

**2016 No. 52**

**WATER INDUSTRY**

**The Water and Sewerage Services Licences (Cross-Border Applications) (Scotland) Order 2016**

*Made* - - - - 26th January 2016

*Laid before the Scottish Parliament* 28th January 2016

*Coming into force* - - 1st April 2016

The Scottish Ministers make the following Order in exercise of the powers conferred by paragraph 1A of schedule 2 to the Water Services etc. (Scotland) Act 2005(a) and all other powers enabling them to do so.

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Water and Sewerage Services Licences (Cross-Border Applications) (Scotland) Order 2016 and comes into force on 1st April 2016.

(2) In this Order—

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

“1991 Act application” means an application under section 17F of the 1991 Act(c) (procedure for granting licences) for the grant of a water supply licence or a sewerage licence;

“the 2005 Act” means the Water Services etc. (Scotland) Act 2005;

“the Authority” means the Water Services Regulation Authority; and

“the Commission” means the Water Industry Commission for Scotland.

**Applications forwarded by the Water Services Regulation Authority**

2.—(1) If the conditions in paragraph (2) are satisfied, the Commission must treat—

(a) 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 of schedule 2 to the 2005 Act for the grant of a water services licence; and

(b) 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 of schedule 2 to the 2005 Act for the grant of a sewerage services licence.

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(a) 2005 asp 3. Paragraph 1A of schedule 2 was inserted by section 7 of the Water Act 2014 (c.21) (“the 2014 Act”).

(b) 1991 c.56, as relevantly amended by the 2014 Act.

(c) Section 17F was added by paragraph 2 of Schedule 4 to the Water Act 2003 (c.37) and amended by S.I. 2013/755. Section 17F is prospectively amended by section 25 of, and paragraph 15 of Schedule 7 to, the 2014 Act.

(2) The conditions are that—

- (a) the applicant has requested that the Authority forwards a copy of the 1991 Act application to the Commission under section 17FB of the 1991 Act<sup>(a)</sup> (applications forwarded to the Water Industry Commission for Scotland);
- (b) the Authority has so forwarded a copy of the 1991 Act application to the Commission and the Commission has received that copy;
- (c) the Commission is satisfied that the forwarded 1991 Act application includes, or is accompanied by, sufficient information to enable the Commission to treat it as an application under paragraph 1 of schedule 2 to the 2005 Act; and
- (d) the forwarded 1991 Act application is accompanied by a fee of the amount (if any) payable in relation to an application for a water services licence or sewerage services licence or both, as the case may be, under a fees scheme approved by the Scottish Ministers under section 9(7) of the 2005 Act<sup>(b)</sup> (fees relating to licences), subject to paragraph (3).

(3) The condition in paragraph (2)(d) does not apply where the Commission has agreed that the fee may be paid by an alternative arrangement.

*KEITH BROWN*

A member of the Scottish Government

St Andrew's House,  
Edinburgh  
26th January 2016

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(a) Section 17FB is prospectively inserted by section 6 of the 2014 Act.

(b) The Water Industry Commission for Scotland's Fees Scheme sets out fees payable in relation to water services and sewerage services licence applications and is made in accordance with section 9 of the 2005 Act. The latest fee scheme was approved by Scottish Ministers on 27th July 2007 and can be found at: <http://www.watercommission.co.uk/UserFiles/Documents/Approved%20fees%20schemev1.pdf>.

## **EXPLANATORY NOTE**

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

This Order is made under paragraph 1A of schedule 2 to the Water Services etc. (Scotland) Act 2005 (“the 2005 Act”) and makes provision about the treatment of applications for licences forwarded to the Water Industry Commission for Scotland (“the Commission”) by the Water Services Regulation Authority (“the Authority”) in England and Wales.

Section 6 of the Water Act 2014 inserts section 17FB of the Water Industry Act 1991 (“the 1991 Act”). Section 17FB of the 1991 Act places a duty on the Authority in England and Wales to forward certain applications made to it under section 17F of the 1991 Act, for the grant of a water supply licence giving a retail authorisation or restricted retail authorisation, or sewerage licence giving retail authorisation, to the Commission when requested to do so by the applicant. An equivalent duty is placed on the Commission by virtue of paragraph 1B of schedule 2 to the 2005 Act.

This Order makes provision for the Commission to treat such applications forwarded by the Authority under section 17FB of the 1991 Act as also being an application for the grant of a water services licence or sewerage services licence under paragraph 1 of schedule 2 to the 2005 Act, being the equivalent licences in Scotland.

The Commission is only required to treat such an application as having been made under the 2005 Act if the conditions in article 2(2) are met.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

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