

# **WATER ACT 2003 SELF LAY AND REQUISITIONING FRAMEWORK IMPLEMENTATION PROCESS**

## **Introduction**

The Water Act 2003 (the Act), received Royal Assent on 20 November 2003 and it is expected that the relevant provisions relating to self-lay and requisitioning will come into force in spring 2004. The Act will amend the provisions of the Water Industry Act 1991 (WIA91) that relate to installing new water mains, service pipes and sewers. The new provisions in the Act will increase choice and clarity for developers leading to improved efficiency and keener prices.

The purpose of this document is to set out the provisions of the Act and to provide a timeframe and explanation of each stage of the implementation process.

Requisitioning is the installation of new water mains or sewers by a water or sewerage undertaker for domestic purposes. An undertaker is a company holding an appointment as a water and/or sewerage undertaker for the purposes of the WIA91. There is a mechanism in the WIA91 for calculating requisition charges that requires requisitioners to make yearly payments for up to twelve years.

When developers, or their contractors, install new water mains or service pipes instead of asking the water undertaker to do the work, this is known as self-lay.

## **New provisions in the Act**

The key changes arising from the Act are as follows.

For requisitioning:

- Ofwat will have powers to determine disputes about the terms and financial conditions of water and sewer requisitions.
- Lateral drains as well as sewers can be requisitioned.
- The Act formalises existing arrangements for paying for requisitions by a single payment (the commuted sum) when the main is provided.

For self-lay:

- The Act formalises the arrangements for water undertakers to enter into agreements with persons constructing or proposing to construct new water mains and service pipes for domestic purposes – the self-lay organisation (SLO) – and does not preclude such agreements for non-domestic purposes. If an SLO constructs pipes in accordance with the terms of the agreement, the water undertaker will have to connect them to the existing network and take over responsibility for them.
- When an SLO constructs water mains for domestic purposes and the water undertaker has adopted these, the Act requires water undertakers to make a payment to the SLO. This payment will be an allowance for the revenue that the water undertaker expects to receive from customers of the new main.
- The Act gives us powers to determine disputes about the terms and conditions of self-lay agreements and water undertakers' refusals to agree to adopt self-laid pipes that supply water for domestic purposes.

## Timetable

The following timetable sets out the key dates in the implementation of the new regime.

Date	Activity
<b>20 November 03</b>	Water Act receives Royal Assent.
<b>December 03</b>	Ofwat publishes two consultation documents 'Financial arrangements for self-lay and requisition agreements' and 'Process for handling disputes and appeals'.
<b>20 January 04</b>	Ofwat hosts workshop presenting the proposals set out in the two consultations.
<b>March 04</b>	Consultation period ends.
<b>Spring 04</b>	New regime commences and final guidance papers are published.

These stages are explained below.

## Implementation process

### Role of our advisory group

Ofwat established the self-lay group (SLG) in May 2002 to help with the development and implementation of self-lay policy. The SLG includes representatives of the following stakeholders:

- the water undertakers;
- Water UK;
- self-lay organisations and their suppliers;
- the House Builders Federation; and
- the Drinking Water Inspectorate.

The terms of reference that the SLG agreed when they were established are attached as an annex. (Please note: These are the original terms of reference and have not been revised since they were agreed in 2002). To date, the SLG has supported us in preparing to implement the Act by undertaking the following tasks:

- Reviewing and commenting on the draft consultation on 'Financial arrangements for self-lay and requisitioning agreements' (the financing consultation) and 'Process for handling disputes and appeals' (the disputes consultation).
- Developing the template of costs for work that the water undertakers will carry out when the new mains are installed. The financing consultation paper will propose that water undertakers complete this template when they receive requests for quotations from SLOs.
- Advising on ongoing issues for consideration when the guidance on 'Competition in providing new water mains and service pipes' is revised.

### Consultation

The financing consultation paper will set down a number of proposals to clarify how water undertakers should calculate the charges and payments that are made when works are requisitioned or self-laid.

The disputes consultation will set out the framework to clarify how we will determine requisitioning and self-lay disputes.

For both papers, the consultation period will commence in early December and will be three months. At the end of the consultation period, we will publish final guidance around the time of commencement of the relevant provisions in the Act, which is expected in spring 2004.

### Workshop

We are holding a workshop on Tuesday 20 January 2004 to discuss with stakeholders the proposals set out in the consultation papers. This will provide an opportunity for all the interested parties to discuss in detail the consultation proposals before the close of written responses.

### Response

If you are interested in attending the workshop mentioned above, please write to Alex Claybrook at the address below, by 9 January 2004. **Please note that we may need to restrict attendance at the workshop.**

Competition Policy Team  
Office of Water Services  
Centre City Tower  
7 Hill Street  
Birmingham  
B5 4UA

or by fax to: 0121 625 1379  
or by email to [alex.claybrook@ofwat.gsi.gov.uk](mailto:alex.claybrook@ofwat.gsi.gov.uk).

## **ANNEX OFWAT SELF-LAY ADVISORY GROUP**

### **AIM OF THE GROUP**

- To provide a forum for facilitating competition in laying water mains and service pipes on new development sites. To include all connecting and commissioning activities, while maintaining the safety of water supplies, preserving public health, and maintaining the consistency of infrastructure standards.
- To include a balanced representation of the various parties interested in laying mains.
- To bring emerging issues to Ofwat's attention, and advise Ofwat on future work.

### **MEMBERSHIP**

The main group should consist of approximately 15 individuals. Members will be recruited on their practical experience and expertise of self-lay and multi-lay of utility services, operational aspects of the water industry and/or the requirements of the different parties involved in self-lay. They will represent the following industry groups:

- Regulators;
- Self-lay organisations (SLOs);
- Developers;
- Water companies; and
- Manufacturers.

### **ADMINISTRATION**

The group's discussions and action points arising will be recorded in minutes. Ofwat will respond to the group's recommendations in a timely manner. Membership of the group will be reviewed annually, with the first review in May/June 2003.

The following organisations should be kept informed of the group's work and receive copies of papers:

- Pipeline Industries Guild (representing contractors);
- WaterVoice Council;
- Highways Authorities Utilities Committee;
- National Joint Utilities Council;
- Society of British Gas Industries; and
- Health and Safety Executive; and other relevant bodies as necessary.

The group will meet quarterly, with Ofwat acting as secretariat. Ofwat will chair the first two meetings, after which a permanent chair will be elected.

### **WORK OF THE GROUP**

#### **Short term**

- To propose a timetable for implementing the different sections of non-contestable costs across the industry.

- To consider mechanisms for making water companies' non-contestable charges transparent, including the need for a cost breakdown template for water companies to use when providing details of charges to developers.
- To ensure all financial allowances made available to developers by water companies in the requisition process are available to organisations or their agents wishing to self-lay.
- Following discussion with the industry and other regulators, propose the safeguards and processes necessary to make meter fitting contestable.

### **Long-term**

- To consider the need for and, if required, how to implement a single national self-lay policy, incorporating regional variations, and the timetable for this.

### **Ongoing concerns**

As well as the programme outlined above, the group will monitor the following issues:

- Progress in the self-lay market;
- Companies' revisions of self-lay policies; and
- Opening up the remaining non-contestable elements of work to competition.

This will include identifying problems and recommending as appropriate, action for Ofwat to take.