

2015 No. 1938 (C. 119)

WATER INDUSTRY, ENGLAND AND WALES

The Water Act 2014 (Commencement No. 5 and Transitional Provisions) Order 2015

Made - - - - *24th November 2015*

The Secretary of State and the Welsh Ministers make the following Order in exercise of the powers conferred by sections 91(1) 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. 5 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.

Provisions of the 2014 Act coming into force on 18th December 2015

2. The following provisions of the 2014 Act come into force on 18th December 2015—

- (a) section 6 (arrangements with the Water Industry Commission for Scotland) as follows—
 - (i) subsection (1) so far as it relates to sub-paragraph (ii); and
 - (ii) subsection (2) so far as it inserts section 17FA into the 1991 Act;
- (b) section 10 (agreements by water undertakers to adopt infrastructure)(c) as follows—
 - (i) subsection (1) so far as it relates to sub-paragraph (ii); and
 - (ii) subsection (3) so far as it inserts sections 51CD to 51CG into the 1991 Act;
- (c) section 11 (agreements by sewerage undertakers to adopt infrastructure)(d) as follows—
 - (i) subsection (1) so far as it relates to sub-paragraph (ii); and
 - (ii) subsection (3) so far as it inserts sections 105ZF to 105ZI into the 1991 Act;
- (d) section 14 (exceptions to duty and undertakings in lieu of merger references), so far as not already in force;

(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) The Secretary of State is the appropriate authority for the purposes of section 10 in relation to wholly or mainly English undertakers and the Welsh Ministers are the appropriate authority in relation to wholly or mainly Welsh undertakers.

(d) The Secretary of State is the appropriate authority for the purposes of section 11 in relation to wholly or mainly English undertakers and the Welsh Ministers are the appropriate authority in relation to wholly or mainly Welsh undertakers.

- (e) section 22 (primary duty to secure resilience)(a), so far as not already in force;
- (f) section 56 (further amendments) so far as it relates to paragraph (g); and
- (g) in Schedule 7 (further amendments)—
 - (i) paragraph 3(8)(b) so far as it relates to sections 51CD to 51CG and 105ZF to 105ZI of the 1991 Act;
 - (ii) paragraphs 2 and 3(1), (2) and (8)(a) and (c) so far as they relate to sub-paragraph (i);
 - (iii) paragraph 147; and
 - (iv) paragraph 143 so far as it relates to sub-paragraph (iii).

Provisions of the 2014 Act coming into force on 1st January 2016

- 3.** The following provisions of the 2014 Act come into force on 1st January 2016—
- (a) section 1 (types of water supply licence and arrangements with water undertakers) as follows—
 - (i) subsection (1) so far as it substitutes section 17A(2) to (6) of the 1991 Act(b); and
 - (ii) subsection (2);
 - (b) section 4 (types of sewerage licence and arrangements with sewerage undertakers) as follows—
 - (i) subsection (1) so far as it inserts section 17BA(2) to (5) into the 1991 Act; and
 - (ii) subsection (2);
 - (c) section 56 so far as it relates to paragraph (f);
 - (d) Schedule 1 (water supply licences: authorisations);
 - (e) Schedule 3 (sewerage licences: authorisations); and
 - (f) in Schedule 7—
 - (i) paragraph 11;
 - (ii) paragraph 12(2);
 - (iii) paragraph 12(1) so far as it relates to sub-paragraph (ii);
 - (iv) paragraph 13;
 - (v) paragraph 15(3), (4)(a), (c) and (d) and (5);
 - (vi) paragraph 15(1) so far as it relates to sub-paragraph (v);
 - (vii) paragraphs 16 to 18; and
 - (viii) paragraph 2 so far as it relates to sub-paragraphs (i) to (vii).

Transitional provisions

4.—(1) Despite the commencement of section 1 of the 2014 Act in relation to section 17A(5) of the 1991 Act, the general authorisation given by the Secretary of State to the Authority under section 17A(1) of the 1991 Act continues to have effect in relation to an old water supply licence, until the old water supply licence has been withdrawn or replaced with a new water supply licence.

(2) Until section 1 of the 2014 Act comes into force to the extent that it substitutes section 17A(1) of the 1991 Act, section 17A(2) to (6) of the 1991 Act continues to have effect in relation to an old water supply licence as it was prior to being substituted by the 2014 Act.

(a) The Welsh Ministers are the appropriate authority for the purposes of section 22 in relation to wholly or mainly Welsh undertakers, (see section 94(2)(e) as regards commencement in relation to wholly or mainly English undertakers).

(b) Section 17A of the 1991 Act was inserted by paragraph 2 of Schedule 4 to the Water Act 2003 (c.37).

(3) Guidance issued by the Authority under section 17D(3) of the 1991 Act(a) on estimates of the quantity of water to be supplied to any premises applies to a new water supply licensee so far as its licence relates to the use of the supply system of a wholly or mainly Welsh undertaker as it currently applies to an old water supply licensee.

(4) Guidance issued by the Authority under section 17A(9) of the 1991 Act (prior to that section being substituted by the 2014 Act) on the factors to be taken into account in determining the extent of any premises for the purposes of section 17A(3) of the 1991 Act has effect as if it was published under paragraph 10 of Schedule 2A and paragraph 4 of Schedule 2B to the 1991 Act.

(5) In this article—

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

“new water supply licence” has the meaning given in paragraph 11 of Schedule 11 to the 2014 Act(c);

“new water supply licensee” means a person who is the holder for the time being of a new water supply licence;

“old water supply licence” has the meaning given in paragraph 11 of Schedule 11 to the 2014 Act(d);

“old water supply licensee” means a person who is the holder for the time being of an old water supply licence.

24th November 2015

Rory Stewart
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

24th November 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 fifth commencement order made under the Water Act 2014 (c.21) (“the 2014 Act”) in relation to England and Wales. The Water Act 2014 (Commencement No. 1 and Transitional Provisions) (Wales) Order 2015 (S.I. 2015/1786 (W.249) (C.110)) is the first commencement order to have been made by the Welsh Ministers only.

Article 2 brings into force on 18th December 2015 provisions which allow the Secretary of State to make regulations (in parallel with an order made by the Scottish Ministers) that would allow the Water Services Regulation Authority (“Ofwat”) and the Water Industry Commission for Scotland to enable a single application for a water or a sewerage licence in both jurisdictions to be made. Article 2 also brings into force the remainder of section 14 of the 2014 Act which amends the special merger provisions in the Water Industry Act 1991 (c.56). This new special merger regime allows the Competition and Markets Authority (CMA) to determine whether or not to make a merger reference. It also enables the CMA to accept undertakings from the parties to the merger instead of making a merger reference.

(a) Section 17D of the 1991 Act was inserted by paragraph 2 of Schedule 4 to the Water Act 2003.

(b) See section 1A(1) of the 1991 Act.

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

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

Article 3 brings into force on 1st January 2016 provisions relating to water supply licences and sewerage licences.

Article 4 contains transitional provisions.

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

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the 2014 Act have been or will be 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 1 (partially)	1st September 2015	2015/773
Section 1 (partially)	1st September 2015	2015/1469
Section 4 (partially)	1st September 2015	2015/773
Section 4 (partially)	1st September 2015	2015/1469
Section 7 (partially)(a)	20th November 2015	2015/360
Section 8 (partially)	6th April 2015	2015/773
Section 14 (partially)	6th April 2015	2015/773
Section 16 (partially)	15th July 2015	2015/1469
Section 16 (for all remaining purposes)	1st November 2015	2015/1469
Section 17 (partially)	6th April 2015	2015/773
Section 17 (partially)	15th July 2015	2015/1469
Section 23 (partially)	1st January 2015	2014/3320
Section 23 (partially)	6th April 2015	2015/773
Section 24	6th April 2015	2015/773
Section 29 (partially)	1st January 2015	2014/3320
Section 29 (partially)	15th July 2015	2015/1469
Section 30 (partially)	1st January 2015	2014/3320
Section 30 (partially)	15th July 2015	2015/1469
Section 38 (partially)	1st January 2015	2014/3320
Section 38 (partially)	6th April 2015	2015/773
Section 40(1)	14th July 2014	2014/1823
Section 41	1st November 2015	2015/1786 (W.249)
Sections 42 to 47	6th April 2015	2015/773
Section 49	6th April 2015	2015/773
Sections 51 to 52	6th April 2015	2015/773
Section 53 (partially)	6th April 2015	2015/773
Section 55	1st January 2015	2014/3320
Section 56 (partially)	1st January 2015	2014/3320
Section 56 (partially)	15th July 2015	2015/1469
Section 56 (partially)	1st September 2015	2015/1469
Section 56 (partially)	1st November 2015	2015/1469
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 2 (partially)	1st September 2015	2015/773
Schedule 2 (partially)	1st September 2015	2015/1469
Schedule 4 (partially)	1st September 2015	2015/773
Schedule 4 (partially)	1st September 2015	2015/1469
Schedule 7 (partially)	1st January 2015	2014/3320
Schedule 7 (partially)	15th July 2015	2015/1469

(a) Section 7 was partially brought into force by the Scottish Ministers.

Schedule 7 (partially)	1st September 2015	2015/1469
Schedule 7 (partially)	1st November 2015	2015/1469
Schedule 9	14th July 2014	2014/1823

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