

## SCHEDULE 1

### APPLICATION OF THE ACT AND RELATED PROVISIONS

#### Licensing of infrastructure providers

3.—(1) The Chapter heading preceding section 17A <sup>M1</sup>[<sup>F1</sup>(water supply licences)] applies as if, at the end, there were inserted “and licensed infrastructure providers”.

(2) The following has effect as if it were inserted after section 17F (procedure for granting water supply licences)—

#### “17FA Licensing of infrastructure providers

(1) The Authority may grant to a company a licence (“a project licence”) in connection with the undertaking of a particular infrastructure project specified under regulation 4(1) of the Regulations.

(2) Before granting a project licence, the Authority must consult—

- (a) the incumbent undertaker;
- (b) the Secretary of State;
- (c) the relevant quality regulator; and
- (d) any other person the Authority thinks is appropriate.

(3) A project licence must not be granted to a company unless—

- (a) the company has been designated under regulation 8(1) of the Regulations as the infrastructure provider for the infrastructure project to which the licence relates; and
- (b) the company is not a relevant undertaker.

(4) A project licence must—

- (a) be in writing; and
- (b) unless revoked or suspended in accordance with any condition contained in it, continue in force for such period as may be specified in or determined under the licence.

(5) References in this Act to a project licence are to a licence granted under subsection (1).

(6) In this Chapter “the relevant quality regulator” means—

- (a) where a project licence relates to the provision of a system of water supply or the securing of supplies of water, the Chief Inspector of Drinking Water; and
- (b) where a project licence relates to the provision of a system of sewers or the provision of means for emptying, or dealing effectually with the contents of, sewers—
  - (i) in England, the Environment Agency; and
  - (ii) in Wales, the Natural Resources Body for Wales <sup>M2</sup>.

#### 17FB Transitional provision with respect to replacement project licences

(1) Schedule 2 to this Act shall have effect for enabling provision to be made with respect to cases in which it is proposed that a company be granted a project licence under this Chapter in order that it may replace another company in carrying on functions formerly carried on by that company.

(2) Subsections (3) and (4) below apply where one company (“the new licensee”) has been granted a project licence so that it may replace another company in carrying on functions that

**Changes to legislation:** There are currently no known outstanding effects for the *The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013, Paragraph 3.* (See end of Document for details)

that company formerly carried on in its capacity as a licensed infrastructure provider, but the project licence has yet to come into force.

(3) The following provisions of this Act shall apply in relation to the new licensee as if the project licence had come into force—

- (a) sections 18 to 24 and Schedule 3;
- (b) sections 158, 159 and 161;
- (c) sections 179 and 180 and Schedule 12;
- (d) sections 181 to 183 and Schedule 13; and
- (e) sections 186, 187, 190, 192, 199, 200, 202, 203 and 208.

(4) Such of the conditions to be imposed on the new licensee under section 17HA below as the Authority may specify in a written notice given by it to the new licensee shall have effect, in relation to the operation of any provision mentioned in subsection (3) above before the project licence comes into force, as if the project licence had come into force.”

(3) <sup>M3</sup>Schedule 2 (transitional provision on termination of appointments) applies as if—

- (a) in the title, after “appointments”, there were inserted “ and licences ”; and
- (b) in paragraph 1 (cases where Schedule applies)—
  - (i) in sub-paragraph (1), for “(3A)”, there were substituted “ (3B) ”;
  - (ii) in sub-paragraph (3A)—
    - (aa) in paragraph (a), after “qualifying [<sup>F2</sup>sewerage licensee]”, there were inserted “ or a licensed infrastructure provider ”; and
    - [<sup>F3</sup>(bb) for paragraph (b), there were substituted—
      - “(b) it is proposed that on and after the relevant date another company (“the transferee”) should carry on—
        - (i) where the transferor is a qualifying water supply licensee, activities relating to the introduction or introductions of water mentioned in section 23(6)(b) of this Act which were carried on by the transferor until that date;
        - (ii) where the transferor is a qualifying sewerage licensee, activities relating to the removal or removals of matter mentioned in section 23(9) of this Act which were carried on by the transferor until that date; or
        - (iii) where the transferor is a licensed infrastructure provider, functions formerly carried on by the transferor in its capacity as a licensed infrastructure provider”]

(iii) after sub-paragraph (3A), there were inserted—

“(3B) The fourth case in which this Schedule applies is where the Authority is proposing to grant a project licence to a company (“the transferee”) to carry on activities relating to functions formerly carried on by another company (“the transferor”) in its capacity as a licensed infrastructure provider.”; and

(iv) in sub-paragraph (4)—

- [<sup>F4</sup>(aa) in the definition of “other relevant companies”—
  - (i) in paragraph (a), after “this Act” there were inserted “or, as the case may be, the functions to which its project licence relates;
  - (ii)

- in paragraph (b), after “this Act” there were inserted “or, as the case may be, the functions to which its project licence relates”]
- (bb) in the definition of “the relevant date”, after paragraph (b), there were inserted—
- “(c) where this Schedule applies by virtue of sub-paragraph (3B) above, the coming into force of the project licence mentioned in that sub-paragraph; and”;
- (cc) in the definition of “transferor” and “transferee”, after “sub-paragraph (3A) above”, there were inserted “ or (3B) above (as the case may be) ”;
- (c) in paragraph 2 (making and modification of transfer schemes)—
- (i) in sub-paragraph (7A)—
- (aa) after “paragraph 1(3A)”, there were inserted “ or (3B) ”; and
- (bb) in paragraph (b), after “in consequence of its licence”, there were inserted “ or, in relation to a company which is a licensed infrastructure provider, a reference to activities regulated by its licence and any statutory functions conferred or imposed on it in consequence of its licence ”; and
- (ii) for sub-paragraph (8) (offence), there were substituted—
- “(8) The duties of companies under sub-paragraph (7) above are enforceable under section 18 above by the Secretary of State or the Authority.”;
- (d) in paragraph 3 (transfers by scheme)—
- (i) in sub-paragraph (4)(d), after “enactments” there were inserted “ (including any designation made under regulation 8(1) of the Regulations) ”;
- (ii) in sub-paragraph (7), after “paragraph 1(3A)”, there were inserted “ or (3B) ”;
- (e) paragraph 4A (exclusion of transfer of licence) were repealed;
- (f) in paragraph 5 (supplemental provisions of schemes), in sub-paragraph (3) after “paragraph 1(3A)”, there were inserted “ or (3B) ”;
- (g) in paragraph 6 (duties of existing appointee after the scheme comes into force), in sub-paragraph (9), after “paragraph 1(3A)”, there were inserted “ or (3B) ”; and
- (h) paragraph 7 (power to make an order for further transitional provision and local statutory provisions) were repealed.

- F1** Words in Sch. 1 para. 3(1) substituted (31.3.2017) by [The Water Act 2014 \(Consequential Amendments etc.\) Order 2017 \(S.I. 2017/506\)](#), arts. 1(1), **30(7)(a)**
- F2** Words in Sch. 1 para. 3(3)(b)(ii)(aa) substituted (31.3.2017) by [The Water Act 2014 \(Consequential Amendments etc.\) Order 2017 \(S.I. 2017/506\)](#), arts. 1(1), **30(7)(b)**
- F3** Sch. 1 para. 3(3)(b)(ii)(bb) substituted (31.3.2017) by [The Water Act 2014 \(Consequential Amendments etc.\) Order 2017 \(S.I. 2017/506\)](#), arts. 1(1), **30(7)(c)**
- F4** Sch. 1 para. 3(3)(b)(iv)(aa) substituted (31.3.2017) by [The Water Act 2014 \(Consequential Amendments etc.\) Order 2017 \(S.I. 2017/506\)](#), arts. 1(1), **30(7)(d)**

#### Marginal Citations

- M1** Section 17A and the other provisions in Chapter 1A of Part 2 were inserted by section 56 of, and Schedule 4 to, the Water Act 2003.
- M2** Established under article 3 of the Natural Resources Body for Wales (Establishment) Order 2012 ([S.I. 2012/1903 \(W. 230\)](#)).

**Changes to legislation:** *There are currently no known outstanding effects for the The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013, Paragraph 3. (See end of Document for details)*

**M3** Schedule 2 was amended by section 101(1) of, and Schedule 8 to, the Water Act 2003. Schedule 2 was also amended by section 34 of, and Schedule 5 to, the Flood and Water Management Act 2010, although those provisions are not yet in force.

**Changes to legislation:**

There are currently no known outstanding effects for the The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013, Paragraph 3.