
STATUTORY INSTRUMENTS

2005 No. 2035

**The Water Act 2003 (Consequential and
Supplementary Provisions) Regulations 2005**

PART 3

WATER SUPPLY LICENSING

Amendments to the Water Supply (Water Quality) Regulations 2000

10.—(1) The Water Supply (Water Quality) Regulations 2000 are amended as follows.

(2) In regulation 1 (citation, commencement and application), for paragraphs (6) and (7), there is substituted—

“(6) Parts I to VIII, X and XI of these Regulations apply in relation to the supply of water using the supply system of any water undertaker whose area is not wholly or mainly in Wales.

(7) Part IX of these Regulations applies to local authorities in England, as regards the discharge of functions under that Part, in relation to the supply of water using the supply system of any water undertaker—

- (a) whose area is situated wholly in England; or
- (b) whose area is situated partly in England and partly in Wales, as regards the part of the supply system situated in England.”

(3) In regulation 2 (interpretation)—

(a) after the definition of “the 1989 Regulations”, there is inserted—

““access agreement” means an agreement made or determined under section 66D(2) of the Act(1);”;

(b) in their appropriate places, new definitions are inserted as follows—

““combined licensee” means a company which is the holder of a combined licence within the meaning of Chapter 1A of Part 2 of the Act(2);”

““relevant supplier” means a water undertaker or licensed water supplier;”

““retail licensee” means a company which is the holder of a retail licence within the meaning of Chapter 1A of Part 2 of the Act(3);”

““supply system” shall be construed in accordance with section 17B(5) of the Act(4);” and

(1) Section 66D was inserted by section 56 of, and paragraph 3 of Schedule 4 to, the Water Act 2003 (c. 37).

(2) The expression “combined licence” is defined in section 17A(6) of the Act. Chapter 1A and section 17A were inserted by section 56 of, and paragraph 2 of Schedule 4 to, the Water Act 2003.

(3) The expression “retail licence” is defined in section 17A(4) of the Act.

(4) Section 17B was inserted by section 56 of, and paragraph 2 of Schedule 4 to, the Water Act 2003.

- (c) in the definition of “consumer”, for “water undertaker” there is substituted “relevant supplier”.
- (4) In regulation 5 (interpretation and application of Part IV – monitoring of water supplies), for paragraph (3) there is substituted—
- “(3) This Part applies to water supplied for regulation 4(1) purposes by a relevant supplier in the performance of its duties under Chapter III.
- (4) Regulations 5 to 9 apply to a combined licensee in relation to samples taken from supply points as they apply to a water undertaker, but only in so far as the combined licensee is introducing water into a water supply zone in which the water undertaker takes samples under this Part (to the extent authorised by or under regulation 8) from supply points.”.
- (5) In regulation 6 (monitoring: general provisions)—
- (a) in paragraph (1), for “its water supply zones” there is substituted “the water supply zones which it supplies”; and
- (b) in paragraph (9), after “monitor” there is inserted “or cause to be monitored”.
- (6) In regulation 8 (authorisation of supply points), in paragraph (2), after “water undertaker” there is inserted “or on the joint written application of a water undertaker and combined licensee”.
- (7) In regulation 9 (numbers of samples), in paragraph (2)(a), “by it” is omitted and after “water supply zone” there is inserted “which it supplies”.
- (8) In regulation 10 (sampling: further provisions)—
- (a) for “water undertaker” there is substituted “relevant supplier”; and
- (b) for “its water supply zones” there is substituted “the water supply zones which it supplies”.
- (9) In regulation 12 (sampling for particular substances and parameters), at the end there is inserted—
- “(2) For the purposes of establishing the quality of water to be supplied in any supply system into which a combined licensee introduces water, a combined licensee shall take, or cause to be taken, and analyse, or cause to be analysed, not less than the number of samples specified in this Part.”,
- and the text preceding this paragraph in regulation 12 is renumbered as paragraph (1) of that regulation.
- (10) In regulation 13 (sampling at treatment works)—
- (a) in paragraph (1)—
- (i) for “a water undertaker”, there is substituted “every water undertaker or combined licensee”; and
- (ii) for “serves its”, there is substituted “it uses to supply water to”; and
- (b) in paragraph (4), after “water undertaker” there is inserted “or combined licensee”.
- (11) In regulation 14 (sampling at service reservoirs), for “A water undertaker” there is substituted “Every water undertaker or combined licensee”.
- (12) In regulation 15 (sampling: new sources)—
- (a) in paragraph (1), after “water undertaker”, in each place where it appears, there is inserted “or combined licensee”;
- (b) in paragraph (2), for “A water undertaker” there is substituted “Every water undertaker or combined licensee”; and
- (c) in paragraph (3)—

- (i) in sub-paragraph (a)(ii), for “undertaker” there is substituted “water undertaker or combined licensee proposing to use the source”; and
 - (ii) in sub-paragraph (b)(iii), after “water undertaker” there is inserted “or combined licensee proposing to use the source”.
- (13) In regulation 16 (collection and analysis of samples)—
 - (a) in paragraph (1), for “A water undertaker” there is substituted “Every water undertaker or combined licensee”;
 - (b) in paragraph (2)(e)(i), for “either the laboratory or the undertaker” there is substituted “the laboratory, the water undertaker or the combined licensee”;
 - (c) in paragraph (4), for “A water undertaker” there is substituted “Every water undertaker or combined licensee”; and
 - (d) in paragraph (11), after “water undertaker” there is inserted “or combined licensee”.
- (14) In regulation 17 (investigations: Schedule 1 parameters)—
 - (a) in paragraph (1)—
 - (i) for “a water undertaker has reason to believe that water supplied by it for regulation 4(1) purposes” there is substituted “a water undertaker or combined licensee has reason to believe that water of a relevant description”; and
 - (ii) in the words after sub-paragraph (c), after “water undertaker”, there is inserted “or combined licensee”;
 - (b) after paragraph (1), there is inserted—

“(1A) In this regulation, “water of a relevant description” means water supplied by a relevant supplier which uses a supply system for the purposes of supplying water to consumers, being a supply system into which the water undertaker or combined licensee introduces water.”;
 - (c) in paragraph (3)(b), for “water undertaker which has reason to believe that water supplied by it for regulation 4(1) purposes” there is substituted “every water undertaker or combined licensee which has reason to believe that water of a relevant description”;
 - (d) for paragraph (5), there is substituted—

“(5) As soon as may be after the matters specified in paragraph (2) or (4), as the case may be, have been identified, the water undertaker or combined licensee shall—

 - (a) notify the Secretary of State—
 - (i) of those matters;
 - (ii) whether it is its opinion that, in relation to each parameter identified in accordance with paragraph (2)(b) or (4)(b), a failure in respect of that parameter is likely to recur; and
 - (iii) of the action (if any) taken by it in relation to a failure which is attributable to the domestic distribution system or the maintenance of that system; and
 - (b) send a copy of that notice to any other relevant supplier which uses the supply system for the purposes of supplying water to consumers who are likely to be affected by the failure.”;
 - (e) for paragraph (6) there is substituted—

“(6) Where the water undertaker or combined licensee has identified a failure attributable to the domestic distribution system or to the maintenance of such a system, it shall, at the same time as notification is given under paragraph (5)—

 - (a) by notice in writing—

- (i) to those of its consumers who are likely to be affected by the failure, and
 - (ii) to any other relevant supplier which uses the supply system for the purposes of supplying water to consumers who are likely to be affected by the failure,

inform them of the nature of the failure and provide details of the steps (if any) that, in its opinion, it is necessary or desirable for those consumers to take in the interests of their health; and
- (b) send a copy of that notice to the Secretary of State and to each appropriate local authority.
- (6A) A relevant supplier which receives a notice under paragraph (6)(a)(ii) shall immediately send or cause to be sent a copy of that notice to those of its consumers who are likely to be affected by the failure.”;
- (f) in paragraphs (7) and (8), after “water undertaker”, in each place where it appears, there is inserted “or combined licensee”; and
- (g) in paragraph (9), for “water undertaker”, there is substituted “relevant supplier”.
- (15) In regulation 18 (investigations: indicator parameters)—
 - (a) in paragraph (1) for “water undertaker has reason to believe that water supplied by it for regulation 4(1) purposes” there is substituted “water undertaker or combined licensee has reason to believe that water of a relevant description”;
 - (b) after paragraph (1), there is inserted—

“(1A) In this regulation, “water of a relevant description” means water supplied by a relevant supplier which uses a supply system for the purposes of supplying water to consumers, being a supply system into which the water undertaker or combined licensee introduces water.”;
 - (c) for paragraph (2), there is substituted—

“(2) As soon as may be after the matters specified in paragraph (1) have been identified, the water undertaker or combined licensee shall—

 - (a) notify the Secretary of State—
 - (i) of those matters;
 - (ii) whether it is its opinion that, in relation to each parameter identified in accordance with paragraph (1)(b), a recurrence of the inability to meet the specification in respect of that parameter is likely; and
 - (b) send a copy of that notice to any other relevant supplier which uses the supply system for the purposes of supplying water to consumers who are likely to be affected by the failure.”;
 - (d) for paragraph (3) there is substituted—

“(3) Where, in a case to which paragraph (1)(c) applies, the inability to meet the specification has been identified as attributable to the domestic distribution system or to the maintenance of that system, the water undertaker or combined licensee shall, at the same time as notification is given under paragraph (2)—

 - (a) by notice in writing—
 - (i) to those of its consumers who are likely to be affected by the failure, and
 - (ii) to any other relevant supplier which uses the supply system for the purposes of supplying water to consumers who are likely to be affected by the failure,

inform them of the nature of the failure and provide details of the steps (if any) that, in its opinion, it is necessary or desirable for those consumers to take in the interests of their health; and

- (b) send a copy of that notice to the Secretary of State and to each appropriate local authority.

(3A) A relevant supplier which receives a notice under paragraph (3)(a)(ii) shall immediately send or cause to be sent a copy of that notice to those of its consumers who are likely to be affected by the failure.”; and

- (e) in paragraph (4), after “water undertaker”, there is inserted “or combined licensee”.

(16) In regulation 19 (action by the Secretary of State)—

- (a) in paragraphs (1) and (4), for “the water undertaker, require the water undertaker” there is substituted “any relevant supplier which uses the supply system for the purposes of supplying water to consumers in respect of which the notification was given, require that relevant supplier”; and

- (b) in paragraph (5), for “water undertaker” there is substituted “relevant supplier”.

(17) In regulation 20 (authorisation of temporary supply of water that is not wholesome)—

- (a) in paragraph (1)—

- (i) for “water undertaker”, there is substituted “relevant supplier”; and

- (ii) for sub-paragraph (b), there is substituted—

- “(b) the supply of water by a relevant supplier in any of the water supply zones which it uses for the purposes of supplying water to consumers.”;

- (b) in paragraph (3)—

- (i) for “A water undertaker” there is substituted “Every water undertaker or combined licensee”; and

- (ii) in sub-paragraph (c), after “to take” there is inserted “, either alone or together with other relevant suppliers.”; and

- (c) in paragraph (4), after “water undertaker”, there is inserted “or combined licensee”.

(18) In regulation 23 (publicity for authorisations)—

- (a) in the words before sub-paragraph (a), for “water undertaker” there is substituted “specified relevant suppliers jointly”;

- (b) in sub-paragraph (b), for “undertaker” there is substituted “specified relevant suppliers”; and

- (c) at the end there is inserted—

- “(2) In this regulation “specified relevant suppliers” means relevant suppliers—

- (a) who use the same water supply zone for the purposes of supplying water to consumers; and

- (b) for the purposes of that supply, rely on an authorised departure relating to the same facts.”;

and the text preceding this paragraph in regulation 23 is renumbered as paragraph (1) of that regulation.

(19) In regulation 24 (revocation and modification of authorisations)—

- (a) in paragraph (2)(a) and paragraph (3), for “water undertaker” there is substituted “relevant supplier”; and

- (b) after paragraph (2)(a), there is inserted—

“(aa) any other relevant supplier which, for the purposes of supplying water to consumers, uses the water supply zone in respect of which the authorised departure has been given,”.

(20) In regulation 26 (treatment of raw water), after “water undertaker”, in each place where it appears, there is inserted “or combined licensee”.

(21) In regulation 27 (risk assessment for cryptosporidium), in paragraphs (3), (4) and (5), after “water undertaker” there is inserted “or combined licensee”.

(22) In regulation 28 (procedure following risk assessment, and prohibition of supply), after “water undertaker”, in each place where it appears, there is inserted “or combined licensee”.

(23) In regulation 29 (treatment for cryptosporidium), in paragraphs (2), (4), (9) (in each place where it appears), (10) and (13), after “water undertaker” there is inserted “or combined licensee”.

(24) In regulation 30 (contamination from pipes)—

(a) in paragraph (1)—

(i) in the words before sub-paragraph (a), for “water undertaker” there is substituted “relevant supplier” and for “undertaker’s pipes” there is substituted “relevant supplier’s pipes”; and

(ii) in the words after sub-paragraph (b), for “the water undertaker” there is substituted “every water undertaker or combined licensee which introduces water into the supply system used by the relevant supplier”;

(b) in paragraph (3), for “an undertaker” there is substituted “a water undertaker or combined licensee”;

(c) in paragraph (4) (in each place where it appears), and in paragraph (5)(c), for “water undertaker” there is substituted “relevant supplier”; and

(d) in paragraph (5)(c), for “the undertaker” there is substituted “the relevant supplier”.

(25) In regulation 31 (application and introduction of substances and products)—

(a) in paragraphs (2), (4)(c), (7) and (8), after “water undertaker” there is inserted “or combined licensee”; and

(b) in paragraph (8), for “the undertaker” there is substituted “the water undertaker or combined licensee”.

(26) In regulation 32 (use of processes), after “water undertaker”, in each place where it appears, there is inserted “or combined licensee”.

(27) In regulation 33 (offences)—

(a) in paragraphs (1), (3) and (4), after “water undertaker” there is inserted “or combined licensee”; and

(b) in paragraph (4), for “that undertaker” there is substituted “that water undertaker or combined licensee”.

(28) In regulation 34 (maintenance of records)—

(a) in paragraph (1)—

(i) for the words before sub-paragraph (a), there is substituted—

“Every water undertaker or combined licensee shall, in respect of each of the water supply zones which it uses for the purposes of supplying water to consumers, prepare and maintain a record containing—”; and

(ii) in sub-paragraphs (e) and (g), for “undertaker”, in each place where it appears, there is substituted “water undertaker or combined licensee”;

- (b) after paragraph (1), there is inserted—
 - “(1A) A retail licensee shall, in respect of each of the water supply zones which it uses for the purposes of supplying water to consumers, prepare and maintain a record containing—
 - (a) the name of the zone;
 - (b) particulars of any departure authorised under Part VI of these Regulations which applies to water supplied in the zone;
 - (c) particulars of the action taken or required to be taken by the retail licensee to comply with—
 - (i) any enforcement order made under section 18 of the Act;
 - (ii) any departure authorised under Part VI; and
 - (iii) any notice under regulation 19(4); and
 - (d) such other particulars as the retail licensee may determine.”;
 - (c) in paragraph (2)—
 - (i) in the words before sub-paragraph (a), for “An undertaker” there is substituted “A water undertaker or combined licensee”;
 - (ii) in sub-paragraph (a), after “2004”, there is inserted “or, in the case of a combined licensee, no later than 3 months after the day on which it first introduces water into a supply system for the purposes of supplying water to consumers”; and
 - (iii) in sub-paragraph (c), for “undertaker” there is substituted “water undertaker or combined licensee”;
 - (d) after paragraph (2), there is inserted—
 - “(2A) A retail licensee shall make—
 - (a) initial entries in the record in respect of the matters mentioned in paragraph (1A) (a), (b) and (c)(ii) no later than 3 months after the day on which it first uses a supply system for the purposes of supplying water to consumers; and
 - (b) entries in respect of the matters mentioned in paragraph (1A)(c)(i) and (iii) within 28 days of the date of the order and notice respectively.”;
 - (e) in paragraph (3)—
 - (i) for “undertaker” there is substituted “relevant supplier”; and
 - (ii) after “paragraph (1)” there is inserted “or paragraph (1A) (as the case may be)”; and
 - (f) in paragraph (4)—
 - (i) in the words before sub-paragraph (a), for “an undertaker” there is substituted “a relevant supplier”;
 - (ii) in sub-paragraph (a), after “paragraph (1)” there is inserted “or in sub-paragraph (a) of paragraph (1A)”; and
 - (iii) in sub-paragraph (b), for “that paragraph” there is inserted “paragraph (1) or paragraph (1A)”.
- (29) Regulation 35 (provision of information) is amended as follows—
- (a) in paragraph (1), for “water undertaker” there is substituted “relevant supplier”;
 - (b) in paragraph (2)—
 - (i) in the words before sub-paragraph (a), for “water undertaker” there is substituted “relevant supplier”; and

- (ii) in sub-paragraph (b), for “undertaker” there is substituted “relevant supplier”;
- (c) in paragraph (4)—
 - (i) in the words before sub-paragraph (a), after “water supplied” there is inserted “by any relevant supplier”; and
 - (ii) in sub-paragraph (d), in the words before paragraph (i), for “the undertaker” there is substituted “each relevant supplier”;
- (d) after paragraph (4), there is inserted—

“(4A) A licensed water supplier shall provide the water undertaker with such information as the water undertaker may reasonably request for the purposes of sending information to a local authority under paragraph (4).”; and
- (e) in paragraphs (8), (9) and (10), for “water undertaker” there is substituted “relevant supplier”.
- (30) In regulation 36 (publication of information)—
 - (a) in paragraph (1)—
 - (i) in the words before sub-paragraph (a), for “the preceding year containing” there is substituted “the water supplied by relevant suppliers in its area of appointment in the preceding year and containing”;
 - (ii) in sub-paragraph (a), for “it supplied water” there is substituted “water was supplied”
 - (iii) in sub-paragraph (c), “its” is omitted;
 - (iv) in sub-paragraph (d), “its” is omitted;
 - (v) in sub-paragraph (f), for “undertaker” there is substituted “relevant suppliers”; and
 - (vi) in sub-paragraph (g), for “water undertaker” there is substituted “relevant suppliers”;
 - (b) after paragraph (3), there is inserted—

“(3A) A licensed water supplier shall provide the water undertaker with such information as the water undertaker may reasonably request for the purposes of preparing its report under paragraph (1).”;
 - (c) in paragraph (4)(a) for “water undertaker’s treatment works” there is substituted “treatment works of the water undertaker and treatment works of combined licensees”; and
 - (d) in paragraph (5)(a), for “water undertaker’s service reservoirs” there is substituted “service reservoirs of the water undertaker and service reservoirs of combined licensees”.
- (31) In regulation 37 (application and interpretation), for paragraph (2), there is substituted—

“(2) In this Part “specified relevant supplier”, in relation to a local authority, means—

 - (a) a water undertaker any of whose water supply zones include an area which is situated within the area of that authority; or
 - (b) a licensed water supplier which uses any such water supply zones for the purposes of supplying water to consumers.”.
- (32) In regulation 38 (duties of local authorities: supplementary provision)—
 - (a) in paragraph (1)(a), for “relevant water undertaker” there is substituted “specified relevant supplier”;
 - (b) in paragraph (2)(a), after “A water undertaker” there is inserted “or combined licensee”; and
 - (c) for paragraph (2)(b) there is substituted—

“(b) in paragraph (2)(e), for the words “the laboratory, the water undertaker or the combined licensee” there is substituted “the laboratory, the water undertaker, the combined licensee or the authority”.”.

(33) In regulation 39 (contraventions by water undertakers) for “water undertaker” there is substituted “relevant supplier”.