

2016 No. 465 (C. 26)

WATER INDUSTRY, ENGLAND AND WALES

The Water Act 2014 (Commencement No. 6, Transitional Provisions and Savings) Order 2016

Made - - - -

22nd March 2016

The Secretary of State makes the following Order in exercise of the powers conferred by sections 91(1) and 94(3) of the Water Act 2014(a).

Citation and interpretation

1.—(1) This Order may be cited as the Water Act 2014 (Commencement No. 6, Transitional Provisions and Savings) Order 2016.

(2) In this Order—

“the 1991 Act” means the Water Industry Act 1991(b);

“the 2014 Act” means the Water Act 2014.

Provisions of the 2014 Act coming into force on 1st April 2016

2. The following provisions of the 2014 Act come into force on 1st April 2016—

(a) section 1 (types of water supply licence and arrangements with water undertakers) as follows—

(i) subsection (1) so far as it—

(aa) substitutes section 17A(1) of the 1991 Act(c), but only in relation to the grant of a water supply licence with a retail authorisation or a restricted retail authorisation;

(bb) substitutes section 17A(7) of the 1991 Act; and

(cc) inserts section 17AA(3) to (5) into the 1991 Act; and

(ii) subsection (3) so far as it relates to the provisions in paragraph (j);

(b) section 4 (types of sewerage licence and arrangements with sewerage undertakers) as follows—

(i) subsection (1) so far as it inserts—

(aa) section 17BA(1) into the 1991 Act, but only in relation to the grant of a sewerage licence with a retail authorisation;

(bb) section 17BA(7) into the 1991 Act; and

(a) 2014 c.21. The power in section 94(3) to appoint a day on which the remaining provisions of the 2014 Act come into force is vested in the “appropriate authority”. Section 94(6) provides that the appropriate authority is the Secretary of State except as stated in the table in Schedule 12.

(b) 1991 c.56.

(c) Section 17A of the 1991 Act was inserted by paragraph 2 of Schedule 4 to the Water Act 2003 (c.37).

- (cc) section 17BB(2) to (4) into the 1991 Act; and
- (ii) subsection (3) so far as it relates to the provisions in paragraph (k);
- (c) section 6 (arrangements with the Water Industry Commission for Scotland) so far as not already in force;
- (d) section 17 (rules about charges for connections etc)(a) so far as not already in force;
- (e) section 23 (general duty as regards undue preference in the provision of services)(b) so far as not already in force;
- (f) section 25 (procedure for granting water supply and sewerage licences) so far as not already in force;
- (g) section 37 (appeals relating to revisions of codes);
- (h) section 38 (guidance relating to rules about charges)(c) so far as not already in force;
- (i) section 56 (further amendments) so far as it relates to the provisions in paragraph (m);
- (j) Schedule 2 (water undertakers' duties as regards water supply licensees) as follows—
 - (i) paragraph 4 so far as it inserts section 66DB(1) into the 1991 Act and is not already in force;
 - (ii) paragraph 9(2) and (3); and
 - (iii) paragraph 9(1) so far as it relates to the provisions in sub-paragraph (ii);
- (k) Schedule 4 (sewerage undertakers' duties as regards sewerage licensees) so far as it inserts the following provisions into the 1991 Act—
 - (i) section 117G(2)(e);
 - (ii) section 117P(4); and
 - (iii) sections 117R and 117S;
- (l) Schedule 6 (procedure on appeals under section 207A of the Water Industry Act 1991); and
- (m) the provisions of Schedule 7 (further amendments) specified in Schedule 1 to this Order.

Provisions of the 2014 Act coming into force on 1st September 2016

3. The following provisions of the 2014 Act come into force on 1st September 2016—
- (a) subsection (3) of section 1 (types of water supply licence and arrangements with water undertakers) so far as it relates to the provisions in paragraph (e);
 - (b) subsection (3) of section 4 (types of sewerage licence and arrangements with sewerage undertakers) so far as it relates to the provisions in paragraph (f);
 - (c) section 34 (register relating to undertakers and licensees) as follows—
 - (i) subsection (3) so far as it inserts subsection (3D)(b) and (d) into section 195 of the 1991 Act(d); and
 - (ii) subsection (1) so far as it relates to that provision;
 - (d) section 56 (further amendments) so far as it relates to the provisions in paragraph (g);
 - (e) paragraph 5 of Schedule 2 (water undertakers' duties as regards water supply licensees) so far as—

(a) The Secretary of State is the appropriate authority for the purposes of section 17 in relation to wholly or mainly English undertakers. Section 17 is only partially commenced in relation to wholly or mainly Welsh undertakers.

(b) The Secretary of State is the appropriate authority for the purposes of section 23 in relation to wholly or mainly English undertakers.

(c) The Secretary of State is the appropriate authority for the purposes of section 38 in relation to wholly or mainly English undertakers.

(d) Section 195 was amended by paragraph 42 of Schedule 8 to the Water Act 2003 and section 34(2) of the 2014 Act.

- (i) it substitutes section 66E of the 1991 Act^(a), but only in relation to rules about charges that may be imposed by a water undertaker under a section 66D agreement^(b) where a water supply licensee with a retail authorisation or a restricted retail authorisation is a party to that agreement; and
- (ii) it inserts sections 66EA, 66EB(8), 66EC and 66ED into the 1991 Act;
- (f) Schedule 4 (sewerage undertakers' duties as regards sewerage licensees) so far as it inserts the following provisions into the 1991 Act—
 - (i) section 117I so far as it relates to rules about charges that may be imposed by a sewerage undertaker under a section 117E agreement^(c) where a sewerage licensee with a retail authorisation is a party to that agreement;
 - (ii) section 117J;
 - (iii) section 117K(2)(e) and (8); and
 - (iv) section 117L; and
- (g) in Schedule 7 (further amendments)—
 - (i) paragraph 3(8)(b) so far as it relates to sections 66E, 66EA, 66EC, 66ED, 117I, 117J and 117L of the 1991 Act; and
 - (ii) paragraphs 2 and 3(1), (2) and (8)(a) and (c) so far as they relate to those provisions.

Transitional provisions, savings and revocations

- 4. The transitional provisions, savings and revocations in Schedule 2 to this Order have effect.

22nd March 2016

Rory Stewart
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

(a) Section 66E was inserted into the 1991 Act by paragraph 3 of Schedule 4 to the Water Act 2003.
 (b) “Section 66D agreement” is defined by section 66D(9) of the 1991 Act (to be substituted by paragraph 3 of Schedule 2 to the 2014 Act).
 (c) “Section 117E agreement” is defined by section 117E(9) of the 1991 Act (to be inserted by Schedule 4 to the 2014 Act).

SCHEDULE 1

Article 2

Provisions of Schedule 7 (further amendments) coming into force on 1st April 2016

1. The following paragraphs of Schedule 7 (further amendments) come into force on 1st April 2016—

- (a) paragraph 1;
- (b) paragraph 2 so far as it relates to the provisions in sub-paragraphs (c) to (bb) in this Schedule;
- (c) paragraph 3 as follows—
 - (i) sub-paragraph (1) so far as it relates to the provisions in paragraphs (ii) to (iv);
 - (ii) sub-paragraphs (3), (6) and (7);
 - (iii) sub-paragraph (8)(b) so far as it relates to sections 117R, 117S, 144ZA and 144ZC of the 1991 Act; and
 - (iv) sub-paragraphs (2) and (8)(a) and (c) so far as they relate to those provisions in paragraph (iii);
- (d) paragraphs 4 to 6;
- (e) paragraph 9;
- (f) paragraph 10(4), and paragraph 10(1) so far as it relates to that provision;
- (g) paragraph 12(3), and paragraph 12(1) so far as it relates to that provision;
- (h) paragraph 14;
- (i) paragraph 15 so far as not already in force;
- (j) paragraphs 19 to 34;
- (k) paragraphs 39 to 53;
- (l) paragraphs 62 and 63;
- (m) paragraphs 65 to 72;
- (n) paragraph 74(2), and paragraph 74(1) so far as it relates to that provision;
- (o) paragraphs 75 to 84;
- (p) paragraph 86;
- (q) paragraph 99;
- (r) paragraphs 101 to 103;
- (s) paragraph 105(2)(a), and paragraph 105(1) so far as it relates to that provision;
- (t) paragraph 106;
- (u) paragraph 108 except for—
 - (i) sub-paragraph (4)(d); and
 - (ii) sub-paragraph (1) so far as it relates to that provision;
- (v) paragraphs 109 and 110;
- (w) paragraph 112(3), and paragraph 112(1) so far as it relates to that provision;
- (x) paragraphs 113 and 114;
- (y) paragraph 115(b);
- (z) paragraphs 116 and 117;
- (aa) paragraph 120(2) so far as not already commenced, and paragraph 120(1) so far as it relates to that provision;

- (bb) paragraphs 121 and 122;
- (cc) paragraphs 124 to 127;
- (dd) paragraphs 133 and 134, and paragraph 131 so far as it relates to those provisions;
- (ee) paragraph 135; and
- (ff) paragraph 144, and paragraph 143 so far as it relates to that provision.

SCHEDULE 2

Article 4

Transitional provisions, savings and revocations

1. During the period beginning with 1st April 2016 and ending with 3rd April 2017, the following provisions of the 1991 Act continue to have effect in relation to an old water supply licence as if the amendments made to them by the 2014 Act had not been brought into force—

- (a) section 6 (appointment of relevant undertakers);
- (b) Chapter 1A of Part 2 (licensing of water suppliers);
- (c) sections 18 to 22F (enforcement orders and financial penalties);
- (d) sections 27 to 29 (protection of customers etc);
- (e) section 38B (publication of statistical information about complaints);
- (f) section 39A (information to be given to customers about overall performance);
- (g) sections 63AA (supply by licensed water supplier: domestic supply) and 63AC (interim duty of water undertaker: domestic and non-domestic supply);
- (h) section 66I (prohibition on unauthorised use of supply system);
- (i) sections 68 (duties of water undertakers and licensed water suppliers with respect to water quality) and 69 (regulations for preserving water quality);
- (j) sections 72 to 75 (contamination of water sources);
- (k) section 78 (local authority functions in relation to undertakers' supplies);
- (l) section 86 (assessors for the enforcement of water quality);
- (m) sections 87, 87C and 90 (fluoridation of water supplies);
- (n) section 93 (interpretation of Part 3);
- (o) sections 93A to 93D (promotion of the efficient use of water);
- (p) section 150 (fixing maximum charges for services provided with the help of undertakers' services);
- (q) section 152 (grants for national security purposes);
- (r) section 154A (financial assistance to reduce charges);
- (s) sections 162 (works in connection with metering) and 163 (power to fit stopcocks);
- (t) sections 174 (offences of interference with works etc) and 175 (offence of tampering with meter);
- (u) section 195A (reasons for decisions);
- (v) sections 201 (publication of certain information and advice) and 202 (duties of undertakers to furnish the Secretary of State with information);
- (w) sections 205 (exchange of metering information between undertakers) and 206 (restriction on disclosure of information);
- (x) section 208 (directions in the interests of national security);
- (y) section 219 (general interpretation);
- (z) Schedule 1A (the Water Services Regulation Authority); and
- (aa) Schedule 2 (transitional provision on termination of appointments).

2. During the period beginning with 1st April 2016 and ending with 3rd April 2017, in the following provisions of the 1991 Act, references to a water supply licence are to be read as including an old water supply licence, and references to a water supply licensee are to be read as including an old water supply licensee—

- (a) section 2 (general duties with respect to water industry);
- (b) section 2A (strategic priorities and objectives: England);
- (c) section 2B (strategic priorities and objectives: Wales);
- (d) sections 37A to 37D (water resources management plans);
- (e) section 39ZA (procedure for regulations under section 38ZA);
- (f) sections 39B and 39C (drought plans);
- (g) section 66DB (codes under section 66DA: procedure);
- (h) section 66EB (rules under section 66E: procedure);
- (i) section 144ZB (rules under section 144ZA: procedure);
- (j) section 144ZE (general guidance on charges); and
- (k) section 147 (charging for emergency use of water).

3. During the period beginning with 1st April 2016 and ending with 3rd April 2017, the following provisions continue to have effect in relation to an old water supply licence as if the amendments made to them by the 2014 Act had not been brought into force—

- (a) section 174 (general restrictions on disclosure of information) of the Water Act 1989(a);
- (b) sections 203 (exchange of information with respect to pollution incidents etc) and 204 (restriction on disclosure of information) of the Water Resources Act 1991(b);
- (c) Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999(c);
- (d) sections 52 (co-operation between water regulators) and 58 (fluoridation of water supplies) of the Water Act 2003(d);
- (e) paragraph 19 of Schedule 7 (Acts of the Assembly) to the Government of Wales Act 2006(e); and
- (f) section 6 (other Part 1 definitions) of the Flood and Water Management Act 2010(f).

4. Section 17FB of the 1991 Act (applications forwarded to the Water Industry Commission for Scotland)(g) does not apply to an application for the grant of an old water supply licence.

5. On or after 1st September 2016—

- (a) section 66E of the 1991 Act as it was prior to being substituted by Schedule 2 to the 2014 Act continues to apply to an old water supply licence; and
- (b) references to section 66D in sections 66E to 66ED of the 1991 Act are to be read as if paragraph 3 of Schedule 2 to the 2014 Act was in force.

6. The following transitional provisions are revoked on 1st April 2016—

- (a) article 3(1) of the Water Act 2014 (Commencement No. 2 and Transitional Provisions) Order 2014(h);

(a) 1989 c.15; section 174 was amended by paragraph 50 of Schedule 1 to the Water Consolidation (Consequential Provisions) Act 1991 (c.60) and paragraph 1 of Schedule 8 to the Water Act 2003 (c. 37).

(b) 1991 c.57; section 203 was amended by paragraph 53 of Schedule 8 to the Water Act 2003 and section 204 was amended by paragraph 28 of Schedule 7 and paragraph 53 of Schedule 8 to the Water Act 2003.

(c) S.I. 1999/672, the entry in Schedule 1 relating to the 1991 Act was amended by section 100 of the Water Act 2003; there are other amendments to Schedule 1 which are not relevant.

(d) 2003 c.37; section 52 was amended by S.I. 2013/755 (W. 90).

(e) 2006 c.32; paragraph 19 of Schedule 7 was amended by S.I. 2007/2143.

(f) 2010 c.29.

(g) Section 17FB was inserted by section 6 of the 2014 Act.

(h) S.I. 2014/3320.

- (b) article 5(a) of the Water Act 2014 (Commencement No. 3 and Transitional Provisions) Order 2015(a);
- (c) article 5(1) and (2) of the Water Act 2014 (Commencement No. 4 and Transitional Provisions) Order 2015(b); and
- (d) article 4(2) of the Water Act 2014 (Commencement No. 5 and Transitional Provisions) Order 2015(c).

7. In this Schedule—

“old water supply licence” has the meaning given by paragraph 11 of Schedule 11 to the 2014 Act(d);

“old water supply licensee” means a company who is the holder of an old water supply licence.

(a) S.I. 2015/773.

(b) S.I. 2015/1469.

(c) S.I. 2015/1938.

(d) “Old water supply licence” is defined as “a water supply licence granted under old section 17A” (of the 1991 Act).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the sixth commencement order made under the Water Act 2014 (c.21) (“the 2014 Act”) in relation to England and Wales. This Order is made by the Secretary of State only.

Article 2 brings into force on 1st April 2016 various provisions of the 2014 Act amending the Water Industry Act 1991 (c. 56) (“the 1991 Act”). The commenced amendments relate to the new licensing regime for water supply to non-household customers. A provision is also brought into force which allows the Secretary of State to make regulations for appeals to the Competition and Markets Authority against a decision of the Water Services Regulation Authority (“Ofwat”) to revise or not revise a designated code.

Article 3 brings into force on 1st September 2016 provisions of the 2014 Act which amend the 1991 Act to require Ofwat to publish rules about charges for agreements for a supply of water between an undertaker and a licensee under section 66D of the 1991 Act and for the use of an undertaker’s sewerage system by a licensee under section 117E of the 1991 Act.

Schedule 1 provides for certain further amendments listed in Schedule 7 to the 2014 Act to be brought into force on 1st April 2016.

Schedule 2 contains transitional provisions, savings and revocations. The existing water supply licensing regime will continue in effect under the 1991 Act alongside the new retail water supply licensing regime until 3rd April 2017.

An impact assessment of the effect that the 2014 Act will have on the costs of business, the voluntary sector and the public sector is available from the Water Services Team, Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or at www.gov.uk/defra. No separate impact assessment has been produced for this instrument.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the 2014 Act have been or will be brought into force by a commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1 (partially)	1st September 2015	2015/773
Section 1 (partially)	1st September 2015	2015/1469
Section 1 (partially)	1st January 2016	2015/1938
Section 4 (partially)	1st September 2015	2015/773
Section 4 (partially)	1st September 2015	2015/1469
Section 4 (partially)	1st January 2016	2015/1938
Section 6 (partially)	18th December 2015	2015/1938
Section 7 (partially)	20th November 2015	2015/360 (S.S.I.)
Section 7 (for all remaining purposes)	1st April 2016	2016/48 (S.S.I.)
Section 8 (partially)	6th April 2015	2015/773
Section 10 (partially)	18th December 2015	2015/1938
Section 11 (partially)	18th December 2015	2015/1938
Section 14 (partially)	6th April 2015	2015/773
Section 14 (for all remaining purposes)	18th December 2015	2015/1938
Section 16 (partially)	15th July 2015	2015/1469
Section 16 (for all remaining purposes)	1st November 2015	2015/1469
Section 17 (partially)	6th April 2015	2015/773
Section 17 (partially)	15th July 2015	2015/1469
Section 22 (for all remaining purposes)	18th December 2015	2015/1938
Section 23 (partially)	1st January 2015	2014/3320
Section 23 (partially)	6th April 2015	2015/773
Section 24	6th April 2015	2015/773
Section 29 (partially)	1st January 2015	2014/3320
Section 29 (partially)	15th July 2015	2015/1469
Section 30 (partially)	1st January 2015	2014/3320
Section 30 (partially)	15th July 2015	2015/1469
Section 38 (partially)	1st January 2015	2014/3320
Section 38 (partially)	6th April 2015	2015/773
Section 40(1)	14th July 2014	2014/1823
Section 41	1st November 2015	2015/1786 (W.249)
Sections 42 to 47	6th April 2015	2015/773
Section 49	6th April 2015	2015/773
Sections 51 and 52	6th April 2015	2015/773
Section 53 (partially)	6th April 2015	2015/773
Section 55	1st January 2015	2014/3320
Section 56 (partially)	1st January 2015	2014/3320
Section 56 (partially)	15th July 2015	2015/1469
Section 56 (partially)	1st September 2015	2015/1469
Section 56 (partially)	1st November 2015	2015/1469
Section 56 (partially)	18th December 2015	2015/1938
Section 56 (partially)	1st January 2016	2015/1938
Section 59	1st October 2014	2014/1823
Sections 64 to 68	1st January 2015	2014/3320
Section 69 (for all remaining purposes)	1st January 2015	2014/3320
Section 82 (partially)	1st January 2015	2014/3320

Sections 83 and 84	1st January 2015	2014/3320
Schedule 1	1st January 2016	2015/1938
Schedule 2 (partially)	1st September 2015	2015/773
Schedule 2 (partially)	1st September 2015	2015/1469
Schedule 3	1st January 2016	2015/1938
Schedule 4 (partially)	1st September 2015	2015/773
Schedule 4 (partially)	1st September 2015	2015/1469
Schedule 7 (partially)	1st January 2015	2014/3320
Schedule 7 (partially)	15th July 2015	2015/1469
Schedule 7 (partially)	1st September 2015	2015/1469
Schedule 7 (partially)	1st November 2015	2015/1469
Schedule 7 (partially)	18th December 2015	2015/1938
Schedule 7 (partially)	1st January 2016	2015/1938
Schedule 9	14th July 2014	2014/1823

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