
STATUTORY INSTRUMENTS

2005 No. 1638

WATER INDUSTRY, ENGLAND & WALES

The Water Supply Licence (Application) Regulations 2005

<i>Made</i>	- - - -	<i>16th June 2005</i>
<i>Laid before Parliament</i>		<i>17th June 2005</i>
<i>Coming into force</i>		
<i>For the purposes of Regulations 1, 2 and 3</i>		<i>11th July 2005</i>
<i>For all other purposes</i>		<i>1st August 2005</i>

The Secretary of State, in exercise of the powers conferred upon her by sections 17F, 213(2)(d), (e) and (f) and 219(1) of the Water Industry Act 1991(1) hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Water Supply Licence (Application) Regulations 2005 and shall come into force in accordance with paragraph (2).

(2) Regulations 1, 2 and 3 shall come into force on 11th July 2005 and all other regulations shall come into force on 1st August 2005.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Water Industry Act 1991;

“application” means an application for—

- (a) a water supply licence(2),
- (b) the variation of a retail licence(3) so that it gives also the supplementary authorisation(4),
or
- (c) the variation of a combined licence(5) so that it gives only the retail authorisation(6),

(1) 1991 c. 56; section 17F was inserted by section 56 of the Water Act 2003 (c. 37). See section 219(1) for the definition of “prescribed”.
(2) See section 17A(1) for the definition of “water supply licence”.
(3) See section 17A(4) for the definition of “retail licence”.
(4) See section 17A(5) for the definition of “supplementary authorisation”.
(5) See section 17A(6) for the definition of “combined licence”.

and “applicant” shall be construed accordingly;

“the Authority” means, until the coming fully into force of section 36(1) of the Water Act 2003⁽⁷⁾ (transfer to the Authority and the Consumer Council for Water of functions, property etc) the Director, and thereafter, the Water Services Regulation Authority; and

“working day” means any day which is not a Saturday, Sunday or any other day on which the offices of the Authority are closed for business.

(2) Unless the contrary intention appears, any reference in these Regulations to a section is a reference to a section of the Act.

Form and manner of application

3.—(1) An application shall—

(a) be made to the Authority in such form and manner, and

(b) contain, or be accompanied by, such information and documents,

as the Authority shall determine in guidance issued under these Regulations.

(2) Subject to paragraph (3), before issuing guidance under paragraph (1), the Authority shall consult such persons as it considers appropriate.

(3) Paragraph (2) shall not apply where the Authority has consulted such persons as it considers appropriate before 11th July 2005.

(4) The Authority shall publish the guidance issued under paragraph (2) in such manner as the Authority considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.

(5) The Authority may from time to time revise the guidance issued under paragraph (1).

(6) Before revising any guidance under paragraph (5), the Authority shall consult such persons as it considers appropriate.

(7) Paragraph (4) applies to guidance revised under paragraph (5) as it applies to guidance issued under paragraph (1).

(8) The Authority may require an applicant in any particular case to submit such additional information or documents as the Authority determines are necessary for determining the application.

Application fees

4. An application shall be accompanied by the relevant fee specified in Schedule 1 to these Regulations.

Timing and manner of publication of notice of application

5.—(1) As soon as reasonably practicable after the Authority decides that a valid application has been made, it shall notify the applicant in writing.

(2) For the purposes of paragraph (1), a notification shall be treated as made in writing if transmitted to the applicant by facsimile transmission or electronic mail.

(3) The period after the making of an application within which a notice of application shall be published by the applicant under section 17F(2) shall expire at 17.00 hours on the tenth working day after the day on which the Authority notifies the applicant that a valid application has been made.

(6) See section 17A(2) for the definition of “retail authorisation”.

(7) 2003 c. 37.

(4) The particulars required to be contained in a notice of application published under section 17F(2) are—

- (a) in relation to an application for a water supply licence, the particulars specified in Part 1 of Schedule 2 to these Regulations; and
- (b) in relation to an application for the variation of a retail licence so that it gives also the supplementary authorisation, the particulars specified in Part 2 of Schedule 2 to these Regulations.

(5) The notice of application published under section 17F(2) shall be published on the applicant's website or in such other manner as the applicant considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.

(6) On or as soon as reasonably practicable after the day on which the applicant publishes a notice of application under section 17F(2), the Authority shall publish a copy of that notice on the Authority's website.

(7) Section 17F(2) and (3) shall not apply in relation to an application for the variation of a combined licence so that it gives only the retail authorisation.

Representations or objections with respect to an application

6.—(1) Any representations or objections with respect to a notice of application published under section 17F(2) shall be received by the Authority no later than 17.00 hours on a day specified by that notice.

(2) For the purposes of paragraph (1), the day specified shall be the twentieth working day after the day of publication of the relevant notice of application on the Authority's website.

Elliot Morley
Minister of State,
Department for Environment, Food and Rural
Affairs

16th June 2005

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SCHEDULE 1

Regulation 4

APPLICATION FEES

<i>Application type</i>	<i>Fee</i>
A retail licence	£2,000
A combined licence	£2,500
Variation of a retail licence so that it gives also the supplementary authorisation	£1,350
Variation of a combined licence so that it gives only the retail authorisation	£550

SCHEDULE 2

Regulation 5(4)

NOTICE OF APPLICATION

PART 1

Notice of application for a water supply licence under section 17A of the Water Industry Act 1991

[Insert name of applicant] whose registered office is at *[insert full postal address]* gives notice that it has made an application to the Office of Water Services (“Ofwat”) for a *[insert either “retail” or “combined” as appropriate]* licence under section 17A of the Water Industry Act 1991.

Any person who wishes to make representations or objections with respect to the application should do so in writing (which includes by e-mail) to Ofwat at *[insert full postal and appropriate e-mail address of principal office of the Authority]*. These must be received at Ofwat no later than 17.00 hours on *[insert appropriate date, if known, otherwise state the twentieth working day after the day of publication of this notice on Ofwat’s website; see regulation 6]*. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at *[insert reference to appropriate page on the Authority’s website]*

[Insert full name of director or company secretary responsible for this notice and “Director” or “Company Secretary” as appropriate]

For and on behalf of *[insert name of applicant]*

Date *[insert date of publication]*

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PART 2

Notice of application for variation of a retail water supply licence under section 17A of the Water Industry Act 1991

[*Insert name of applicant*] whose registered office is at [*insert full postal address*] gives notice that it has made an application to the Office of Water Services (“Ofwat”) for a variation of its retail licence under section 17A of the Water Industry Act 1991 so that it gives also the supplementary authorisation.

Any person who wishes to make representations or objections with respect to the application should do so in writing (which includes by e-mail) to Ofwat at [*insert full postal and appropriate e-mail address of principal office of the Authority*]. These must be received at Ofwat no later than 17.00 hours on [*insert appropriate date, if known, otherwise state the twentieth working day after the day of publication of this notice on Ofwat’s website; see regulation 6*]. Further information about how to make representations or objections, including information on the treatment of confidential information, can be obtained from Ofwat at the above address or at [*insert reference to appropriate page on the Authority’s website*]

[*Insert full name of director or company secretary responsible for this notice and “Director” or “Company Secretary” as appropriate*]

For and on behalf of [*insert name of applicant*]

Date [*insert date of publication*]

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Water Industry Act 1991, 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. These Regulations govern the procedure for granting water supply licences.

Regulation 3 requires the Water Services Regulation Authority (and until it is fully established, the Director General of Water Services) (“Ofwat”) to issue guidance determining the form and manner of applications for water supply licences and for variations of such licences. The guidance must also determine what information and documents are required. Ofwat must consult on its draft guidance, but consultation which has taken place before these Regulations come into force is sufficient for this purpose. Ofwat may vary its guidance following consultation. Ofwat must publish its guidance and any variations to it. Ofwat may also ask for additional information or documents on a case by case basis.

Regulation 4 requires certain fees to be paid to Ofwat when an application is made.

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Regulation 5 requires Ofwat to notify an applicant that a valid application has been made. It also specifies certain information which must be contained in a notice of application published by the applicant within ten working days of Ofwat's notification. Regulation 5 also requires Ofwat to publish a copy of the notice of application on Ofwat's website.

Regulation 6 requires representations or objections with respect to an application to be addressed to Ofwat within twenty working days of publication of the notice of application on Ofwat's website.

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 water supply licensing regime. Copies can be obtained from Water Supply and Regulation Division, Department for Environment, Food and Rural Affairs, Ashdown House, 123 Victoria Street, London SW1E 6DE or from the Department's website at www.defra.gov.uk/environment/water/legislation.