
STATUTORY INSTRUMENTS

2016 No. 744

The Water and Sewerage Undertakers (Exit from Non-household Retail Market) Regulations 2016

PART 4

Effect of exit

Effect on relevant undertakers

Prohibition on supply of water, or provision of sewerage services, by undertakers

20.—(1) A relevant undertaker is prohibited from supplying water or providing sewerage services to non-household premises in a retail exit area at any time on or after the exit date.

(2) Regulations 23 and 24 contain exceptions to that prohibition in relation to the relevant undertaker that made the relevant exit application.

(3) A prohibition imposed by this regulation is enforceable under section 18 of the 1991 Act.

Effect of inset appointment on retail exit area

21.—(1) This regulation applies when—

- (a) a company is appointed under section 6(1) of the 1991 Act⁽¹⁾ to be the relevant undertaker for a new inset area; or
- (b) the area of appointment of a relevant undertaker that has not withdrawn from the non-household retail market is varied, in accordance with section 7(2) of the 1991 Act⁽²⁾, to include a new inset area.

(2) When the appointment or the variation takes effect the new inset area is no longer part of a retail exit area.

(3) In this regulation, “new inset area” means an area—

- (a) which is part of a retail exit area; and
- (b) none of the premises in which is served by a relevant undertaker.

Expansion of retail exit area – inset appointments

22.—(1) This regulation applies when the area of appointment of a relevant undertaker that has withdrawn from the non-household retail market is varied, in accordance with section 7(2) of the 1991 Act, to include an area (“the new inset exit area”)—

- (a) which is not part of a retail exit area; and
- (b) none of the premises in which is served by a relevant undertaker.

(1) Section 6(1) was amended by section 36(2) of the Water Act 2003 (c. 37).

(2) Section 7(2) was amended by section 36(2) of the Water Act 2003.

(2) Regulations 20(1) and (3), 23 and 29 to 60 apply to the new inset exit area as they apply to a retail exit area.

Exiting undertakers may continue to supply their own premises

23.—(1) A water undertaker is not prohibited by regulation 20(1) from supplying water to premises which are owned by the undertaker and which form part of its supply system.

(2) A sewerage undertaker is not prohibited by regulation 20(1) from providing sewerage services to premises which are owned by the undertaker and which form part of its sewerage system.

Exiting undertaker’s ongoing responsibility for customers in the process of switching

24. A relevant undertaker is not prohibited by regulation 20(1) from supplying water or providing sewerage services to premises if—

- (a) notice under section 63AA or 110K of the 1991 Act(3) was served on the undertaker in relation to the premises before the exit date, and
- (b) the time specified in the notice falls within the period of 28 days beginning with the exit date and has not yet passed.

Modification of appointment of exiting undertaker

25.—(1) The WSRA may modify the conditions of appointment of a company as a relevant undertaker under Chapter 1 of Part 2 of the 1991 Act where it considers it necessary or expedient to do so in consequence of the transfer of part of the relevant undertaker’s undertaking under these Regulations.

(2) Where the WSRA modifies conditions of an appointment under this regulation, it may make such incidental or consequential modifications of other conditions of the appointment as it considers necessary or expedient.

(3) Before making a modification under this regulation, the WSRA must consult—

- (a) the company holding the appointment, and
- (b) such other persons as the WSRA thinks it appropriate to consult.

(4) The power of the WSRA under this regulation to modify the conditions of an appointment may not be exercised after the end of the period of one year beginning with the exit date.

(5) Section 195A of the 1991 Act (reasons for decisions) applies as if the modification of the conditions of an appointment under this regulation were included in the list of decisions in subsection (1) of that section.

Effect on acquiring licensees

Acquiring licensee’s duty to continue supply

26.—(1) An acquiring licensee must continue the supply of water or provision of sewerage services to any transferred premises on and after the exit date.

(2) Where a supply is made, or services are provided, by an acquiring licensee under paragraph (1)—

(3) Section 63AA was inserted by paragraph 17 of Schedule 8 to the Water Act 2003. It is prospectively amended by paragraph 63 of Schedule 7 to the Water Act 2014 (c.21) from a date to be appointed. Section 110K is prospectively inserted by section 32 of the Water Act 2014 from a date to be appointed.

- (a) the terms and conditions in accordance with which the supply is to be made, or the services are to be provided, are—
 - (i) the terms and conditions provided for by a scheme under regulation 29,
 - (ii) such other terms and conditions as may be treated as having been agreed between the acquiring licensee and the owner or occupier of the premises by virtue of a transfer scheme under regulation 16, or
 - (iii) such other terms and conditions as may be agreed between the acquiring licensee and the owner or occupier of the premises, and
- (b) the supply is to be made, or the services are to be provided, until discontinued in accordance with the terms and conditions mentioned in sub-paragraph (a).

Acquiring licensee's duty to contact transferred customers

27.—(1) An acquiring licensee must take reasonable steps to notify each transferred customer, within the period of 2 months beginning with the exit date, that the acquiring licensee has taken over the supply of water or the provision of sewerage services to the customer's premises.

- (2) The notice must give the name and contact details of the acquiring licensee and—
 - (a) set out the terms and conditions in accordance with which the supply is made, or the services are provided, by the licensee; or
 - (b) provide information as to where the terms and conditions can be found on the internet.

(3) The duty imposed on an acquiring licensee by this regulation is enforceable under section 18 of the 1991 Act(4).

Modification of licence conditions of acquiring licensee

28.—(1) The WSRA may modify the conditions of a licence under Chapter 1A of Part 2 of the 1991 Act(5) where it considers it necessary or expedient to do so in consequence of the transfer to the holder of that licence of part of a relevant undertaker's undertaking under these Regulations.

(2) Where the WSRA modifies the conditions of a licence under this regulation, it may make such incidental or consequential modifications of other conditions of the licence as it considers necessary or expedient.

- (3) Before making a modification under this regulation, the WSRA must consult—
 - (a) the person holding the licence, and
 - (b) such other persons as the WSRA thinks it appropriate to consult.

(4) The power of the WSRA under this regulation to modify the conditions of a licence may not be exercised after the end of the period of one year beginning with the exit date.

(5) Section 195A of the 1991 Act (reasons for decisions)(6) applies as if the modification of the conditions of a licence under this regulation were included in the list of decisions in subsection (1) of that section.

(4) Section 18 was amended by sections 36(2) and 49(2) of, and paragraph 4 of Schedule 8 to, the Water Act 2003. It is prospectively amended by paragraph 26 of Schedule 7 to the Water Act 2014 from a date to be appointed.

(5) Chapter 1A of Part 2 of the 1991 Act was inserted by paragraph 2 of Schedule 4 to the Water Act 2003. It is prospectively amended by the Water Act 2014 from a date to be appointed.

(6) Section 195A was inserted by section 51 of the Water Act 2003. It is prospectively amended by paragraph 112 of Schedule 7 to the Water Act 2014 from a date to be appointed.

Effect on water supply or sewerage licensees generally

Schemes for terms and conditions

29.—(1) A water supply licensee or sewerage licensee that is providing or proposes to provide services under its water supply or sewerage licence in relation to a retail exit area must make, and from time to time revise, a scheme containing the terms and conditions which, in the absence of agreed terms and conditions, are to apply to such services.

(2) A scheme under this regulation may make different provision for different purposes, or for different areas.

(3) As soon as practicable after a licensee makes or revises a scheme under this regulation, the licensee must—

- (a) publish the scheme, or revised scheme, on the licensee’s website, and
- (b) send a copy of the scheme, or revised scheme, to the WSRA.

(4) The WSRA may give a direction that terms and conditions applying to a supply of water or the provision of sewerage services in accordance with a scheme under this regulation must be modified as specified in the direction.

(5) A direction under paragraph (4) may apply—

- (a) generally to terms and conditions applying in accordance with a scheme under this regulation, or
- (b) to terms and conditions so applying in any particular case.

(6) It is the duty of a water supply or sewerage licensee to comply with a direction under paragraph (4), and this duty is enforceable under section 18 of the 1991 Act.

(7) An acquiring licensee’s scheme under this regulation must provide for each transferred customer to be billed by the same method, and to pay by the same method, as immediately before the exit date.

Code about supply of water or provision of sewerage services etc. in retail exit area

30.—(1) The WSRA must issue a code in relation to—

- (a) supplies of water to which a scheme under regulation 29 relates, and
- (b) the provision of sewerage services to which a scheme under regulation 29 relates.

(2) The code may, in particular, make provision about—

- (a) terms and conditions contained in schemes under regulation 29;
- (b) licensees informing owners or occupiers of premises of their schemes, before agreeing any terms and conditions for the provision of services.

(3) If the WSRA considers that a water supply or sewerage licensee is not acting as required by provision contained in the code as mentioned in paragraph (2), the WSRA may give the licensee a direction to do, or not to do, a particular thing specified in the direction.

(4) It is the duty of a water supply or sewerage licensee to comply with a direction under paragraph (3), and this duty is enforceable under section 18 of the 1991 Act.

(5) The WSRA must from time to time review the code and, if appropriate, issue a revised code.