STATUTORY INSTRUMENTS

2017 No. 462 (C. 41)

WATER INDUSTRY, ENGLAND AND WALES

The Water Act 2014 (Commencement No. 9 and Transitional Provisions) Order 2017

Made - - - - 22nd March 2017

The Secretary of State makes this Order in exercise of the powers conferred by sections 91(1) and 94(3) of, and paragraphs 6 to 10 of Schedule 11 to, the Water Act 2014(**1**).

The Secretary of State has consulted the Welsh Ministers in accordance with paragraphs 8(6), 9(3) and 10(4) of Schedule 11 to the Water Act 2014.

Citation and interpretation

1.—(1) This Order may be cited as the Water Act 2014 (Commencement No. 9 and Transitional Provisions) Order 2017.

(2) In this Order—

"the 1991 Act" means the Water Industry Act 1991(**2**);

"the 2014 Act" means the Water Act 2014;

"the Authority" means the Water Services Regulation Authority;

"new retail authorisation" means a retail authorisation given by a new water supply licence;

"new supplementary authorisation" means a supplementary authorisation given by a new water supply licence;

"new water supply licence" means a water supply licence granted under new section 17A of the 1991 Act(**3**) and "new water supply licensee" is to be construed accordingly;

"new wholesale authorisation" means a wholesale authorisation given by a new water supply licence;

"old water supply licence" means a water supply licence granted under old section 17A of the 1991 Act(**4**) and "old water supply licensee" is to be construed accordingly;

"relevant undertaker" means a water undertaker or a sewerage undertaker;

(**1**) 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.
(**2**) 1991 c.56.
(**3**) Section 17A was substituted by section 1(1) of the 2014 Act.
(**4**) Old section 17A was inserted by paragraph 2 of Schedule 4 to the Water Act 2003 (c.37).

"threshold requirement" is to be construed in accordance with old section 17D of the 1991 Act(**5**), as the requirement applies to premises supplied with water using the supply system of a water undertaker whose area is wholly or mainly in England.

(3) In this Order—

(a) a reference to an old provision is a reference to a provision of the 1991 Act as it had effect before the coming into force of an amendment or repeal of that provision made by the 2014 Act;

(b) a reference to a new provision is a reference to—

(i) a provision of the 1991 Act after an amendment of that provision made by the 2014 Act has come into force, or

(ii) a provision of the 1991 Act that was inserted by the 2014 Act.

Provisions of the 2014 Act coming into force on 30th March 2017

2. The following provisions of the 2014 Act come into force on 30th March 2017—

(a) subsection (3) of section 1 (types of water supply licence and arrangements with water undertakers) so far as it relates to paragraph (c);

(b) subsection (3) of section 4 (types of sewerage licence and arrangements with sewerage undertakers) so far as it relates to paragraph (d);

(c) paragraph 4 of Schedule 2 (water undertakers' duties as regards water supply licensees) so far as not already in force;

(d) Schedule 4 (sewerage undertakers' duties as regards sewerage licensees) so far as it inserts the following provisions into the 1991 Act—

(i) section 117F;

(ii) section 117G so far as not already in force;

(iii) section 117H.

Provisions of the 2014 Act coming into force on 1st April 2017

3. The following provisions of the 2014 Act come into force on 1st April 2017—

(a) subsection (3) of section 1 (types of water supply licence and arrangements with water undertakers) so far as it relates to paragraph (i);

(b) section 2 (the supply system of a water undertaker);

(c) subsection (3) of section 4 (types of sewerage licence and arrangements with sewerage undertakers) so far as it relates to paragraph (j);

(d) section 10 (agreements by water undertakers to adopt infrastructure) as follows—

(i) subsection (1) so far as it relates to sub-paragraph (ii);

(ii) subsection (3) so far as it—

(aa) substitutes section 51B(6) of the 1991 Act so far as it confers power on the Secretary of State to make regulations or make provision in relation to the exercise of that power;

(bb) inserts section 51CB into the 1991 Act;

(e) section 11 (agreements by sewerage undertakers to adopt infrastructure) as follows—

(**5**) Section 17D was inserted by paragraph 2 of Schedule 4 to the Water Act 2003 and amended by S.I. 2011/3014 and paragraph 12 of Schedule 7 to the 2014 Act.

(i) subsection (1) so far as it relates to sub-paragraph (ii);

(ii) subsection (3) so far as it inserts section 105ZD into the 1991 Act;

(f) section 31 (interim duty: water supply);

(g) section 32 (interim duty: sewerage services) so far as not already in force;

(h) section 56 (further amendments) so far as it relates to paragraph (k);

(i) Schedule 2 (water undertakers' duties as regards water supply licensees) as follows—

(i) paragraph 1 so far as it substitutes sections 66A, 66AA and 66C of the 1991 Act;

(ii) paragraph 2 except as it relates to section 66CA(1)(c), (2) and (3) of the 1991 Act;

(iii) paragraph 3;

(iv) paragraph 5 so far as not already in force;

(v) paragraphs 6 to 8;

(vi) paragraph 9 so far as not already in force.

(j) Schedule 4 (sewerage undertakers' duties as regards sewerage licensees) so far as it inserts the following provisions into the 1991 Act—

(i) sections 117A and 117B;

(ii) section 117E so far as it relates to sections 117A and 117B of the 1991 Act;

(iii) section 117M;

(iv) section 117P so far as not already in force;

(k) Schedule 7 (further amendments) as follows—

(i) paragraph 2 so far as it relates to sub-paragraphs (ii) to (xxiii);

(ii) paragraph 3 so far as not already in force;

(iii) paragraph 10 so far as not already in force;

(iv) paragraph 12 so far as not already in force;

(v) paragraph 35 as follows—

(aa) sub-paragraph (1) so far as it relates to paragraphs (bb) to (ee);

(bb) sub-paragraph (2) except as it relates to qualifying sewerage licensees;

(cc) sub-paragraph (3);

(dd) sub-paragraph (7) so far as it substitutes section 23(4)(b)(i) of the 1991 Act;

(ee) sub-paragraphs (8) and (9);

(vi) paragraphs 36 to 38 except as they relate to qualifying sewerage licensees;

(vii) paragraphs 58 to 61;

(viii) paragraph 73;

(ix) paragraph 74 so far as not already in force;

(x) paragraph 85;

(xi) paragraph 90 so far as it relates to a retail authorisation;

(xii) paragraph 93 so far as it relates to a retail authorisation;

(xiii) paragraph 96;

(xiv) paragraph 98 as follows—

(aa) sub-paragraph (1) so far as it relates to paragraph (bb);

(bb) sub-paragraphs (3) and (4);

(xv) paragraph 100;

(xvi) paragraph 105 so far as not already in force;

(xvii) paragraph 108 so far as not already in force;

(xviii) paragraph 111;

(xix) paragraph 112 so far as not already in force;

(xx) paragraph 115 so far as not already in force;

(xxi) paragraph 118;

(xxii) paragraph 120 as follows—

(aa) sub-paragraph (1) so far as it relates to paragraph (bb);

(bb) sub-paragraph (3) so far as it relates to sections 51CA and 51CB of the 1991 Act;

(xxiii) paragraph 123;

(xxiv) paragraphs 128 to 130;

(xxv) paragraphs 136 to 142.

Provisions of the 2014 Act coming into force on 1st October 2017

4. The following provisions of the 2014 Act come into force on 1st October 2017—

(a) section 10 (agreements by water undertakers to adopt infrastructure) so far as not already in force;

(b) section 11 (agreements by sewerage undertakers to adopt infrastructure) so far as not already in force;

(c) section 56 (further amendments) so far as it relates to paragraph (d);

(d) Schedule 7 (further amendments) as follows—

(i) paragraph 2 so far as it relates to sub-paragraphs (ii) to (iv);

(ii) paragraphs 91 and 92;

(iii) paragraphs 94 and 95;

(iv) paragraph 98 so far as not already in force.

Provisions of the 2014 Act coming into force on 1st April 2018

5. The following provisions of the 2014 Act come into force on 1st April 2018—

(a) section 18 (charges for providing a water main etc.);

(b) section 19 (charges for providing a public sewer etc.);

(c) section 20 (charges for moving pipes);

(d) section 56 (further amendments) so far as it relates to paragraph (e);

(e) Schedule 7 (further amendments) as follows—

(i) paragraph 2 so far as it relates to sub-paragraphs (ii) and (iii);

(ii) paragraphs 54 to 57;

(iii) paragraphs 87 to 89.

Transitional provisions in relation to new section 66A of the 1991 Act

6. Until new section 66B(1) of the 1991 Act(**6**) comes into force—

(a) in new section 66A(5)(a)(ii) of the 1991 Act(**7**), the reference to a request under section 66B(1) of the 1991 Act is to be treated as a reference to a request under old section 66B(1) or (2) of the 1991 Act(**8**);

(b) in new section 66A(5)(b)(i) of the 1991 Act, the reference to a request under section 66B(2) or (3) of the 1991 Act is to be treated as a reference to a request under old section 66B(1) or (2) of the 1991 Act.

Transitional provisions in relation to old section 66B of the 1991 Act

7.—(1) Until new section 66B(1) of the 1991 Act comes into force, old section 66B of the 1991 Act applies as if the modifications in paragraphs (2) to (8) have effect.

(2) A reference to a qualifying licensed water supplier is to be treated as a reference to a qualifying water supply licensee.

(3) A reference to a retail authorisation is to be treated as a reference to a restricted retail authorisation given by a new water supply licence, or a new retail authorisation, as appropriate.

(4) A reference to the supply system of a water undertaker is to be treated as a reference to the supply system of a water undertaker as it is described in old section 17B of the 1991 Act(**9**).

(5) Old section 66D(1) of the 1991 Act applies in relation to a case referred to the Authority for a determination as to whether any condition specified in old section 66B(5) or (6) of the 1991 Act is satisfied and a reference to a licensed water supplier in old section 66D(1) of the 1991 Act is to be treated as a reference to a qualifying water supply licensee.

(6) Old sections 66D(2) to (8), 66E and 66F of the 1991 Act apply for the purpose of determining —

(a) the period for which, and

(b) the terms and conditions on which,

a water undertaker's duties under old section 66B of the 1991 Act are to be performed and a reference to a licensed water supplier in old sections 66D(2) to (8), 66E and 66F of the 1991 Act is to be treated as a reference to a qualifying water supply licensee.

(7) A reference to treatment works is to be construed as follows—

(a) in relation to a water undertaker whose area is wholly or mainly in England, as a reference to works developed or maintained by the water undertaker for the purpose of complying with its duty under section 37 of the 1991 Act(**10**);

(b) in relation to a water undertaker whose area is wholly or mainly in Wales, as a reference to works designated from time to time by the Welsh Ministers as treatment works for the purposes of old section 66B(8)(a) of the 1991 Act;

(c) in relation to a qualifying water supply licensee with a new supplementary authorisation, as a reference to works designated from time to time by the Welsh Ministers as treatment works for the purposes of old section 66B(8)(b) of the 1991 Act;

(**6**) Section 66B was substituted by paragraph 1 of Schedule 2 to the 2014 Act from a date to be appointed.
(**7**) Section 66A was substituted by paragraph 1 of Schedule 2 to the 2014 Act.
(**8**) Old section 66B was inserted by paragraph 3 of Schedule 4 to the Water Act 2003.
(**9**) Old section 17B was inserted by paragraph 2 of Schedule 4 to the Water Act 2003 (c.37).
(**10**) Section 37 was amended by section 26(2) of the Water Act 2003 and paragraph 46 of Schedule 7 to the 2014 Act.