STATUTORY INSTRUMENTS

2017 No. 246

WATER INDUSTRY, ENGLAND AND WALES

The Water Supply and Sewerage Services (Customer Service Standards) (Amendment) Regulations 2017

Made - - - -	*28th February 2017*
Laid before Parliament	*3rd March 2017*
Coming into force - -	*1st April 2017*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 38(2) to (4), 38ZA(2) to (4), 95(2) to (4), 95ZA(2) to (4) and 213(2)(a), and (d) to (f), (2A)(a) to (c), and (2B) of the Water Industry Act 1991(**1**) ("the WIA").

The Water Services Regulation Authority ("the Authority") has arranged for such research as it considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected by these Regulations, and has considered the results(**2**).

The Authority has made a written application complying with sections 39(2) and 96(2) of the WIA(**3**) to the Secretary of State.

The Secretary of State is satisfied that the Authority has served copies of the application on every water undertaker and sewerage undertaker specified in the application, on persons or bodies appearing to the Secretary of State to be representative of persons likely to be affected by these

(**1**) 1991 c. 56; section 38(4) was amended by virtue of section 36(2) of the Water Act 2003 (c. 37); section 38ZA was inserted by section 29(1) of the Water Act 2014 (c. 21) and prospectively amended by paragraph 1 and 26 of Schedule 5 to the Water Act 2014 from a date to be appointed; section 95(4) was amended by virtue of section 36(2) of the Water Act 2003; section 95ZA was inserted by section 30(1) of the Water Act 2014 and prospectively amended by paragraphs 1 and 39 of Schedule 5 to that Act from a date to be appointed; section 213(2)(a) was amended by paragraphs 2 and 119(1) and (4) of Schedule 7 to the Water Act 2014; section 213(2A) and (2B) were inserted by section 52 of the Competition and Service (Utilities) Act 1992 (c.43) ("the 1992 Act"); sections 213(2) and (2A) were amended by virtue of section 36(2) of the Water Act 2003. The functions of the Secretary of State under sections 38 and 95 are transferred to the Welsh Ministers with respect to both water supply and sewerage, in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales. Those functions were transferred to the National Assembly for Wales constituted by the Government of Wales Act 1998 (c. 38) by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2; see the entry in Schedule 1 for the Water Industry Act 1991 (as amended by paragraph (e) of Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253)). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), those functions were transferred to the Welsh Ministers immediately after the end of the initial period as defined by section 161(5) of that Act.

(**2**) *See* sections 39(1A) and 96(1A) of the WIA, which were inserted by sections 26(1) and (3) and section 30(1) and (3) of the 1992 Act respectively, and amended by virtue of section 36(2) of the Water Act 2003. Sections 39ZA and 96ZA apply sections 39 and 96 for the purposes of making regulations under sections 38ZA and 95ZA respectively. Sections 39ZA and 96ZA were inserted by sections 29(7) and 30(7) of the Water Act 2014 respectively and section 96ZA is prospectively amended by paragraph 1 and 40 of Schedule 5 to the Water Act 2014 from a date to be appointed.

(**3**) Sections 39(2) and 96(2) were amended by virtue of section 36(2), and by sections 41(1) and (4) and 42(1) and (4), of the Water Act 2003, and by sections 26(1) and (4) and 30(1) and (4) of the 1992 Act.

Regulations, on the Council(**4**) and on such other persons or bodies as the Secretary of State considers appropriate(**5**).

The Secretary of State has allowed such period as the Secretary of State considers appropriate for the Authority, and any affected water or sewerage undertaker or person or body on whom a copy of the application has been served, to make representations or objections with respect to the Authority's proposals and the modifications proposed by the Secretary of State(**6**).

The Secretary of State has considered a written summary of the results of the research carried out, the Authority's reasons for its proposals and every representation or objection duly made, and not withdrawn, with respect to those proposals and the modifications proposed by the Secretary of State(**7**).

The only provisions of these Regulations are the provisions proposed by the Authority in its application with such modifications as the Secretary of State considers appropriate and has given notification(**8**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Water Supply and Sewerage Services (Customer Service Standards) (Amendment) Regulations 2017 and come into force on 1st April 2017.

(2) In these Regulations "the principal Regulations" means the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008(**9**).

Amendments to the principal Regulations

2. The principal Regulations are amended in accordance with regulations 3 to 8.

3. Regulations 1 to 4 become Part 1, entitled "Introduction".

4. In regulation 4 (interpretation)—

(a) omit the definition of "customer"; and

(b) omit paragraph (2).

5. After regulation 4 insert—

(**4**) Section 219(1) of the WIA provides that "the Council" means the Consumer Council for Water.

(**5**) *See* sections 39(1)(b) and 96(1)(b) of the WIA, which were substituted by paragraphs 19(1) and (2) and 25(1) and (2) of Schedule 1 to the 1992 Act respectively. They were amended by virtue of section 36(2) of the Water Act 2003 and by sections 41(1) and (3)(b) and 42(1) and (3)(b) of, and Part 2 of Schedule 9 to, that Act.

(**6**) *See* sections 39(1)(c) and 96(1)(c) of the WIA, which were amended by paragraphs 19(3) and 25(3) of Schedule 1 to the 1992 Act respectively, by virtue of section 36(2) of the Water Act 2003 and by sections 41(1) and (3)(c) and 42(1) and (3)(c) of that Act.

(**7**) *See* sections 39(1)(d) and 96(1)(d) of the WIA, which were amended by sections 26(1) and (2) and 30(1) and (2) of the 1992 Act respectively and by virtue of section 36(2) of the Water Act 2003.

(**8**) *See* sections 39(3)(b) and 96(3)(b) of the WIA, which were amended by virtue of section 36(2) of the Water Act 2003 and by sections 41(1) and (5)(c) and 42(1) and (5)(c) of, and Part 2 of Schedule 9 to, that Act.

(**9**) S.I. 2008/594.

"PART 2

Customer service standards for Welsh undertakers

Interpretation of Part 2

4A.—(1) In this Part—

"customer" includes—

(a) a potential customer; and

(b) an occupier of premises whose supply of water or sewerage services is the subject of a separate charge for which a person other than the occupier is liable;

but does not include a customer of a water supply licensee;

"Welsh undertaker" means a water or sewerage undertaker whose area is wholly or mainly in Wales and a "Welsh water undertaker" and "Welsh sewerage undertaker" is to be construed accordingly.

(2) For the purposes of this Part, a water supply licensee is not a customer of a water undertaker that supplies water to it."

6. In regulations 5 to 17—

(a) for "these Regulations", in each place it occurs, substitute "this Part";

(b) for "undertaker", in each place it occurs, substitute "Welsh undertaker";

(c) for "water undertaker", in each place it occurs, substitute "Welsh water undertaker"; and

(d) for "sewerage undertaker", in each place it occurs, substitute "Welsh sewerage undertaker".

7. After regulation 17 (reference of disputes to the Authority) insert—

"PART 3

Customer service standards for English service providers and English wholesalers

Interpretation of Part 3

17A. In this Part—

"customer" includes—

(a) in cases of self-supply, the relevant water supply licensee, sewerage licensee or person associated with a licensee; and

(b) in all other cases, customers or potential customers of water supply licensees or sewerage licensees that are operating in accordance with a retail authorisation, but does not include a person associated with the relevant licensee;

"English service provider" means—

(a) in cases of self-supply, the English wholesaler whose water supply system or sewerage system is used to supply water or provide sewerage services to the customer; and

(b) in all other cases—

(i) the water supply licensee or sewerage licensee, as appropriate, who supplies water or provides sewerage services to the customer under a retail authorisation; or

(ii) the English undertaker who supplies water or provides sewerage services to the customer;

"English undertaker" means a water undertaker or sewerage undertaker whose area is wholly or mainly in England;

"English wholesaler" means an English undertaker acting in their capacity of providing, developing, maintaining, improving or extending a water supply system or sewerage system, as appropriate, and "English water wholesaler" and "English sewerage wholesaler" are to be construed accordingly;

"person associated with a licensee" has the meaning given—

(a) for a water supply licence, in paragraph 11 of Schedule 2A to the WIA(**10**); and

(b) for a sewerage licence, in paragraph 1 of Schedule 2B to the WIA(**11**);

and "person associated with the relevant licensee" means a person associated with, in relation to water supply, the water licensee or, in relation to the provision of sewerage services, the sewerage licensee;

"retail authorisation" has the meaning given—

(a) for a water supply licence, in paragraph 3 of Schedule 2A to the WIA;

(b) for a sewerage licence, in paragraph 1 of Schedule 2B to the WIA;

"self-supply" means situations where a water supply licensee or sewerage licensee supplies water or provides sewerage services, as appropriate, to the premises of the relevant licensee or a person associated with the relevant licensee;

"sewerage system", in relation to an English sewerage undertaker or English sewerage wholesaler, has the meaning given by section 17BA(7) of the WIA(**12**);

"water supply system", in relation to an English water undertaker or English water wholesaler, has the same meaning as "supply system" in section 17B(4A) of the WIA(**13**).

Exclusions

17B.—(1) Nothing in this Part requires an English service provider or English wholesaler—

(a) to give notice to more than one person in respect of the same premises; or

(b) to make a payment to more than one person in respect of any one claim.

(2) Nothing in this Part, and nothing done by an English service provider or English wholesaler in consequence of this Part, determines who is beneficially entitled to a payment made under this Part, or in respect of any particular act or omission relating to the same premises.

(**10**) Schedule 2A was inserted by section 1(2) of, and Schedule 1 to, the Water Act 2014 (c. 21). It is prospectively amended by paragraphs 1 and 54 of Schedule 5 to that Act from a date to be appointed.
(**11**) Schedule 2B was inserted by section 4(2) of, and Schedule 3 to, the Water Act 2014.
(**12**) Section 17BA was inserted by section 4(1) of the Water Act 2014. It is prospectively amended by paragraph 7 of Schedule 5 to that Act from a date to be appointed.
(**13**) Section 17B was inserted by paragraphs 1 and 2 of Schedule 4 to the Water Act 2003 (c. 37) and amended by paragraphs 2 and 10 of Schedule 7 to the Water Act 2014. It is prospectively amended by section 2 of, and paragraphs 1 and 6 of Schedule 5 to, the Water Act 2014 from a date to be appointed.

Keeping of appointments

17C.—(1) This regulation applies if a representative of an English service provider or English wholesaler is to visit a customer's premises in connection with the provision of water supply services or sewerage services.

(2) If the representative requires access to the premises, or it would otherwise be reasonable to expect the customer or a person acting on the customer's behalf to be on the premises, the English service provider or English wholesaler must—

(a) consult the customer orally or in writing to try to agree on a day to attend the premises; and

(b) give the customer notice, orally or in writing, of when the representative will attend the premises.

(3) The notice in paragraph (2) must specify—

(a) the premises;

(b) the date that the representative will attend them;

(c) either—

(i) if the customer so requests, a period of two hours during which the visit will be made; or

(ii) otherwise, whether the visit will be made during the morning or the afternoon; and

(d) if the notice specifies that the visit will be made during the morning or afternoon, at what times the English service provider or English wholesaler regards the morning or afternoon, as the case requires, as beginning and ending.

(4) Subject to paragraph (6)—

(a) the English service provider must pay the customer £20 if—

(i) the English service provider or English wholesaler gives a notice that is not in accordance with paragraph (3);

(ii) a representative does not attend the premises on the date specified in the notice; or

(iii) a representative does attend the premises on that date, but—

(aa) if the notice specified a two-hour period for the attendance, the representative does not attend during the specified period; or

(bb) if the notice specified that the representative would attend during the morning or afternoon, the representative does not attend during the period specified as being the period of the morning or the afternoon, as the case requires; and

(b) if the English wholesaler is responsible for a breach that gives rise to a payment obligation on the English service provider under sub-paragraph (a) it must pay the English service provider in accordance with regulation 17K.

(5) No claim by the customer for the payment under paragraph (4)(a) is necessary.

(6) The English service provider need not pay the customer, and the English wholesaler need not pay the English service provider, under paragraph (4) if—

(a) the customer cancels the appointment;

(b) the English service provider or English wholesaler cancels the appointment by giving the customer at least 24 hours' notice, orally or in writing, of the cancellation; or