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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Water Industry Act 1991 (“the Act”), as amended by the Water Act 2003, requires water undertakers to grant licensed water suppliers access to their supply systems under certain conditions and for certain purposes. A retail licence permits a licensed water supplier to use a water undertaker’s supply system to supply water to eligible premises of customers. A combined licence additionally permits a licensed water supplier to introduce water into a water undertaker’s supply system in order to supply that water to eligible premises of customers.

Section 66I of the Act prohibits the use of a water undertaker’s supply system for the purpose of supplying water to any premises of a customer. This prohibition does not apply if the supply is made by the water undertaker, by a licensed water supplier in pursuance of its licence or in such further circumstances as the Secretary of State or National Assembly for Wales (“the Assembly”) may specify in regulations.

Section 66J of the Act prohibits the introduction of water into a water undertaker’s supply system (other than by the undertaker itself). This prohibition does not apply if the water is introduced by a licensed water supplier in pursuance of its licence, by another water undertaker under an agreement for a supply of water in bulk or in such further circumstances as the Secretary of State or Assembly may specify in regulations.

It is a criminal offence to breach the prohibitions in sections 66I or 66J of the Act.

These Regulations specify further circumstances in which the prohibitions in sections 66I and 66J of the Act do not apply.

Regulation 3(1)(a) and (b) allows water undertaker A to use water undertaker B’s supply system for the purpose of allowing water undertaker A to make supplies to the premises of its customers where water undertaker A receives a bulk water supply from water undertaker B under an agreement or certain statutory requirements. The exception in relation to bulk supply agreements does not apply where water undertaker A is using water undertaker B’s supply system under a “common carriage” arrangement. This is an arrangement which allows a person to introduce water into a water undertaker’s supply system by means of which a supply to the premises of a customer of that person can be made.

Regulation 3(1)(c) allows private supplies made under arrangements which were active before 31st July 2002 to continue.

Regulation 4(1)(a) allows the introduction of private water resources into an undertaker’s supply system where a water undertaker agrees. This exception does not apply where the introduction is part of a “common carriage” arrangement.

Regulation 4(1)(b) allows a water undertaker to introduce water into another water undertaker’s supply system where this is a supply of water in bulk made pursuant to certain statutory requirements.

Regulation 4(1)(c) allows a secondary water undertaker to make an introduction of water into a primary water undertaker’s supply system for the purposes of section 66C of the Act.

No regulatory impact assessment has been prepared in respect of these Regulations. A regulatory impact assessment in respect of the Water Act 2003 was prepared and placed in the library of each House of Parliament during the passage of the Water Bill. This included an assessment of the water supply licensing provisions. Copies can be obtained from Water Supply and Regulation Division,

**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Water Supply (Exceptions from Supply System Prohibitions) Regulations 2005. 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) View outstanding changes*

Department for Environment, Food and Rural Affairs, 55 Whitehall, London, SW1A 2EY or from the Department's website at [www.defra.gov.uk/environment/water/legislation](http://www.defra.gov.uk/environment/water/legislation).

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**Changes and effects yet to be applied to :**

- Regulations applied (Isles of Scilly) by [S.I. 2020/214 art. 5\(m\)](#)
- reg. 3(3)(a)(i) words substituted by [S.I. 2017/506 art. 21](#)
- reg. 4 modified (temp.) by [S.I. 2017/462 art. 11\(5\)](#)