
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 in order to supply water to eligible premises of customers. A number of requirements must be satisfied in relation to each of the premises supplied by a licensed water supplier. One such (“the threshold requirement”) is that, at the time when the licensed water supplier first enters into an undertaking with a customer to give a supply of water to any premises, the total quantity of water estimated to be supplied to the premises annually pursuant to the undertaking is not less than 50 megalitres (or such different quantity of water as may be substituted by the Secretary of State or the National Assembly for Wales in regulations) (section 17D(2) of the Act).

These Regulations provide for the circumstances in which a licensed water supplier is not, for the purposes of the threshold requirement, to be treated as entering into an undertaking with a new customer to give a supply of water to any premises. In these circumstances, a new customer can be supplied by the licensed water supplier without the need to assess the volume to be supplied to the customer’s premises.

Regulation 3(1)(a) and (2) has the effect that where a corporate group changes the subsidiary which contracts with a licensed water supplier, that new subsidiary is not to be treated as a new customer provided that the whole set of premises continues to be occupied by the same corporate group as at the date of the original undertaking and the business and water consumption at those premises continues as before.

Regulation 3(1)(b) and (3) has the effect that, where there is a change in the person occupying a set of premises, the new person is not to be treated as a new customer provided that the whole set of premises is acquired by that person and the business and water consumption at those premises continues as before. This may be the case with certain asset acquisitions and certain structural reorganisations (including where a customer changes from being an unincorporated body to an incorporated body, and changes in the way that public sector customers are legally constituted).

Regulation 4 provides for guidance issued by the Water Services Regulation Authority (and until it is fully established, the Director General of Water Services) (“Ofwat”) under section 17D(3) of the Act to apply in relation to these Regulations.

Regulation 5 provides for Ofwat to make determinations under these Regulations, for these determinations to be entered in a public register maintained by Ofwat and for the publication of notice of reasons for each determination.

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, 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.