

WATER ACT 2014

EXPLANATORY NOTES

COMMENTARY

Part 1

Water Industry

Chapter 1

Water Supply Licences and Sewerage Licences

Introduction of sewerage licences

Section 4: Types of sewerage licence and arrangements with sewerage undertakers

47. This section inserts a new section 17BA into the WIA introducing sewerage licences. Under this section Ofwat can issue sewerage licences which give the holder certain rights with respect to the sewerage system and provision of sewerage services to eligible premises in the areas of sewerage undertakers wholly or mainly in England.
48. Subsection (2) lists the different authorisations for carrying out different activities under the sewerage licence. The purposes of these authorisations are set out in paragraphs 1 to 7 of new Schedule 2B to the WIA (Schedule 3 to the Act).
49. Subsection (7) of new section 17BA defines the sewerage system of a sewerage undertaker as the system of public sewers, the facilities for emptying them and dealing with their contents, and the lateral drains they must maintain, under the duty of a sewerage undertaker to provide a sewerage system to ensure its area is effectually drained – that is set out in section 94 of the WIA.
50. This section also inserts a new section 17BB into the WIA. Subsection (1) requires Ofwat to consult the Secretary of State, the Environment Agency and the Natural Resources Body for Wales before granting a sewerage licence with a wholesale authorisation or a disposal authorisation. The Government’s intention is that consultees are given an opportunity to assess the suitability of the applicant to use the public sewer system.
51. Subsection (2) of new section 17BB excludes sewerage undertakers from holding a sewerage licence if it contains a retail authorisation or a wholesale authorisation, which means they must set up a company, for example, if they want to enter the retail or wholesale markets. Sewerage undertakers are, however, permitted to hold licences with disposal authorisations in order to encourage more trading of wastewater and sewage sludge between sewerage undertakers’ areas.
52. The effect of subsections (3) and (4) of new section 17BB is to allow only limited companies to hold a sewerage licence with a wholesale or disposal authorisation. This allows these licensees to be subject to the special administration regime under sections 23 to 25 of the WIA should they become insolvent or fail to meet their statutory obligations where their services are designated as strategic under new sections 117N and 117O of the WIA (included within Schedule 4 to the Act). This would allow for the

These notes refer to the Water Act 2014 (c.21) which received Royal Assent on 14 May 2014

continuation of essential sewerage services to customers if the limited company gets into difficulties (administration and by extension special administration is a mechanism for handling cases involving insolvent companies rather than bankrupt individuals, partnerships etc.).

53. This section also gives effect to Schedules 3 and 4.