

2021 No. 1208

WATER INDUSTRY, ENGLAND AND WALES

The Water and Sewerage Undertakers (Exit from Non-household Retail Market) (Consequential Provision) Regulations 2021

Made - - - - at 17.20 p.m. on 28th October 2021

Coming into force - - - - 31st October 2021

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 42(1), 46(5) and 51 of the Water Act 2014(a).

The Secretary of State has, in accordance with section 53(1) of the Water Act 2014, consulted the Welsh Ministers and the other persons required to be consulted by that section.

In accordance with section 53(3) of the Water Act 2014, a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

Citation and commencement

1.—(1) These Regulations may be cited as the Water and Sewerage Undertakers (Exit from Non-household Retail Market) (Consequential Provision) Regulations 2021.

(2) These Regulations come into force on 31st October 2021.

Amendments to Water Industry Act 1991

2.—(1) The Water Industry Act 1991(b) is amended as follows.

(2) In section 41 (duty to comply with water main requisition) omit subsection (2A)(c).

(3) In section 45 (duty to make connections with main) omit subsection (1ZA)(d).

(4) In section 52 (domestic supply duty), in subsection (4), after paragraph (c) (but before the final “or”) insert—

“(ca) the premises are in a retail exit area and the pipe by means of which the premises are connected to the water main in question was first connected with that main in pursuance of section 66A(3);”.

(5) In section 66A (use by water supply licensee of undertaker’s supply system etc) after subsection (3) insert—

(a) 2014 c. 21.

(b) 1991 c. 56, to which relevant amendments have been made by the Water Act 2014 (c. 21) and S.I. 2016/744.

(c) Subsection (2A) was inserted by Schedule 2 to S.I. 2016/744.

(d) Subsection (1ZA) was inserted by Schedule 2 to S.I. 2016/744.

“(3A) A water undertaker is not required by this section to take any steps to enable the use of its supply system at a time when it is required to take those steps by virtue of a notice under section 41 or a connection notice.”.

(6) In section 98 (duty to comply with sewer requisition) omit subsection (2B)(a).

(7) In section 117A (use by sewerage licensee of undertaker’s system etc), after subsection (2) insert—

“(2A) A sewerage undertaker is not required by this section to take any steps to enable the use of its sewerage system at a time when it is required to take those steps by virtue of a notice under section 98(1) or (1A) or a request under section 101B(1).”.

(8) In section 158 (powers to lay pipes in streets), in subsection (7)(b)(ii), after “101B” insert “or any lateral drain which the undertaker is required to lay by virtue of section 117A(2) for the purpose of enabling the use of its sewerage system to provide sewerage services to premises in a retail exit area”.

(9) In section 159 (power to lay pipes in other land), in subsection (2)—

- (a) at the end of paragraph (a) omit “or”;
- (b) at the end of paragraph (b) insert “or”;
- (c) after paragraph (b) insert—

“(c) the undertaker is required to lay the pipe in, on or over that land by virtue of section 66A(3) for the purpose of enabling the use of its supply system to supply premises in a retail exit area.”.

Rebecca Pow

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

At 17.20 p.m. on 28th October 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations re-apply provisions of the Water Industry Act 1991 (c. 56) to water and sewerage undertakers operating in retail exit areas. This is to address unintended consequences on water and sewerage companies of the disapplication of those provisions by the Water and Sewerage Undertakers (Exit from Non-household Retail Market) Regulations 2016 (S.I. 2016/744).

Regulation 2 reinstates duties on undertakers to provide connection services on request in retail exit areas. The connection services are the provision of water mains (section 41), connection to water mains (section 45) and the provision of public sewers or lateral drains (section 98).

It also makes consequential changes to sections 52 (domestic supply duty), 66A (use by water supply licensee of water undertaker’s supply system), 117A (use by sewerage licensee of undertaker’s system), 158 (powers to lay pipes in streets) and 159 (powers to lay pipes in other land) to ensure that there are no overlapping duties on retailers or undertakers.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

(a) Subsection (2B) was inserted by Schedule 2 to S.I. 2016/744.

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