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STATUTORY INSTRUMENTS

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**2017 No. 506**

**The Water Act 2014 (Consequential Amendments etc.) Order 2017**

**PART 3**

Consequential amendments and modifications to secondary legislation

**The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013**

**30.**—(1) The Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013<sup>(1)</sup> are amended as follows.

(2) In regulation 3—

(a) for paragraph (3)(a) and (b) substitute—

“(a) in subsection (1) (when the general duties of the Secretary of State and the Authority apply), after “by virtue of”, there were inserted “the Water Industry (Specified Infrastructure Projects) (English Undertakers) Regulations 2013 or”;

(b) in subsection (2A) (primary duties)<sup>(2)</sup>—

(i) the “and” following paragraph (d) were repealed;

(ii) for paragraph (e), there were substituted—

“(e) to further the resilience objective;

(f) to secure that the functions of a licensed infrastructure provider are properly carried out; and

(g) to secure that relevant licensed infrastructure providers are able (in particular, by securing reasonable returns on their capital) to finance the proper carrying out of those function””;

(b) omit paragraph (3)(f);

(c) in paragraph (5)—

(i) for “section 2(1)(a)” substitute “section 2(1)”;

(ii) for “licensed water suppliers” substitute “water supply licensees and sewerage licensees”.

(3) Schedule 1 is amended in accordance with paragraphs (4) to (16).

(4) In paragraph 1(1)(a), after “paragraphs” insert “1A,”.

(5) After paragraph 1 insert—

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<sup>(1)</sup> [S.I. 2013/1582](#), amended by [S.I. 2015/102](#), [2016/275](#).

<sup>(2)</sup> Section 2(2A) of the 1991 Act was substituted by the 2003 Act, section 39(3) and amended by the 2014 Act, section 22(2) and Schedule 7, paragraph 3(3).

**“Strategic priorities and objectives**

1A. Section 2A (strategic priorities and objectives: England)(3) applies without modification.”.

(6) In paragraph 2—

- (a) for “licensed water supplier” substitute “water supply licensee or sewerage licensee”;
- (b) for ““supplier”” substitute ““sewerage licensee””.

(7) In paragraph 3—

- (a) in sub-paragraph (1), for “(licensing of water suppliers)” substitute “(water supply licences)”;
- (b) in sub-paragraph (3)(b)(ii)(aa), for “licensed water supplier” substitute “sewerage licensee”;
- (c) for sub-paragraph (3)(b)(ii)(bb) substitute—

“(bb) for paragraph (b), there were substituted—

“(b) it is proposed that on and after the relevant date another company (“the transferee”) should carry on—

- (i) where the transferor is a qualifying water supply licensee, activities relating to the introduction or introductions of water mentioned in section 23(6) (b) of this Act(4) which were carried on by the transferor until that date;
- (ii) where the transferor is a qualifying sewerage licensee, activities relating to the removal or removals of matter mentioned in section 23(9) of this Act(5) which were carried on by the transferor until that date; or
- (iii) where the transferor is a licensed infrastructure provider, functions formerly carried on by the transferor in its capacity as a licensed infrastructure provider””

(d) for sub-paragraph (3)(b)(iv)(aa) substitute—

“(aa) in the definition of “other relevant companies”—

- (i) in paragraph (a), after “this Act” there were inserted “or, as the case may be, the functions to which its project licence relates;
- (ii) in paragraph (b), after “this Act” there were inserted “or, as the case may be, the functions to which its project licence relates””.

(8) In paragraph 5—

- (a) in sub-paragraph (1), for “water supply licences” substitute “licences”;
- (b) in sub-paragraph (2)—
  - (i) in the words before paragraph (a), for “(water supply licences: modification references to the CMA)” substitute “(modification references to competition authority)”;

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(3) Section 2A of the 1991 Act was substituted by the 2014 Act, section 24(1) and amended by the 2014 Act, Schedule 7, paragraph 4.

(4) Section 23(6) was inserted by the Water Act 2003, Schedule 8, paragraph 8(6) and paragraph (b) was substituted by the 2014 Act, Schedule 7, paragraph 35(8)(c).

(5) Section 23(9) was inserted by the 2014 Act, Schedule 7, paragraph 35(10).

- (ii) omit paragraph (a);
- (iii) in paragraph (b), for “after “a particular licence”” until the end substitute “after “a particular water supply or sewerage licence” there were inserted “or project licence granted under this Chapter””;
- (iv) in paragraph (c)(i), omit “, (iv)”;
- (c) in sub-paragraph (4)—
  - (i) in the words before paragraph (a), omit “water supply licences:”;
  - (ii) omit paragraph (a);
  - (iii) in paragraph (b)(i), for “each of sub-paragraphs (ii) and (iv)” substitute “sub-paragraph (ii)”;
- (d) in sub-paragraph (5)—
  - (i) in the words before paragraph (a), for “(water supply licences: modification following report)” substitute “(modification of licences following report)”;
  - (ii) omit paragraph (a);
  - (iii) in paragraph (b)(i), omit “, (iii)”;
- (e) in sub-paragraph (6)—
  - (i) in the words before paragraph (a), for “(water supply licences: CMA’s power of veto following report)” substitute “(power of veto following report)”;
  - (ii) omit paragraph (a);
  - (iii) in paragraph (b)(i), omit “, (v)”;
- (f) in sub-paragraph (8)—
  - (i) in the words before paragraph (a), for “(water supply licences: modification by order under the Enterprise Act 2002(6))” substitute “(modification by order under other enactments)”;
  - (ii) omit paragraph (a);
  - (iii) in paragraph (b), for “combined licence” in both places it occurs, substitute “sewerage licence”.
- (9) In paragraph 6—
  - (a) in sub-paragraph (1), for “licensed water supplier” substitute “water supply licensee or sewerage licensee”;
  - (b) for “company”, in each place it occurs, substitute “person”.
- (10) In paragraph 7—
  - (a) for “licensed water supplier”, in each place it occurs, substitute “water supply licensee”;
  - (b) in sub-paragraph (2)(b), for “licensed water suppliers” substitute “water supply licensees”.
- (11) In paragraph 8—
  - (a) in sub-paragraph (a)(i), for ““licensed water suppliers”” substitute ““sewerage licensees””;
  - (b) for sub-paragraph (c)(ii), substitute—
    - “(i) after “(see sections 17A and 17BA(7))” there were inserted “or project licences””.
- (12) In paragraph 11—

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(6) 2002 c. 40.

(7) Section 17A was substituted by the 2014 Act, section 1(1). Section 17BA was inserted by the 2014 Act, section 4(1) and is amended by the 2014 Act, Schedule 5, paragraph 7(2) from a date to be appointed.

- (a) in sub-paragraph (2)(b)(ii) omit “and”;
- (b) after sub-paragraph (2)(b) insert—
  - “(ba) in subsection (6) (power of Authority to direct in relation to compliance of a charges scheme)(**8**)—
    - (i) in the words before paragraph (a), after “relevant undertaker’s”, there were inserted “or a licensed infrastructure provider’s”;
    - (ii) in the words after paragraph (d), after “the undertaker”, there were inserted “or the licensed infrastructure provider”;
  - (bb) in subsection (6B) (consultation with the Council about a charges scheme), after “relevant undertaker”, there were inserted “or a licensed infrastructure provider”;
  - (bc) in subsection (6C) (power of Authority to direct in relation to compliance of a charges scheme with rules), after “relevant undertaker”, there were inserted “or a licensed infrastructure provider”;
  - (bd) in subsection (6D) (duty to comply with a direction), after “relevant undertaker”, there were inserted “or a licensed infrastructure provider”;
  - (be) after subsection (6D), there were inserted—
    - “(6E) Rules (and revised rules) issued by the Authority under this section in relation to relevant undertakers have effect as if they were issued in relation to licensed infrastructure providers and apply to licensed infrastructure providers as they apply to relevant undertakers, unless otherwise stated.”;
- (c) omit sub-paragraph (2)(c);
- (d) after sub-paragraph (2) insert—
  - “(2A) Section 143B (rules about charges schemes)(**9**) applies as if—
    - (a) in subsection (7), after “relevant undertakers”, there were inserted “or licensed infrastructure providers”;
    - (b) after subsection (10), there were inserted—
      - “(11) Rules (and revised rules) issued by the Authority under this section in relation to relevant undertakers have effect as if they were issued in relation to licensed infrastructure providers and apply to licensed infrastructure providers as they apply to undertakers, unless otherwise stated.”;
  - (2B) Section 143C (rules under section 143B: procedure) applies as if in subsection (6) (a), after “England”, there were inserted “or licensed infrastructure providers”.
  - (2C) Section 143D (rules under section 143B: minor or urgent revisions) applies without modification.
  - (2D) Section 143E (rules under section 143B: guidance) applies as if in subsection (7) (a), after “England”, there were inserted “or licensed infrastructure providers;”;
- (e) in sub-paragraph (3)(a), in the text of section 144(1A)(b) of the 1991 Act as it has effect as inserted by that sub-paragraph, for “licensed water supplier” substitute “water supply licensee or sewerage licensee”;
- (f) after sub-paragraph (3) insert—
  - “(3A) Section 144ZE (general guidance on charges)(**10**) applies as if—

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**(8)** Subsections (6) and (6A) to (6D) were substituted, for subsections (6) to (9), by the 2014 Act, section 16(1).

**(9)** Sections 143B to 143E were inserted by the 2014 Act, section 16(2).

**(10)** Sections 144ZE and 144ZF were inserted by the 2014 Act, section 38.

- (a) in subsection (13)(a), after “England”, there were inserted “or licensed infrastructure providers”;
- (b) after subsection (13), there were inserted—
  - “(14) Guidance (and revised guidance) issued by the Secretary of State under this section which applies to the Authority in relation to relevant undertakers whose areas are wholly or mainly in England has effect as if it was issued in relation to licensed infrastructure providers and applies to licensed infrastructure providers as it applies to the Authority in relation to relevant undertakers whose areas are wholly or mainly in England, unless otherwise stated.”
- (3B) Section 144ZF (guidance under section 144ZE: procedure) applies without modification.”
- (13) In paragraph 13(1)(c)(ii), omit the words “in the first place it occurs,”.
- (14) In paragraph 14—
  - (a) omit sub-paragraph (1)(a);
  - (b) in sub-paragraph (6)—
    - (i) for “licensed water suppliers”, in both places it occurs, substitute “water supply licensees and sewerage licensees”;
    - (ii) in paragraph (c), for “licensed water supplier”, in both places it occurs, substitute “sewerage licensee”;
  - (c) omit sub-paragraph (7)(a);
  - (d) after sub-paragraph (7)(b) insert—
    - “(c) in subsection (8) (definition of “the Minister”), after paragraph (a)(ii), there were inserted—
      - (iii) any licensed infrastructure provider carrying out functions using the supply system or sewerage system of any such undertaker””
- (15) In paragraph 15—
  - (a) in sub-paragraph (a)—
    - (i) in paragraph (i), for “licensed water supplier”, in both places it occurs, substitute “sewerage licensee”;
    - (ii) in paragraph (ii), for “supplier”, in both places it occurs, substitute “licensee”;
  - (b) in sub-paragraph (b)—
    - (i) in paragraph (i), for “licensed water supplier”, in both places it occurs, substitute “sewerage licensee”;
    - (ii) in paragraph (ii), for “supplier”, in both places it occurs, substitute “licensee”; and
  - (c) in sub-paragraph (c)—
    - (i) for “licensed water suppliers” substitute “water supply licensees and sewerage licensees”;
    - (ii) for “licensed water supplier”, in both places it occurs, substitute “sewerage licensee”.
- (16) In paragraph 16(2)(a)(i), in paragraph (a)(i) of the definition of “customer or potential customer” as it has effect as substituted by that paragraph, for “licensed water supplier” substitute “water supply licensee or sewerage licensee”.