

2015 No. 773 (C. 43)

WATER INDUSTRY, ENGLAND AND WALES

The Water Act 2014 (Commencement No. 3 and Transitional Provisions) Order 2015

Made - - - -

16th March 2015

The Secretary of State and the Welsh Ministers make the following Order in exercise of the powers conferred by sections 91(1), (3) and (4) 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. 3 and Transitional Provisions) Order 2015.

(2) In this Order—

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

“the 2014 Act” means the Water Act 2014;

“old water supply licensee” means a person who is the holder for the time being of an “old water supply licence” as defined in paragraph 11 of Schedule 11 to the 2014 Act(c).

Provisions of the 2014 Act coming into force on 6th April 2015

2.—(1) The following provisions of the 2014 Act come into force on 6th April 2015 and are brought into force by the Secretary of State and the Welsh Ministers—

(a) subject to article 4, section 8 (bulk supply of water by water undertakers) as follows(d)—

(i) section 8(1) so far as it inserts section 40J (duty to provide information about bulk supplies) into the 1991 Act; and

(ii) section 8(2) so far as it relates to section 40J of the 1991 Act;

(b) section 17 (rules about charges for connections etc.) so far as it inserts section 144ZD (rules under section 144ZA: guidance) into the 1991 Act(e); and

(c) subject to article 4, section 24 (strategic priorities and objectives)(f).

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

(d) The Secretary of State and the Welsh Ministers are the appropriate authority for the purposes of section 8 as “the Minister”, as defined in section 40I(7) of the 1991 Act (as inserted by section 8(1) of the 2014 Act). This is in relation to bulk supply agreements to which the parties are (or would be) water undertakers whose area is wholly or mainly in England or the parties are (or would be) water undertakers whose area is wholly or mainly in Wales.

(e) The Secretary of State is the appropriate authority for the purposes of section 17 in relation to wholly or mainly English undertakers and the Welsh Ministers are the appropriate authority in relation to wholly or mainly Welsh undertakers.

(f) The Secretary of State is the appropriate authority for the purposes of section 24, in relation to the insertion of section 2A into the 1991 Act by section 24(1) and in relation to the amendments made by sections 24(2) and (3) so far as relating to

(2) The following provisions of the 2014 Act come into force on 6th April 2015 and are brought into force by the Secretary of State only—

- (a) subsection (2) of section 14 (exceptions to duty and undertakings in lieu of merger references) so far as it inserts section 33C (statement of methods) into the 1991 Act; and
- (b) subject to article 5, chapter 4 of Part 1 (retail exit: non-household premises) as follows—
 - (i) section 42 (retail exit: non-household premises);
 - (ii) section 43 (application for retail exit);
 - (iii) section 44 (eligible licensees);
 - (iv) section 45 (transfer of undertaking);
 - (v) section 46 (operation of retail market);
 - (vi) section 47 (operation of retail market: charges etc.);
 - (vii) section 49 (modification of appointment and licence conditions);
 - (viii) section 51 (exit regulations: general);
 - (ix) section 52 (interpretation); and
 - (x) section 53 (procedure) except so far as subsection (1)(f) relates to sewerage licensees.

(3) Subject to article 6, the following provisions of the 2014 Act come into force on 6th April 2015 and are brought into force by the Welsh Ministers only—

- (a) section 23 (general duty as regards undue preference in the provision of services) except so far as it relates to sewerage licensees in section 2(3)(ba)(ii) of the 1991 Act(a); and
- (b) section 38 (guidance relating to rules about charges) except so far as it relates to sewerage licensees in section 144ZE(9)(e) of the 1991 Act(b).

Provisions of the 2014 Act coming into force on 1st September 2015

3. The following provisions of the 2014 Act come into force on 1st September 2015 and are brought into force by the Secretary of State only—

- (a) subsection (3) of section 1 (types of water supply licence and arrangements with water undertakers) so far as it relates to the provisions set out in paragraph (c);
- (b) subsection (3) of section 4 (types of sewerage licence and arrangements with sewerage undertakers) so far as it relates to the provisions set out in paragraph (d);
- (c) subject to article 5, paragraph 4 of Schedule 2 (water undertakers' duties as regards water supply licensees) so far as it inserts section 66DB (codes under section 66DA: procedure) into the 1991 Act, with the exception of—
 - (i) subsection (1)(b) to the extent that it relates to subsection (3);
 - (ii) subsection (3); and
 - (iii) subsection (12); and
- (d) subject to article 5, Schedule 4 (sewerage undertakers' duties as regards sewerage licensees) so far as it inserts section 117G (codes under section 117F: procedure) into the 1991 Act, with the exception of subsections 2(e) and (7).

section 2A. The Welsh Ministers are the appropriate authority in relation to the insertion of section 2B into the 1991 Act by section 24(1) and in relation to the amendments made by sections 24(2) and (3) so far as relating to section 2B.

- (a) The Welsh Ministers are the appropriate authority for the purposes of section 23 in relation to wholly or mainly Welsh undertakers.
- (b) The Welsh Ministers are the appropriate authority for the purposes of section 38 in relation to wholly or mainly Welsh undertakers.

Transitional provisions made by the Secretary of State and the Welsh Ministers

4.—(1) The transitional provisions in this article are made by the Secretary of State and the Welsh Ministers, as follows—

- (a) until section 8(1) of the 2014 Act comes into force to the extent that it substitutes section 40A of the 1991 Act, section 40A as referred to in section 40J(3) of the 1991 Act is to be read as if section 40A of the 1991 Act as substituted were in force; and
- (b) in relation to section 24 of the 2014 Act—
 - (i) until the Secretary of State publishes a statement setting out strategic priorities and objectives for the Authority under section 2A(1) of the 1991 Act—
 - (aa) under section 2A(2) of the 1991 Act, the Authority must carry out those functions in accordance with the old guidance, as if the old guidance was a statement published under section 2A(1) of the 1991 Act; and
 - (bb) under section 192A(3A) of the 1991 Act, the forward work programme for any year must also include an explanation of how the projects described in it reflect the social or environmental policies set out or referred to in the old guidance;
 - (ii) until the Welsh Ministers publish a statement setting out strategic priorities and objectives for the Authority under section 2B(1) of the 1991 Act—
 - (aa) under section 2B(2) of the 1991 Act, the Authority must carry out those functions in accordance with old guidance, as if the old guidance was a statement published under section 2B(1) of the 1991 Act; and
 - (bb) under section 192A(3A) of the 1991 Act, the forward work programme for any year must also include an explanation of how the projects described in it reflect the social or environmental policies set out or referred to in the old guidance.

(2) In this article—

“the Authority” means the Water Services Regulation Authority(a);

“old guidance” means guidance issued by the Secretary of State or the Welsh Ministers to the Authority on social and environmental matters under section 2A(1) of the 1991 Act(b) as it had effect before being substituted under section 24(1) of the 2014 Act.

Transitional provisions made by the Secretary of State

5. The transitional provisions in this article are made by the Secretary of State only, as follows—

- (a) until section 1 of the 2014 Act comes into force so far as it relates to section 17A(1) of the 1991 Act, the references to a water supply licensee in the following provisions are to be read as references to an old water supply licensee—
 - (i) section 53(1)(f) of the 2014 Act; and
 - (ii) section 66DB(2)(f) of the 1991 Act (as inserted by Schedule 2 to the 2014 Act); and
- (b) until paragraph 3 of Schedule 2 to the 2014 Act comes into force, section 66D as referred to in section 66DB of the 1991 Act is to be read as if section 66D of the 1991 Act as substituted were in force.

Transitional provisions made by the Welsh Ministers

6. The transitional provisions in this article are made by the Welsh Ministers only, as follows—

(a) See section 1A(1) of the 1991 Act, as inserted by section 34(1) of the Water Act 2003 (c.37).
(b) Section 2A was inserted by section 40 of the Water Act 2003.

- (a) until section 1 of the 2014 Act comes into force so far as it relates to section 17A(1) of the 1991 Act, the references to a water supply licensee in the following provisions are to be read as references to an old water supply licensee^(a)—
 - (i) section 2(3)(ba)(ii) of the 1991 Act (as inserted by section 23 of the 2014 Act); and
 - (ii) section 144ZE of the 1991 Act (as inserted by section 38 of the 2014 Act); and
- (b) until paragraph 5 of Schedule 2 to the 2014 Act comes into force to the extent that it substitutes section 66E of the 1991 Act, section 66E as referred to in section 144ZE(1)(a) of the 1991 Act is to be read as if section 66E of the 1991 Act as substituted were in force^(b).

12th March 2015

Dan Rogerson
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

16th March 2015

Carl Sargeant
Minister for Natural Resources, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third commencement order made under the Water Act 2014 (c.21) (“the 2014 Act”).

Article 2 brings into force on 6th April 2015 various provisions in Part 1 of the 2014 Act, which concern in particular the regulation of the water industry, including enabling the Secretary of State to make regulations to allow an undertaker whose area is wholly or mainly in England to apply to exit the non-household retail market for that area. The provisions in article 2(1) are brought into force by the Secretary of State and the Welsh Ministers jointly, the provisions in article 2(2) are brought into force by the Secretary of State only and the provisions in article 2(3) are brought into force by the Welsh Ministers only.

Article 3 brings into force on 1st September 2015 provisions in Schedules 2 and 4 to the 2014 Act which insert new sections on codes into the Water Industry Act 1991 (c.56). These provisions are brought into force by the Secretary of State only.

Articles 4, 5 and 6 contain transitional provisions.

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

(a) The transitional arrangements for sections 23 and 38 as partially commenced by the Secretary of State in relation to wholly or mainly English undertakers are set out in S.I. 2014/3320.

(b) The transitional arrangements for section 38 as partially commenced by the Secretary of State in relation to wholly or mainly English undertakers are set out in S.I. 2014/3320.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the 2014 Act were 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 23 (partially)	1st January 2015	2014/3320
Section 29 (partially)	1st January 2015	2014/3320
Section 30 (partially)	1st January 2015	2014/3320
Section 38 (partially)	1st January 2015	2014/3320
Section 40(1)	14th July 2014	2014/1823
Section 55	1st January 2015	2014/3320
Section 56 (partially)	1st January 2015	2014/3320
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 to 84	1st January 2015	2014/3320
Schedule 7 (partially)	1st January 2015	2014/3320
Schedule 9	14th July 2014	2014/1823

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