

WATER ACT 2014

EXPLANATORY NOTES

COMMENTARY

Part 1

Water Industry

Chapter 4

Retail Exit: Non-Household Premises

Section 43: Application for retail exit

180. **Section 43** allows exit regulations to set out the procedure for an application for retail exit (an “exit application”). The regulations would have to require the relevant undertaker to apply to the Secretary of State when making an exit application. This would mean that the Secretary of State could refuse permission for an undertaker to exit. This section also includes a non-exhaustive list of other procedural matters that might be included in the regulations, such as who must be consulted before making an exit application, the grounds for the Secretary of State to refuse the application and conditions that may be imposed by the Secretary of State before granting an exit application.
181. The grounds on which an application can be refused under the regulations might include the public interest, the interests of non-household customers or other customers, the costs associated with transferring part of the relevant undertaker’s undertaking and grounds relating to the licensee to which part of the undertaking will be transferred. For example, this might include the licensee’s share of the relevant market or the licensee’s capacity to take on the relevant customers.
182. The regulations may provide for the Secretary of State to impose conditions, for example, to ensure that customers are protected following an exit application, for example by requiring the sharing of proceeds from a transfer, or that customers are no worse off as a result of the exit.
183. Subsection (5) could be used to leave types of premises or customers, such as premises about to be demolished or customers on the point of moving to a new provider, out of the retail exit process. Regulations under subsection (6) about disclosing information could be used to help ensure that the same or similar charging arrangements are available to customers after a retail exit happens.