application for the grant of a water services licence under section 6 of the 2005 Act as being also an application under section 17F for the grant of a water supply licence giving only a retail authorisation or a restricted retail authorisation or both;
- (b) treating a 2005 Act application for the grant of a sewerage services licence under section 6 of the 2005 Act as being also an application under section 17F for the grant of a sewerage licence giving only a retail authorisation.

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- (2) The regulations may in particular make provision about—
- (a) the circumstances in which, and the conditions subject to which, a 2005 Act application is to be treated as an application under section 17F for a water supply or sewerage licence giving a particular authorisation or particular authorisations;
 - (b) the time at which an application is to be treated as having been made;
 - (c) the processing of an application by the Authority.
- (3) Provision under subsection (2)(a) may require a 2005 Act application that is forwarded to the Authority—
- (a) to contain, or to be accompanied by, such information or information of such description as is specified by the regulations;
 - (b) to be accompanied by such documents or documents of such descriptions as are specified by the regulations;
 - (c) to be accompanied by a fee, or a fee of a description, specified by the regulations.
- (4) In this section and section 17FB—
- “the 2005 Act” means the Water Services etc. (Scotland) Act 2005;
- “2005 Act application” means an application under paragraph 1 of Schedule 2 to the 2005 Act.

17FB Applications forwarded to the Water Industry Commission for Scotland

- (1) If the conditions in subsection (2) are satisfied, the Authority must—
- (a) forward to the Commission a copy of an application under section 17F for the grant of a water supply licence or sewerage licence, and
 - (b) send to the Commission such information and such fee as appear to the Authority to be required in order that the application may be treated by the Commission as a 2005 Act application for the grant of—
 - (i) a water services licence under section 6 of the 2005 Act, or
 - (ii) a sewerage services licence under section 6 of the 2005 Act, as the case may be.
- (2) The conditions are that—
- (a) the Authority is requested to do so by the applicant;
 - (b) the application under section 17F appears to the Authority to be an application that would be treated by the Commission as a 2005 Act application for the grant of—
 - (i) a water services licence under section 6 of the 2005 Act, or
 - (ii) a sewerage services licence under section 6 of the 2005 Act, as the case may be;
 - (c) the applicant has given the Authority—
 - (i) such information as is mentioned in subsection (1)(b), and
 - (ii) a means of sending to the Commission such fee as is mentioned in subsection (1)(b).

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- (3) The Authority must—
- (a) forward a copy of the application, and
 - (b) send such information and fee as are mentioned in subsection (1)(b), before the end of the agreed period for an application of that description.
- (4) In this section—
- “the agreed period”, in relation to an application under section 17F of a particular description, means the period agreed between the Authority and the Commission as the period applying to an application of that description for the purposes of subsection (3);
 - “the Commission” means the Water Industry Commission for Scotland.”

7 Arrangements with the Water Services Regulation Authority

- (1) The Water Services etc. (Scotland) Act 2005 is amended as follows.
- (2) In Schedule 2 (procedure for granting licences), after paragraph 1 there is inserted—

“Applications forwarded by the Water Services Regulation Authority

- 1A (1) The Scottish Ministers may by order make provision about—
- (a) treating an application under section 17F of the 1991 Act for the grant of a water supply licence giving a retail authorisation or a restricted retail authorisation as being also an application under paragraph 1 for the grant of a water services licence;
 - (b) treating an application under section 17F of the 1991 Act for the grant of a sewerage licence giving a retail authorisation as being also an application under paragraph 1 for the grant of a sewerage services licence.
- (2) The order may in particular make provision about—
- (a) the circumstances in which, and the conditions subject to which, an application under section 17F of the 1991 Act is to be treated as an application under paragraph 1 for a water services licence or a sewerage services licence;
 - (b) the time at which an application is to be treated as having been made;
 - (c) the processing of an application by the Commission.
- (3) Provision under sub-paragraph (2)(a) may require an application under section 17F of the 1991 Act that is forwarded to the Commission—
- (a) to include, or be accompanied by, information prescribed by the order;
 - (b) to be accompanied by a fee, or a fee of a description, prescribed by the order.
- (4) In this paragraph and paragraph 1B “the 1991 Act” means the Water Industry Act 1991.

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Applications forwarded to the Water Services Regulation Authority

1B (1) If the conditions in sub-paragraph (2) are satisfied, the Commission must—

- (a) forward to the Authority a copy of an application under paragraph 1 for the grant of a water services licence or sewerage services licence;
- (b) send to the Authority such information, documents and fee as appear to the Commission to be required in order that the application may be treated by the Authority as an application under section 17F of the 1991 Act for the grant of—
 - (i) a water supply licence giving a retail authorisation or a restricted retail authorisation or both, or
 - (ii) a sewerage licence giving a retail authorisation,
 as the case may be.

(2) The conditions are that—

- (a) the Commission is requested to do so by the applicant;
- (b) the application under paragraph 1 appears to the Commission to be an application that would be treated by the Authority as an application under section 17F of the 1991 Act for the grant of—
 - (i) a water supply licence giving a retail authorisation or a restricted retail authorisation or both, or
 - (ii) a sewerage licence giving a retail authorisation,
 as the case may be;
- (c) the applicant has given the Commission—
 - (i) such information and documents as are mentioned in sub-paragraph (1)(b), and
 - (ii) a means of sending to the Authority such fee as is mentioned in sub-paragraph (1)(b).

(3) The Commission must—

- (a) forward a copy of the application, and
- (b) send such information, documents and fee as are mentioned in sub-paragraph (1)(b),

before the end of the agreed period for an application of that description.

(4) In this paragraph—

“the agreed period”, in relation to an application under paragraph 1 of a particular description, means the period agreed between the Commission and the Authority as the period applying to an application of that description for the purposes of sub-paragraph (3);

“the Authority” means the Water Services Regulation Authority.”

(3) In section 6 (grant of water services and sewerage services licences)—

- (a) in subsection (1), for “paragraphs 1 and 2” there is substituted “ paragraphs 1, 1A and 2 ”;

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(b) in subsection (3), for “paragraphs 1 and 2” there is substituted “ paragraphs 1, 1A and 2 ”.

(4) In section 34 (orders and regulations), in subsection (3)(c), after “or (4)” there is inserted “, 1A(1) ”.

Commencement Information

I5 S. 7(1)(2) in force at 20.11.2015 for specified purposes by S.S.I. 2015/360, **art. 2(a)**

I6 S. 7(3)(4) in force at 20.11.2015 by S.S.I. 2015/360, **art. 2(b)**

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