

2016 No. 1007 (C. 69)

WATER INDUSTRY, ENGLAND AND WALES

The Water Act 2014 (Commencement No. 7 and Transitional Provisions) Order 2016

Made - - - -

17th October 2016

The Secretary of State makes this Order in exercise of the powers conferred by sections 91(1) and 94(3) of, and paragraphs 1 and 2 of Schedule 11 to, the Water Act 2014(a).

Citation and interpretation

1.—(1) This Order may be cited as the Water Act 2014 (Commencement No. 7 and Transitional Provisions) Order 2016.

(2) In this Order—

“the 1991 Act” means the Water Industry Act 1991(b);

“the 2014 Act” means the Water Act 2014;

“the Authority” means the Water Services Regulation Authority.

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

2. The following provisions of the 2014 Act come into force on 1st November 2016—

(a) subsection (1) of section 1 (types of water supply licence and arrangements with water undertakers) so far as not already in force;

(b) subsection (1) of section 8 (bulk supply of water by water undertakers)(c) as follows—

(i) so far as it inserts section 40E into the 1991 Act, for the purposes of sub-paragraph (ii);

(ii) so far as it inserts section 40I into the 1991 Act;

(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 8 as “the Minister” as defined in section 40I(7) of the 1991 Act (as inserted by section 8 of the 2014 Act). This is in relation to bulk supply agreements to which the parties are (or would be) water undertakers whose area is wholly or mainly in England. Both the Secretary of State and the Welsh Ministers are the appropriate authorities in relation to bulk supply agreements involving both a water undertaker whose area is wholly or mainly in England and a water undertaker whose area is wholly or mainly in Wales. Section 40I(7)(b) and (c) of the 1991 Act will not be commenced in full until the Welsh Ministers also bring those subsections into force.

- (c) section 9 (main connections into sewerage systems)(a) as follows—
 - (i) subsection (1) so far as it—
 - (aa) substitutes section 110A;
 - (bb) inserts sections 110B and 110J into the 1991 Act;
 - (ii) subsections (2) and (3) so far as they relate to sections 110B and 110J of the 1991 Act;
- (d) section 29 (standards of performance: water supply)(b) so far as not already in force;
- (e) section 30 (standards of performance: sewerage) so far as not already in force;
- (f) subsection (2)(b) of section 40 (charging of fees by assessors for the enforcement of water quality);
- (g) section 56 (further amendments) so far as it relates to paragraph (h);
- (h) the following paragraphs of Schedule 7 (further amendments)—
 - (i) paragraph 2 so far as it relates to sub-paragraphs (ii) to (vii);
 - (ii) paragraph 3 as follows—
 - (aa) sub-paragraphs (1), (2) and (8)(a) and (c) so far as they relate to paragraph (bb);
 - (bb) sub-paragraph (8)(b) so far as it relates to sections 38ZA, 40I, 95ZA and 110J of the 1991 Act;
 - (iii) paragraph 7;
 - (iv) paragraph 119(1) so far as it relates to sub-paragraph (v);
 - (v) paragraph 119(4);
 - (vi) paragraph 120(1) so far as it relates to sub-paragraph (vii);
 - (vii) paragraph 120(3) so far as it relates to sections 17AA and 66DB of the 1991 Act.

Transitional provision in respect of wholesale authorisations

3.—(1) Until paragraph 1 of Schedule 2 to the 2014 Act comes into force to the extent that it substitutes section 66B(1) of the 1991 Act, the Authority must not grant a water supply licence with a wholesale authorisation under section 17A(1) of the 1991 Act(c).

(2) The restriction in paragraph (1) does not apply if a water supply licence with a wholesale authorisation is granted to—

- (a) a person who has a water supply licence with a retail authorisation; or
- (b) a person who has applied for a water supply licence with a retail authorisation.

(a) The Secretary of State is the appropriate authority for the purposes of section 9 as “the Minister” as defined in section 110J(7) of the 1991 Act (as inserted by section 9 of the 2014 Act). This is in relation to main connections into the sewerage system of a sewerage undertaker whose area is wholly or mainly in England for the benefit of another such undertaker. Both the Secretary of State and the Welsh Ministers are the appropriate authorities in relation to main connection agreements involving both a sewerage undertaker whose area is wholly or mainly in England and a sewerage undertaker whose area is wholly or mainly in Wales. Section 110A(10)(b) and (c) of the 1991 Act will not be commenced in full until the Welsh Ministers also bring those subsections into force.

(b) The Secretary of State is the appropriate authority for the purposes of section 29 in relation to supplies of water made in accordance with a retail authorisation.

(c) Section 17A was inserted by paragraph 2 of Schedule 4 to the Water Act 2003 (c.37), and substituted by section 1(1) of the 2014 Act.

Transitional provision in connection with the introduction of new water supply licences

4.—(1) The Authority may revoke old water supply licences^(a) in accordance with arrangements set out in the qualifying scheme and on a date and time to be determined under the qualifying scheme.

(2) The qualifying scheme must include provision about the measure of compensation payable by the Authority in connection with the revocation of an old water supply licence.

(3) The qualifying scheme may make provision for the compensation payable in a particular case to be nil.

(4) In this article, “qualifying scheme” is a scheme as described in paragraph 2(3) of Schedule 11 to the 2014 Act.

Thérèse Coffey

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

17th October 2016

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the seventh commencement order made under the Water Act 2014 (c.21) (“the 2014 Act”) in relation to England and Wales.

Amongst other provisions, this Order brings into force the remainder of section 1(1) of the 2014 Act. Section 1(1) amends the Water Industry Act 1991 (c.56) so that the Water Services Regulation Authority (“Ofwat”) has the ability to grant water supply licences with a wholesale or supplementary authorisation. Sections 29(1) and 30(1) bring into force the Secretary of State’s power to make regulations to apply guaranteed standards of service to water supply and sewerage licensees. There are other further amendments commenced in Schedule 7 to the 2014 Act.

Article 3 contains transitional provision in respect of the grant of water supply licences with a wholesale authorisation.

In connection with the introduction of the new water supply licensing regime, article 4 makes provision for the revocation of existing licences by Ofwat and makes certain provision in relation to Ofwat’s qualifying transition scheme.

Impact assessments 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 Services Team, Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR and are published alongside the 2014 Act at www.legislation.gov.uk. 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 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

(a) “Old water supply licence” is defined in paragraph 11(1) of Schedule 11 as “a water supply licence granted under old section 17A” (of the 1991 Act).

Section 1 (partially)	1st September 2015	2015/1469
Section 1 (partially)	1st January 2016	2015/1938
Section 1 (partially)	1st April 2016	2016/465
Section 1 (partially)	1st September 2016	2016/465
Section 4 (partially)	1st September 2015	2015/773
Section 4 (partially)	1st September 2015	2015/1469
Section 4 (partially)	1st January 2016	2015/1938
Section 4 (partially)	1st April 2016	2016/465
Section 4 (partially)	1st September 2016	2016/465
Section 6 (partially)	18th December 2015	2015/1938
Section 6 (for all remaining purposes)	1st April 2016	2016/465
Section 7 (partially)	20th November 2015	2015/360 (S.S.I.)
Section 7 (for all remaining purposes)	1st April 2016	2016/48 (S.S.I.)
Section 8 (partially)	6th April 2015	2015/773
Section 10 (partially)	18th December 2015	2015/1938
Section 11 (partially)	18th December 2015	2015/1938
Section 14 (partially)	6th April 2015	2015/773
Section 14 (for all remaining purposes)	18th December 2015	2015/1938
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 17 (partially)	1st April 2016	2016/465
Section 22 (for all remaining purposes)	18th December 2015	2015/1938
Section 23 (partially)	1st January 2015	2014/3320
Section 23 (partially)	6th April 2015	2015/773
Section 23 (for all remaining purposes)	1st April 2016	2016/465
Section 24	6th April 2015	2015/773
Section 25 (for all remaining purposes)	1st April 2016	2016/465
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 34 (partially)	1st September 2016	2016/465
Section 37	1st April 2016	2016/465
Section 38 (partially)	1st January 2015	2014/3320
Section 38 (partially)	6th April 2015	2015/773
Section 38 (for all remaining purposes)	1st April 2016	2016/465
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 and 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 56 (partially)	18th December 2015	2015/1938
Section 56 (partially)	1st January 2016	2015/1938
Section 56 (partially)	1st April 2016	2016/465

Section 56 (partially)	1st September 2016	2016/465
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 and 84	1st January 2015	2014/3320
Schedule 1	1st January 2016	2015/1938
Schedule 2 (partially)	1st September 2015	2015/773
Schedule 2 (partially)	1st September 2015	2015/1469
Schedule 2 (partially)	1st April 2016	2016/465
Schedule 2 (partially)	1st September 2016	2016/465
Schedule 3	1st January 2016	2015/1938
Schedule 4 (partially)	1st September 2015	2015/773
Schedule 4 (partially)	1st September 2015	2015/1469
Schedule 4 (partially)	1st April 2016	2016/465
Schedule 4 (partially)	1st September 2016	2016/465
Schedule 6	1st April 2016	2016/465
Schedule 7 (partially)	1st January 2015	2014/3320
Schedule 7 (partially)	15th July 2015	2015/1469
Schedule 7 (partially)	1st September 2015	2015/1469
Schedule 7 (partially)	1st November 2015	2015/1469
Schedule 7 (partially)	18th December 2015	2015/1938
Schedule 7 (partially)	1st January 2016	2015/1938
Schedule 7 (partially)	1st April 2016	2016/465
Schedule 7 (partially)	1st September 2016	2016/465
Schedule 9	14th July 2014	2014/1823

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£4.25

UK201610188 10/2016 19585

<http://www.legislation.gov.uk/id/uksi/2016/1007>

ISBN 978-0-11-115047-4



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