

**WATER SERVICES REGULATION AUTHORITY
WATER INDUSTRY ACT 1991, SECTION 13(1)**

**Modification of the Conditions of Appointment of
South East Water Limited**

**Made on 20 August 2014
Coming into effect on 26 August 2014**

The Water Services Regulation Authority, in exercise of the power conferred on it by section 13(1) of the Water Industry Act 1991 (the "Act"), after giving notice as required by section 13(2) of the Act, hereby makes the modifications described in the Schedule attached hereto to the Conditions of the Appointment of South East Water Limited (the "Appointee") as a water undertaker under Chapter I of Part II of the Act, the Appointee having consented to these modifications.

**Signed for and on behalf of the
Water Services Regulation Authority**

**Cathryn Ross
Chief Executive**

Schedule

After Condition R there is inserted:

“Condition R1: Open Water Programme

1. Introduction

The purpose of this Condition is to provide for the temporary funding of work in preparation for, or associated with, the expansion of the non-household retail market through the implementation of the provisions of the Water Act 2014 relating to the expansion of water supply licensing and the introduction of sewerage licences.

2. Interpretation

In this Condition:

- (a) “Open Water Market Limited” means the company limited by guarantee registered under that name with company number 08791025;
- (b) “Open Water Annual Budget” means the annual budget of Open Water Market Limited approved by its board or £10.5 million, whichever is the lower amount; and
- (c) “Ofwat’s Retail Market Costs” means the costs estimated by the Water Services Regulation Authority as likely to be reasonably incurred by it in that Charging Year, and/or as already having been reasonably incurred by it in that Charging Year, on work in preparation for, or associated with, the expansion of the non-household retail market through the implementation of the provisions of the Water Act 2014 relating to the expansion of water supply licensing and the introduction of sewerage licences or £10.5 million, whichever is the lower amount.

3. Funding Obligation

- 3.1 Subject to sub-paragraphs 3.2 and 3.3, in each Charging Year the Appointee shall, within thirty days of the date on which Open Water Market Limited notifies the Appointee of the amount payable by the Appointee under this sub-paragraph, pay to Open Water Market Limited an amount or amounts which shall not exceed 2.6 per cent of the Open Water Annual Budget for that year.
- 3.2 This sub-paragraph shall not apply until the Water Services Regulation Authority gives notice to the Appointee of its application and then (subject to sub-paragraph 3.3):
 - (a) sub-paragraph 3.1 shall no longer apply unless the Water Services Regulation Authority directs the Appointee to make a payment or payments to Open Water Market Limited in accordance with sub-paragraph 3.1; and

- (b) the Appointee shall, within thirty days of the date on which the Water Services Regulation Authority notifies the Appointee of an amount or amounts payable by the Appointee in respect of Ofwat's Retail Market Costs, pay to the Secretary of State such an amount or amounts, EXCEPT THAT:
 - (i) nothing in this Condition requires the Appointee to make more than three payments in respect of Ofwat's Retail Market Costs for the same Charging Year; and
 - (ii) the total of all payments made under this sub-paragraph in respect of the same Charging Year shall not exceed 2.6 per cent of Ofwat's Retail Market Costs for that Charging Year.

3.3 For the avoidance of doubt:

- (a) if the Appointee is required (otherwise than under this Condition) to pay to Open Water Market Limited any subscription or other sums or dues then the amount or amounts payable in any year under this Condition to Open Water Market Limited shall be reduced by the amount of any such subscription or other sums or dues paid to Open Water Market Limited in the same year; and
- (b) nothing in this Condition requires the Appointee to make payments in any Charging Year that in total exceed £273,000 whether the payments the Appointee is required to make in any Charging Year under sub-paragraphs 3.1 and/or 3.2 have to be made to Open Water Market Limited, to the Secretary of State, or to both Open Water Market Limited and the Secretary of State in the same Charging Year.

4. Cessation of this Condition

This Condition shall cease to have effect on 1 April 2018 or such earlier date as the Water Services Regulation Authority may specify for this purpose by notice to the Appointee.”