Draft Order laid before Parliament under section 17J(11) of the Water Industry Act 1991, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No. XXXX

WATER INDUSTRY, ENGLAND AND WALES

The Water Supply Licence and Sewerage Licence (Modification of Standard Conditions) Order 2017

Made - - - - ***

Coming into force in accordance with article 1(1)

The Secretary of State makes this Order in exercise of the powers conferred by section 17J(6) of the Water Industry Act 1991(**a**), having consulted the Welsh Ministers(**b**) in relation to the standard conditions of water supply licences in accordance with section 17J(10) of that Act.

A draft of this Order has been approved by a resolution of each House of Parliament pursuant to section 17J(11) of that Act.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Water Supply Licence and Sewerage Licence (Modification of Standard Conditions) Order 2017 and comes into force on the day after the day on which it is made.

(2) Any reference in this Order to a section is a reference to a section of the Water Industry Act 1991.

Specified percentages

2.—(1) The percentage specified for the purposes of section 17J(6)(b)(i) is 20 per cent.

(2) The percentage specified for the purposes of section 17J(6)(b)(ii) is 20 per cent.

Meaning of "weighted according to their market share"

3.—(1) For the purposes of section 17J(7), "weighted according to their market share" in relation to each relevant licence holder(**c**) who has given notice of objection means weighted by attributing to that relevant licence holder a proportion equal to—

(**a**) 1991 c. 56; section 17J was inserted by paragraph 2 of Schedule 4 to the Water Act 2003 (c. 37) and amended by paragraph 20 of Schedule 7 to the Water Act 2014 (c. 21).

(**b**) Functions exercisable by the Assembly were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32), therefore the requirement in section 17J(10) to consult the National Assembly for Wales now applies to the Welsh Ministers.

(**c**) The expression "relevant licence holder" is defined for the purposes of section 17J by section 17J(13).

(a) in relation to a relevant licence holder who is a holder of a water supply licence, the total volume of water supplied by that relevant licence holder to the premises of customers during the relevant period, divided by the total volume of water supplied by all relevant licence holders who are water supply licensees to the premises of customers during that period, such that the sum of all proportions expresses the proportion to which section 17J(7) refers;

(b) in relation to a relevant licence holder who is a holder of a sewerage licence with a retail authorisation, the total volume of water supplied by all water undertakers and all water supply licensees to the premises of customers of that relevant licence holder during the relevant period, divided by the total volume of water supplied by all water undertakers and all water supply licensees to the premises of customers of sewerage licensees with retail authorisations during that period, such that the sum of all proportions expresses the proportion to which section 17J(7) refers.

(2) In this article—

"the relevant period" means the period of 12 months ending on the last day of the relevant month;

"the relevant month" means the month specified in the relevant notice which is the last month before the relevant notice was given for which the Water Services Regulation Authority considers it reasonably practicable for all relevant information to be provided to it;

"the relevant notice" means the notice given under section 17J(3) in relation to the modifications in question;

"relevant information" means information material to a determination of the total volume of water supplied to the premises of customers of relevant licence holders during the relevant period.

Revocation

4. The Water Supply Licence (Modification of Standard Conditions) Order 2005(**a**) is revoked.

Name
Parliamentary Under Secretary of State
Date Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

The Water Industry Act 1991 (c. 56) ("the 1991 Act"), as amended by the Water Act 2014 (c. 21) ("the 2014 Act"), allows the Secretary of State to determine standard conditions in water supply and sewerage licences. Standard licence conditions can subsequently be modified in certain circumstances. Section 17J of the 1991 Act enables the Water Services Regulation Authority ("Ofwat") to modify standard licence conditions if certain conditions are fulfilled.

Article 2 of this Order specifies the relevant percentages in relation to the condition that specified percentages of licence holders (by number or by market share) do not object to such modifications. Modifications to standard licence conditions cannot proceed without a reference to the Competition and Markets Authority if objections are made by 20 per cent or more of relevant licence holders measured by number or by market share.

Article 3 of this Order specifies how each relevant licence holder will be weighted for the purposes of measuring market share.

Impact assessments of the effect that the 2014 Act will have on the costs of business, the voluntary sector and the public sector are available from the Water Services Team, Department for

(**a**) S.I. 2005/2033.

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.

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