

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(a) (“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(b).

The Authority has made a written application complying with sections 39(2) and 96(2) of the WIA(c) 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

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- (a) 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.
- (b) 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.
- (c) 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(a) and on such other persons or bodies as the Secretary of State considers appropriate(b).

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(c).

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(d).

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(e).

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(f).

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—

“PART 2

Customer service standards for Welsh undertakers

Interpretation of Part 2

4A.—(1) In this Part—

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- (a) Section 219(1) of the WIA provides that “the Council” means the Consumer Council for Water.
 - (b) 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.
 - (c) 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.
 - (d) 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.
 - (e) 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.
 - (f) S.I. 2008/594.

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

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(c);

“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(d).

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.

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;

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- (a) 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.
 - (b) Schedule 2B was inserted by section 4(2) of, and Schedule 3 to, the Water Act 2014.
 - (c) 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.
 - (d) 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.

- (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
 - (c) it became impracticable, for a reason mentioned in paragraph (7), for the representative to keep the appointment, and the English service provider or English wholesaler could not reasonably have so foreseen in time to enable it—
 - (i) to cancel the appointment giving 24 hours' notice; or
 - (ii) to make other suitable arrangements for a representative to attend the premises at the arranged time.
- (7) The reasons are—
- (a) severe weather;
 - (b) where the appointment is made by the English service provider—
 - (i) industrial action by employees of the English service provider or the English wholesaler;
 - (ii) the act or default of a person who is not an officer, employee or agent of the English service provider; or
 - (iii) the act or default of a person who is not a person acting on behalf of the English service provider or of an agent of the English service provider; and
 - (c) where the appointment is made by the English wholesaler who is not the English service provider—

- (i) industrial action by employees of the English wholesaler or the English service provider;
- (ii) the act or default of a person who is not an officer, employee or agent of the English wholesaler; or
- (iii) the act or default of a person who is not a person acting on behalf of the English wholesaler or of an agent of the English wholesaler.

(8) The representative of an English service provider or the English wholesaler who attended a customer's premises may make and sign a written record stating that the representative attended the premises and the time and date of attendance.

(9) Unless the customer establishes that the record is incorrect, it is to be treated as confirming that the representative attended the premises as stated in the record.

Complaints, account queries and requests about payment arrangements

17D.—(1) This regulation applies where—

- (a) a customer of an English service provider complains in writing about the supply of water or the provision of sewerage services by the English service provider;
- (b) a customer of an English wholesaler complains in writing about the water supply system or sewerage system of the English wholesaler; or
- (c) a customer of an English service provider, apart from in cases of self-supply—
 - (i) queries, in writing, the correctness of an account for the supply of water or the provision of sewerage services; or
 - (ii) asks, in writing, for a change to payment arrangements.

(2) The English service provider or English wholesaler to whom a complaint is directed must provide a substantive reply to the complaint to the customer within 10 working days.

(3) The English service provider must provide a substantive reply to the customer—

- (a) to a query, within 10 working days; or
- (b) to a request for a change to payment arrangements that cannot be met, within 5 working days.

(4) The first day of the period for reply is the day after the day when the English service provider, or English wholesaler, as appropriate, receives the complaint, query or request.

(5) Subject to paragraph (7)—

- (a) the English service provider must pay the customer £20 if—
 - (i) the English wholesaler does not comply with paragraph (2); or
 - (ii) the English service provider does not comply with paragraph (2) or (3); and
- (b) if the English wholesaler does not comply with paragraph (2) it must pay the English service provider in accordance with regulation 17K.

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

(7) The English service provider need not pay the customer, and the English wholesaler need not pay the English service provider, under paragraph (5) if—

- (a) the address that the customer wrote to was not a notified address of the English service provider or English wholesaler, as appropriate, for a complaint, query or request of that kind;
- (b) the customer does not wish to pursue the complaint, query or request and has so informed the English service provider or English wholesaler, as appropriate;
- (c) in the case of a complaint, query or request to the English service provider, it was impracticable to send a reply within the required period because of—
 - (i) industrial action by employees of the English service provider or the English wholesaler;

- (ii) the act or default of a person who is not an officer, employee or agent of the English service provider; or
 - (iii) the act or default of a person who is not a person acting on behalf of the English service provider or of an agent of the English service provider; or
 - (d) in the case of a complaint to the English wholesaler who is not the English service provider, it was impracticable to send a reply within the required period because of—
 - (i) industrial action by employees of the English wholesaler or the English service provider;
 - (ii) the act or default of a person who is not an officer, employee or agent of the English wholesaler; or
 - (iii) the act or default of a person who is not a person acting on behalf of the English wholesaler or of an agent of the English wholesaler; or
 - (e) in the case of a reply to a complaint or query—
 - (i) the complaint or query was frivolous or vexatious; or
 - (ii) the English service provider or English wholesaler reasonably considered that a visit was necessary before replying, and severe weather made that visit impracticable.
- (8) For the purposes of paragraph (7)(a)—
- (a) an address of an English service provider is a notified address of the English service provider for a complaint, query or request of a particular kind if the English service provider has notified that address to its customers as the appropriate address for a complaint, query or request of that kind by—
 - (i) publishing it in a telephone directory;
 - (ii) notifying it on the English service provider’s website; or
 - (iii) showing it on the English service provider’s publicity material; and
 - (b) an address of an English wholesaler is a notified address of the English wholesaler for a complaint if the English wholesaler has notified that address to its customers as the appropriate address for a complaint by—
 - (i) publishing it in a telephone directory;
 - (ii) notifying it on the English wholesaler’s website; or
 - (iii) showing it on the English wholesaler’s publicity material.
- (9) For the purposes of this regulation—
- (a) “English wholesaler” includes a relevant authority that is carrying out sewerage functions on behalf of an English undertaker under arrangements entered into, or to be treated as entered into, for the purposes of section 97 of the WIA^(a) (performance of sewerage undertaker’s functions by local authorities etc.); and
 - (b) a complaint to such a relevant authority is taken, for the purposes of paragraph (2), to have been received by the English undertaker on whose behalf the relevant authority provides services on the date on which the undertaker received it from the relevant authority.
- (10) In this regulation—
- “a change to payment arrangements” includes a change to the frequency of payments (including instalment payments);

(a) Section 97 was amended by paragraphs 39 and 41 of Schedule 22 to the Localism Act 2011 (c. 20); by paragraphs 55 and 57 of Schedule 8 to the Housing and Regeneration Act 2008 (c. 17); by Part 10 of Schedule 1 to the Statute Law (Repeals) Act 1998 (c. 43); by paragraph 17 of Schedule 15 to the Government of Wales Act 1998 (c.38); and by S.I. 2001/2237 in relation to England and S.I. 2002/808 in relation to Wales.

“payment arrangements” means the arrangements by which a customer makes payments (including instalment payments) to the English service provider; and
“relevant authority” has the meaning given by section 97(5) of the WIA.

Notice of interruption of supply

17E.—(1) This regulation applies where an English wholesaler exercises its power under section 60(1) of the WIA (disconnections for the carrying out of necessary works).

(2) If the English wholesaler is required to serve a notice under section 60(3) of the WIA, the English wholesaler must—

- (a) specify in the notice—
 - (i) the earliest date and time after which the English wholesaler reasonably expects that the supply will be interrupted or cut off; and
 - (ii) the latest date and time by which the English wholesaler reasonably expects that the supply will be restored; and
- (b) if the water is to be cut off for more than four hours, give at least 48 hours’ notice before the supply is interrupted or cut off.

(3) Paragraph (4) applies if, because of an emergency, an English wholesaler—

- (a) interrupts or cuts off the supply of water to the premises of a customer; and
- (b) is excused from the requirement under section 60(3) of the WIA to serve a notice.

(4) If this paragraph applies the English wholesaler must, as soon as is reasonably practicable, take all reasonable steps to notify each affected customer—

- (a) that the supply has been interrupted or cut off;
- (b) where an alternative supply can be obtained;
- (c) of the time by which it is proposed that the supply should be restored; and
- (d) of the telephone number of an office from which further information may be obtained.

(5) Subject to paragraph (7), if the English wholesaler fails to comply with paragraph (2)(b)—

- (a) the English service provider must pay each customer whose supply of water was interrupted or cut off—
 - (i) if the supply is to domestic premises, £20; and
 - (ii) if the supply is to premises of any other kind, £50; and
- (b) the English wholesaler must pay the English service provider in accordance with regulation 17K.

(6) No claim by the customer for the payment under paragraph (5)(a) is necessary unless the English service provider could not practicably have identified the customer as having been affected.

(7) The English service provider need not pay the customer, and the English wholesaler need not pay the English service provider, under paragraph (5)—

- (a) if it was impracticable to give notice by the time required because of—
 - (i) industrial action by employees of the English wholesaler or the English service provider;
 - (ii) the act or default of a person who is not an officer, employee or agent of the English wholesaler; or
 - (iii) the act or default of a person who is not a person acting on behalf of the English wholesaler or of an agent of the English wholesaler; or
- (b) if—

- (i) the English service provider could not practicably have identified the customer as having been affected; and
- (ii) the customer does not make a claim (orally or in writing) to the English service provider for a payment under this regulation within the 3 months following the date on which the supply was interrupted or cut off.

Entitlement to payment or credit where supply not restored as promised

17F.—(1) This regulation applies if an English water wholesaler interrupts or cuts off the supply of water to premises, as described in regulation 17E.

(2) However, this regulation does not apply if the English wholesaler interrupts or cuts off the supply because of drought.

(3) The English wholesaler must restore the supply—

- (a) by the time and date specified in the notice, if the English wholesaler has served a notice stating when the supply is to be restored;
- (b) within 48 hours after it first became aware that the supply was interrupted or cut off, if the supply was interrupted or cut off in an emergency because of a leak or burst in a strategic main; or
- (c) within 12 hours after it first became aware that the supply was interrupted or cut off, if the supply was interrupted or cut off in an emergency, but not because of a leak or burst in a strategic main.

(4) Subject to paragraph (6), if the English wholesaler fails to restore the supply by the time by which the English wholesaler should, under paragraph (3), have done so—

- (a) the English service provider must pay the customer—
 - (i) where the supply is to domestic premises, £20;
 - (ii) where the supply is to premises of any other kind, £50; and
 - (iii) for each subsequent full period of 24 hours during which the supply has not been restored—
 - (aa) where the supply is to domestic premises, £10; and
 - (bb) where the supply is to premises of any other kind, £25; and
- (b) the English wholesaler 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 unless the English service provider could not practicably have identified the customer as having been affected.

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

- (a) if (or, as the case may be, so long as) the English wholesaler was prevented from restoring the supply by—
 - (i) severe weather;
 - (ii) industrial action by the employees of the English wholesaler;
 - (iii) the act or default of a person who is not an officer, employee or agent of the English wholesaler; or
 - (iv) the act or default of a person who is not a person acting on behalf of the English wholesaler or of an agent of the English wholesaler;
- (b) in a case described in paragraph (3)(b) or (c), if the circumstances are so exceptional that it is unreasonable to expect the supply to be restored within the relevant period; or
- (c) if—

- (i) the English service provider could not practicably have identified the customer as having been affected; and
- (ii) the customer does not make a claim (orally or in writing) to the English service provider for a payment under this regulation within the 3 months following the date on which the supply was interrupted or cut off.

(7) In this regulation, “strategic main” means a main that conveys water in bulk to centres of population that have no other supply that can fully meet normal demand.

Pressure standard

17G.—(1) An English water wholesaler must maintain, in a communication pipe serving premises supplied with water, a minimum water pressure of seven metres static head.

(2) If in a period of 28 days the pressure in the communication pipe serving a customer’s premises falls below seven metres static head on two occasions each lasting one hour or longer then, subject to paragraphs (3) and (5)—

- (a) the English service provider must pay the customer £25; and
- (b) the English wholesaler must pay the English service provider in accordance with regulation 17K.

(3) Paragraph (2) does not apply if the pressure falls below seven metres static head in connection with the carrying out of necessary works or because of drought.

(4) No claim by the customer for the payment is necessary unless the English service provider could not practicably have identified the customer as having been affected.

(5) The English service provider need not pay the customer, and the English wholesaler need not pay the English service provider, under paragraph (2) where—

- (a) the English service provider has already made a payment under this regulation, or the English wholesaler has made a payment under regulation 10, to the customer in respect of another such failure in the same financial year.
- (b) if—
 - (i) the English service provider could not practicably have identified the customer as having been affected; and
 - (ii) the customer does not make a claim (orally or in writing) to the English service provider for a payment under this regulation within the 3 months following the date of the second relevant occasion on which the pressure fell below seven metres static head for an hour or more; or
- (c) it was impracticable to maintain the pressure referred to in paragraph (1) because of—
 - (i) industrial action by employees of the English wholesaler;
 - (ii) the act or default of a person who is not an officer, employee or agent of the English wholesaler; or
 - (iii) the act or default of a person who is not a person acting on behalf of the English wholesaler or an agent of the English wholesaler.

(6) In this regulation, “communication pipe” means—

- (a) the part of a service pipe between an English wholesaler’s water main and the boundary of the street in which the water main is laid; or
- (b) if the premises supplied with water abut on the part of the street in which the water main is laid, and the service pipe—
 - (i) enters those premises otherwise than through the outer wall of a building abutting on the street; and
 - (ii) has a stopcock in those premises as near to the boundary of the street as reasonably practicable

the part of the service pipe between the water main and the relevant stopcock.

Flooding from sewers – internal flooding of buildings

17H.—(1) Effluent from a sewer that is vested in an English sewerage wholesaler must not enter a customer's building.

(2) Subject to paragraphs (3) and (5), if effluent from a sewer that is vested in an English sewerage wholesaler enters a building (other than an outbuilding) of a customer—

- (a) the English service provider must pay the customer, in respect of each incident of such entry, the lesser of—
 - (i) a sum equal to the sewerage charges payable by the customer to the English wholesaler for the financial year in which the incident occurs; and
 - (ii) £1,000; and
- (b) the English wholesaler must pay the English service provider in accordance with regulation 17K.

(3) If the amount that an English service provider would be required to pay a particular customer for an incident, worked out in accordance with paragraph (2)(a), would be less than £150, the English service provider must pay the customer £150.

(4) No claim by the customer for the payment is necessary unless the English service provider could not practicably have identified the customer as having been affected.

(5) The English service provider need not pay the customer, and the English wholesaler need not pay the English service provider, under paragraph (2) or (3)—

- (a) if the entry of effluent was caused by one or more of the following—
 - (i) exceptional weather;
 - (ii) industrial action by employees of the English wholesaler;
 - (iii) an action of the customer;
 - (iv) a defect, inadequacy or blockage in the customer's drain or sewer; or
- (b) if—
 - (i) the English service provider could not practicably have identified the customer as having been affected; and
 - (ii) the customer does not make a claim (orally or in writing) to the English service provider for a payment under this regulation within the 3 months following the date on which the effluent entered the building.

(6) For the purposes of this regulation—

- (a) in the case of a building that has a suspended floor, the space beneath that floor is part of the building;
- (b) effluent is not taken to have entered a building while it is in a drain or sewer.

Flooding from sewers – external flooding

17I.—(1) Effluent from a sewer that is vested in an English sewerage wholesaler must not enter a customer's land or property.

(2) Subject to paragraphs (3) and (4), if effluent from a sewer that is vested in an English sewerage wholesaler enters the land or property (including any outbuilding) of a customer—

- (a) the English service provider must pay the customer, for each incident of such entry, the lesser of—
 - (i) a sum equal to 50% of the sewerage charges payable by the customer to the English service provider for the financial year in which the incident occurs; or
 - (ii) £500; and

- (b) the English wholesaler must pay the English service provider in accordance with regulation 17K.
- (3) If the amount that an English service provider would be required to pay a particular customer for an incident, worked out in accordance with paragraph (2), would be less than £75, the English service provider must pay the customer £75.
- (4) The English service provider need not pay the customer, and an English wholesaler need not pay the English service provider, under paragraph (2) or (3) if—
 - (a) the entry of effluent was caused by one or more of the following—
 - (i) exceptional weather;
 - (ii) industrial action by the employees of the English wholesaler;
 - (iii) an action of the customer;
 - (iv) a defect, inadequacy or blockage in the customer's drain or sewer;
 - (b) the English service provider was required by regulation 17H to make a payment to the same customer in respect of the same incident;
 - (c) the customer was not materially affected by the incident; or
 - (d) the customer does not make a claim to the English service provider for the payment, in accordance with paragraph (5), within the 3 months following the date on which the effluent entered the customer's land or property.
- (5) With the customer's claim for the payment the customer must provide a written statement showing the effect of effluent on the customer's land or property.
- (6) In deciding whether a customer was materially affected by the entry of effluent during an incident of flooding, an English service provider must take into account—
 - (a) what parts of the customer's land or property the effluent entered;
 - (b) the duration of the flooding;
 - (c) the extent of the flooding;
 - (d) whether the flooding restricted the access to the land or property;
 - (e) whether the flooding restricted the use of the land or property; and
 - (f) any other relevant considerations of which the English service provider is aware.
- (7) For the purposes of this regulation, effluent is not taken to have entered land or property while it is in a drain or sewer.

Timing of payments

- 17J.**—(1) If regulation 17C or 17D requires an English service provider to make a payment to a customer, the English service provider must make it within 10 working days of its becoming payable.
- (2) The English service provider must pay the customer a further £10 if—
 - (a) the English service provider fails to make the payment in accordance with paragraph (1); and
 - (b) the customer makes a written claim for payment under this paragraph within 3 months after the payment referred to in paragraph (1) becomes payable.
 - (3) If regulation 17E, 17F, 17H, or 17I requires an English service provider to make a payment to a customer, the English service provider must make it within 20 working days of its becoming payable.
 - (4) If the English service provider fails to make the payment in accordance with paragraph (3), the English service provider must pay the customer—
 - (a) in the case of a payment under regulation 17E(5)(a)(i), 17F(4)(a)(i) or 17F(4)(iii)(aa) (payments in relation to the supply of water to domestic premises), a further £20; and

(b) in any other case, a further £50.

(5) For the purposes of this regulation, a payment payable under any of regulations 17C to 17F, 17H or 17I becomes payable—

- (a) if the customer concerned must make a claim for the payment, at the end of the day on which the English service provider receives that claim; or
- (b) if no such claim is necessary, at the end of the day on which the relevant breach of a service standard occurred.

Payments by English wholesalers to English service providers

17K.—(1) This regulation applies where—

- (a) an English wholesaler is responsible for a breach of a service standard that gives rise to a payment obligation on the English service provider under any of regulations 17C to 17I; and
- (b) the English wholesaler is not the English service provider.

(2) Where this regulation applies the English wholesaler must pay the English service provider the sum required to be paid by the English service provider to the customer for the breach of the service standard specified in the relevant regulation.

(3) The English wholesaler must make any payment required by paragraph (2) by the payment deadline.

(4) For the purposes of this regulation “the payment deadline” means the day by which the English service provider must pay the customer under regulation 17J(1) or (3) as appropriate.

Means of payment, including where customer is in arrears

17L.—(1) A customer who is entitled to payment under this Part may ask the English service provider concerned to make the payment directly to the customer.

(2) If the customer has not asked for direct payment, the English service provider may make the payment directly to the customer or by credit to the customer’s account.

(3) If—

- (a) a customer of an English service provider is entitled to a payment under this Part but owes money to the English service provider; and
- (b) at the material time, the customer’s debt to the English service provider has been outstanding for more than 6 weeks;

the English service provider must make the payment, or so much of it as does not exceed the amount that the customer owes, by credit to the customer’s account.

(4) For the purposes of paragraph (3)(b), “the material time” is—

- (a) if the payment is payable without a written claim being made, the time when it becomes payable; or
- (b) otherwise, the time when the customer makes a written claim for it.

Payments not to affect other legal liabilities

17M.—(1) The making of a payment by an English service provider to a customer in consequence of a claim or potential claim for payment under this Part is not an admission by that English service provider of any liability other than an obligation to comply with these Regulations.

(2) The acceptance by a customer of a payment or credit made in consequence of this Part does not affect any liability of the English service provider to the customer other than its liability under these Regulations.

Notice of rights to be given to customers

17N.—(1) An English service provider must, at least once in every financial year, give every customer to whom it sends an account in that year a detailed statement of the rights provided by this Part.

(2) If an English service provider is aware that accounts to a customer cover the supply of water or sewerage services to other customers it must—

- (a) give the customer enough copies of the statement referred to in paragraph (1) to enable the customer to give a copy to each of those other customers; or
- (b) send a copy of the statement to each of those other customers directly.

Reference of disputes to the Authority

17O.—(1) In this regulation, “dispute” means—

- (a) a dispute between an English service provider and a customer as to the right of the customer to a payment or a credit to the customer’s account; or
- (b) a dispute between an English service provider and an English wholesaler as to the right of the English service provider to a payment under regulation 17K or the right of a customer to a payment or credit to the customer’s account.

(2) If a dispute arises under this Part either party to the dispute may refer the matter to the Authority for determination.

(3) The Authority may require an English service provider, an English wholesaler or a customer to provide information or other assistance for the purpose of enabling the Authority to make a determination under paragraph (2).

(4) A requirement imposed on an English service provider or an English wholesaler under paragraph (3) is enforceable under section 18 of the WIA(a) (orders for securing compliance with certain provisions) by the Authority.

(5) If a dispute under paragraph (1)(a) is determined by the Authority in the customer’s favour but the English service provider fails to give effect to the determination, the customer may set off the amount in question against any liability that he has to the English service provider.

Review

17P.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in this Part, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 1st April 2022.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(b) requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a) above;
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(a) Section 18 was amended by virtue of section 36(2) of the Water Act 2003 (c. 37) and by section 49(1) and (2) of, and paragraphs 2 and 4 of Schedule 8 to, that Act and by paragraphs 2 and 26 of Schedule 7 to, the Water Act 2014 (c. 21).

(b) 2015 c. 26.

(5) In this regulation, “regulatory provision” has the meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).”

8. Regulation 18 becomes Part 4, entitled “Revocation”.

Transitional provision

9.—(1) This regulation applies where—

- (a) a breach of a service standard, prescribed by the principal Regulations, by a water or sewerage undertaker whose area is wholly or mainly in England occurs before 1st April 2017; and
- (b) that undertaker has not made a payment to the customer or credited the customer’s account in relation to that breach pursuant to the principal Regulations before that date.

(2) Where this regulation applies, the principal Regulations, except regulation 14, continue to apply in relation to the breach referred to in paragraph (1) as if they had not been amended by these Regulations until—

- (a) the undertaker makes a payment to the customer for that breach; or
- (b) the Authority determines that no such payment is required.

Thérèse Coffey

Parliamentary Under Secretary of State

Department for Environment, Food and Rural Affairs

28th February 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Water Act 2014 (“the 2014 Act”) introduced a number of measures to reform the competitive markets in the water sector in England and Wales including reforming the water supply licensing regime and the introduction of a sewerage licensing scheme. It also provides the opportunity for undertakers to exit the non-household market, meaning they would not be required to provide retail water and/or sewerage services to their non-household customer base, but will retain their wholesale functions.

Sections 38 and 39 of the Water Industry Act 1991 (“the Act”) authorise the Secretary of State to make regulations by statutory instrument setting out service standards that must be met by water undertakers and sections 95 and 96 of the Act make similar provision in relation to sewerage undertakers. Sections 38ZA and 39ZA, and sections 95ZA and 96ZA, of the Act (inserted by the 2014 Act) make similar provision in relation to water supply licensees and sewerage licensees respectively. The regulations may provide for payments to be made to customers for failure to meet the prescribed standards.

These Regulations amend the Water Supply and Sewerage Services (Customer Service Standards) Regulations 2008 (“the 2008 Regulations”) to apply the service standards to water supply licensees and sewerage licensees operating in England. These Regulations retain in Part 2 the existing provisions in relation to water and sewerage undertakers whose areas are wholly or mainly in Wales and insert a new Part 3 that applies to water and sewerage undertakers whose areas are wholly or mainly in England and water supply licensees who supply water, and sewerage licensees who provide sewerage services, under a retail authorisation. The service standards set out in Part 3 replicate the current service standards which will remain in Part 2, modified to reflect the division of responsibilities between providers of retail services and wholesalers.

Responsibility for making payments to customers for failure to meet the prescribed standards will lie with English service providers. English service providers are defined in new regulation 17A of the 2008 Regulations (inserted by regulation 7 of these Regulations) to cover English licensees and undertakers providing retail services and English undertakers acting as wholesalers where a licensee is supplying water or providing sewerage services to their own premises or the premises

of an associated person, known as “self-supply”. Where a failure to meet the prescribed standard was the responsibility of an English undertaker who is not an English service provider provision is made in new regulation 17K of the 2008 Regulations for the English undertaker to repay to the English service provider the amount required to be paid to the customer.

New regulation 17P makes provision for review of Part 3 of the Regulations by the Government.

No impact assessment has been prepared in respect of these Regulations. Impact assessments were prepared in respect of the Water Act 2014 and copies can be obtained from the Water Services Team, the Department for Environment, Food and Rural Affairs, Area 3D, Nobel House, 17 Smith Square, London SW1P 3JR. These impact assessments are published alongside the Water Act 2014 at www.legislation.gov.uk.

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£6.00

UK201703028 03/2017 19585

<http://www.legislation.gov.uk/id/uksi/2017/246>

ISBN 978-0-11-115528-8



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