

# Draft interim supply code

## Change history

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## 1. Definitions and interpretation

### 1.1 Defined terms

In this document the following capitalised terms shall have the following meaning:

<b>Definitions</b>	
<b>Term</b>	<b>Definition</b>
“1991 Act”	the Water Industry Act 1991;
“Affected Customer”	any Non-Household Customer which is the owner or occupier of Premises in respect of which there has been a Relevant Cessation of Supply;
“Allocation”	the allocation of one or more Interim Duty Supply Points to an Eligible Licensee or relevant undertaker in accordance with Section 7 of this code, and “Allocate” and “Allocated” shall be construed accordingly;
“Allocation Notice”	the notice issued by the Authority in accordance with Section 7.4 of this code;
“Area”	any area for which an instrument of appointment has been granted to a relevant undertaker;
“Authority”	the Water Services Regulation Authority, also known as Ofwat, established by section 1A of the 1991 Act;
“Business Day”	the period of 08:00 to 18:00 hours on any day other than a Saturday or Sunday, or Christmas Day, Good Friday or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971;
"Cancellation Request"	the meaning given in the Wholesale-Retail Code;
“Credit Support”	the meaning given in the Wholesale-Retail Code;
“Date of Relevant Cessation of Supply”	the date determined by the Authority in accordance with Section 5.2 of this code to be the date on which a Previous Licensee ceased to supply any Premises with Water Retail Services and/or Sewerage Retail Services for the purposes of section 63AC and/or section 110L of the 1991 Act;
“Defaulting Trading Party”	the meaning given in the Wholesale-Retail Code;

<b>Definitions</b>	
<b>Term</b>	<b>Definition</b>
"Delivery Hours"	the meaning given in the Wholesale-Retail Code;
"Deregistered"	the meaning given in the Wholesale-Retail Code;
"Disconnected"	the meaning given in the Wholesale-Retail Code;
"Election"	an election to be an Eligible Licensee, and "Elect", "Elects" and "Elected" shall be construed accordingly;
"Eligibility Guidance"	the guidance document issued by the Authority under s17A of the 1991 Act;
"Eligible Licensee"	a Licensee with a retail authorisation or a restricted retail authorisation who has elected to be an eligible licensee in accordance with this code for the purposes of section 63AC and/or section 110L of the 1991 Act;
"Exit Regulations"	any regulations made under section 42 of the Water Act 2014 from time to time;
"Incoming Retailer"	the meaning given in the Wholesale-Retail Code;
"Insolvency Event"	the meaning given in the Wholesale-Retail Code;
"Interim Duty Supply Point"	a Supply Point which relates to Premises in respect of which there has been a cessation of supply of Water Retail Services and/or Sewerage Retail Services by a Previous Licensee for the purposes of section 63AC and/or section 110L of the 1991 Act;
"Interim Licensee"	an Eligible Licensee which has been directed by the Authority to continue the supply of Water Retail Services and/or Sewerage Retail Services to Premises under section 63AC(3) or section 110L(3) of the 1991 Act;
"Interim Supplier Allocation Process"	the meaning given in the Wholesale-Retail Code;
"Interim Supply Code"	this document, being a code of that name issued by the Authority under sections 63AF and 110O of the 1991 Act, including any revisions to that code issued by the Authority from time to time;
"Interim Supply"	the continuation of the supply of Water Retail Services and/or Sewerage Retail Services to a Premises by an Eligible Licensee or a relevant undertaker following a Relevant Cessation of Supply to that Premises;
"Interim Supply Offer"	an offer submitted to the Authority by an Eligible Licensee in accordance with Section 7.2 of this code and which sets out the terms upon which that Eligible

<b>Definitions</b>	
<b>Term</b>	<b>Definition</b>
	Licensee would be willing to undertake Interim Supply in the event that it was directed to do so by the Authority;
“Licence”	a water supply licence or a sewerage licence issued under section 17A or 17BA of the 1991 Act as applicable;
“Licensee”	the holder of a Licence;
“List of Eligible Licensees”	the List of Opted In Retailers by Area for the purposes of the Interim Supplier Allocation Process maintained and published by the Market Operator in accordance with the relevant provisions of the Wholesale-Retail Code;
“List of Opted In Retailers by Area”	the meaning given in the Wholesale-Retail Code;
“Market Operator”	the meaning given in the Wholesale-Retail Code;
“New Supply Point”	the meaning given in the Wholesale-Retail Code;
“Non-Household Customer”	a person who may be identified as the customer of a Licensee for any Premises in accordance with the relevant Eligibility Guidance;
“Notice of Relevant Cessation of Supply”	the notice issued by the Authority in accordance with Section 6 of this code;
“Opted In Retailer”	for the purposes of being eligible in relation to the allocation of Supply Points pursuant to the Interim Supply Code, a Retailer who has opted in pursuant to Section 4.3.9 of the Market Terms in the Wholesale-Retail Code;
“Premises”	the meaning given in the Wholesale-Retail Code;
“Previous Licensee”	the Licensee or former holder of a Licence which has ceased or which shall cease (as applicable) to supply Premises with Water Retail Services and/or Sewerage Retail Services for the purposes of section 63AC and/or section 100L of the 1991 Act;
“Register”	shall be construed in accordance with the definition of “Registration” in the Wholesale Retail Code, and “Registered” shall be construed accordingly;
“Relevant Cessation of Supply”	a cessation of supply of Water Retail Services and/or Sewerage Retail Services to Premises by a Previous

<b>Definitions</b>	
<b>Term</b>	<b>Definition</b>
	<p>Licensee for the purposes of section 63AC and/or section 110L of the 1991 Act as a result of:</p> <ul style="list-style-type: none"> <li>(a) revocation of the Previous Licensee's Licence in circumstances other than where the Licensee has consented to the revocation; or</li> <li>(b) termination of a Wholesale Contract as a consequence of the Previous Licensee being a Defaulting Trading Party in accordance with the provisions of the Wholesale-Retail Code; or</li> <li>(c) the relevant undertaker not being obliged to continue the supply of water in the circumstances set out in section 63AD(1) of the 1991 Act.</li> </ul>
"Scheme"	a scheme or schemes of terms and conditions for interim supply made by an Eligible Licensee under section 63AE or section 110N of the 1991 Act;
"Self-Supply Licensee"	a Licensee whose retail authorisation relates only to the Licensee and/or persons associated with the Licensee;
"Service Category"	the meaning given in the Wholesale-Retail Code;
"Sewerage Retail Services"	those activities authorised by a sewerage licence with a retail authorisation;
"Statement of Interim Supply Capacity"	the document provided by an Eligible Licensee in accordance with Section 4.2 of this code and in such form as may be prescribed by the Authority from time to time;
"Supply Point"	the meaning given in the Wholesale-Retail Code;
"Suspension Deadline"	the time by which any Eligible Licensee entitled temporarily to suspend its Election in respect of any potential Allocation following a Relevant Cessation of Supply must do so, as specified within the relevant Notice of Relevant Cessation of Supply;
"Suspension"	<p>the temporary suspension of an Election, either:</p> <ul style="list-style-type: none"> <li>(a) by an Eligible Licensee until such time as all Interim Duty Supply Points identified in a single Notice of Relevant Cessation of Supply have been Allocated; or</li> <li>(b) as a result of an Eligible Licensee having its status as an Opted in Retailer temporarily</li> </ul>



<b>Definitions</b>	
<b>Term</b>	<b>Definition</b>
	suspended in the circumstances set out in the Wholesale-Retail Code following an Insolvency Event; and “Suspend” and “Suspended” shall be construed accordingly;
“Trade Effluent Services”	the meaning given in the Wholesale-Retail Code;
“Water Retail Services”	the activities authorised by a water supply licence with a retail authorisation and/or a restricted retail authorisation;
“Wholesale Charges”	the meaning given in the Wholesale-Retail Code;
“Wholesale Contract”	the meaning given in the Wholesale-Retail Code;
“Wholesale-Retail Code”	the code of that name issued by the Authority under sections 66DA and 117F of the 1991 Act, as amended from time to time.

## **1.2 Interpretation**

1.2.1 In this Interim Supply Code:

- (a) References to ‘this code’ are to this Interim Supply Code;
- (b) References to ‘Sections’ are to sections of this Interim Supply Code unless otherwise expressly stated;
- (c) Words imparting a gender include every gender and references to the singular include the plural and vice versa;
- (d) Words denoting persons include individuals and bodies corporate, partnerships, unincorporated associations and other bodies (in each case, wherever resident and for whatever purpose) and vice versa;
- (e) Save as otherwise expressly provided references to time are to local time;
- (f) References to ‘writing’ or ‘written’ shall include email;

- (g) References to 'day' and 'calendar day' mean the same as one another;
- (h) References to the Interim Supply Code or any other document are to this Interim Supply Code or that document as in force for the time being and as amended, supplemented, varied, modified, renewed, replaced or extended from time to time in accordance with the requirements of this Interim Supply Code or that document (as the case may be);
- (i) A reference to any body is:
  - (i) if that body (statutory or otherwise) is replaced by another organisation, deemed to refer to that replacement organisation; and
  - (ii) if that body (statutory or otherwise) ceases to exist, deemed to refer to that organisation which most substantially serves the same purposes as the original body;
- (j) A reference to a statute or statutory provision shall, unless otherwise stated, be construed as including:
  - (i) a reference to any orders, regulations and subordinate legislation (as defined by section 21(1) of the Interpretation Act 1978) made from time to time under the statute or statutory provision whether before or after the effective date; and
  - (ii) a reference to that statute, statutory provision or subordinate legislation as in force at the effective date and as from time to time modified or consolidated, superseded, re-enacted or replaced (whether with or without modification) after the effective date;
- (k) References to a person shall, except where the context requires otherwise, include its successors in title and permitted assignees;
- (l) A reference to a particular condition of a Licence shall be construed at any particular time as including a reference to any modification of that condition in force at that time;

- (m) Any words or expressions used in the 1991 Act or the Water Act 2014 shall, unless the contrary intention appears, have the same meaning when used in the Interim Supply Code;
- (n) The headings and contents table in the Interim Supply Code are for convenience only and do not affect its interpretation;
- (o) In the Interim Supply Code, the words 'other', 'includes', 'including' and 'for example' do not limit the generality of any preceding words, and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible; and
- (p) In the Interim Supply Code, the words 'for the time being' mean at the relevant time now or in the future unless the context requires otherwise.

## **2. Introduction**

### **2.1 Purpose of this code**

2.1.1 This document is the Interim Supply Code issued by the Authority pursuant to sections 63AF and 110O of the 1991 Act.

2.1.2 This code should be read in conjunction with the relevant provisions of the 1991 Act, the Water Act 2014, the Wholesale-Retail Code and the Exit Regulations.

### **2.2 Scope of this code**

2.2.1 This Interim Supply Code makes provision about the following matters in particular:

- (a) Part A of this code:
  - (i) sets out the procedure for electing to be an Eligible Licensee for the purposes of section 63AC and/or section 110L of the 1991 Act;

- (ii) sets out the procedure for removal of such an Election or the temporary suspension of such an Election in accordance with section 63AC(5)(b) and/or section 110L(5)(b) of the 1991 Act;
- (b) Part B of this code:
  - (i) describes the circumstances in which the Authority's power of direction under section 63AC(3) or section 110L(3) of the 1991 Act may be exercised;
  - (ii) describes how the Authority will determine the date on which a Previous Licensee ceased to supply Premises with Water Retail Services and/or Sewerage Retail Services for the purposes of section 63AC and/or section 110L of the 1991 Act;
  - (iii) provides for the Authority to issue a Notice of Relevant Cessation of Supply and certain accompanying information;
  - (iv) describes the basis on which the Authority may decide to Allocate Interim Duty Supply Points;
- (c) Part C of this code:
  - (i) sets out various requirements applying to the terms and conditions contained in any Scheme made under section 63AE or section 110N of the 1991 Act;
  - (ii) sets out obligations on an Interim Licensee to inform Affected Customers of its applicable Scheme(s) and various other matters.

### **3. General**

#### **3.1 Duties under this code**

- 3.1.1 In carrying out its duties under this code, a Licensee (including for these purposes a Previous Licensee; Eligible Licensee or Interim Licensee) or

relevant undertaker, as applicable, shall use all reasonable endeavours to:

- (a) co-operate with the Authority, the Market Operator, any other Licensee and any relevant undertaker as necessary in order to facilitate the orderly functioning of the arrangements set out in this code;
- (b) provide all data and other information in the format and timescales required by this code; and
- (c) make all relevant communications in the format and timescales required by this code.

## **3.2 Notices**

3.2.1 All notices to be given to any Eligible Licensee by the Authority under this code shall be marked for the attention of the person or persons notified to the Authority in accordance with Section 4.6 of this code.

3.2.2 All notices to be given to any party under this code shall be in writing.

3.2.3 A notice shall be treated as having been received:

- (a) if delivered by hand (including courier) within Delivery Hours, when so delivered; and if delivered by hand outside Delivery Hours, at the next start of Delivery Hours;
- (b) if sent by first class pre-paid post, guaranteed next day delivery, post with delivery confirmation or receipt (for example, special delivery) on the later of actual receipt and 9.00 am on the Business Day after posting if posted on a Business Day, and on the later of actual receipt and 9.00 am on the second Business Day after posting if not posted on a Business Day; and
- (c) if sent by e-mail, or any other electronic means during a Business Day it is received on that Business Day and if it is sent outside of a Business Day it is received on the following Business Day.

- 3.2.4 In proving that a notice has been given it shall be conclusive evidence to demonstrate that delivery was made, or that the envelope containing the notice was properly addressed and posted (as the case may be).

## **PART A: ELIGIBLE LICENSEES**

### **4. Election, removal and temporary suspension of Eligible Licensee status**

#### **4.1 Electing to be an Eligible Licensee**

- 4.1.1 A Licensee which does not have a legal obligation to Elect to be an Eligible Licensee may Elect to be an Eligible Licensee at any time, in accordance with the further provisions of this code.
- 4.1.2 A Licensee which has a legal obligation to Elect to be an Eligible Licensee shall do so in accordance with the further provisions of this code.
- 4.1.3 The manner in which a Licensee shall Elect to be an Eligible Licensee shall be by submitting a notification to the Market Operator to be an Opted In Retailer for the purposes of the Interim Supplier Allocation Process, in accordance with the relevant provisions of the Wholesale-Retail Code.
- 4.1.4 The notification submitted to the Market Operator shall include:
- (a) the Area or Areas in relation to which the Licensee is Electing to be an Eligible Licensee;
  - (b) in respect of each such Area whether it is to be an Eligible Licensee in relation to Water Retail Services or Sewerage Retail Services or both.
- 4.1.5 Within a reasonable time of Electing to be an Eligible Licensee, a Licensee shall confirm to the Authority in writing that:
- (a) it has made a Scheme for each Service Category and each Area in respect of which it is electing to be an Eligible Licensee;
  - (b) it has provided a copy of the Scheme to the Authority; and
  - (c) it has published the Scheme on its website.

## **4.2 Statement of Interim Supply Capacity**

4.2.1 An Eligible Licensee shall make and from time to time revise a Statement of Interim Supply Capacity.

4.2.2 The Statement of Interim Supply Capacity shall include the following information:

- (a) the Area or Areas in which the Eligible Licensee has capacity within its business to provide Interim Supply of Water Retail Services and/or Sewerage Retail Services to Affected Customers in the event that it is directed to do so by the Authority in accordance with section 63AC(3) and/or section 110L(3) of the 1991 Act;
- (b) for each such Area, the maximum number of additional Supply Points of each Service Category in respect of which it has such capacity to provide Interim Supply or whether there is no such limit;
- (c) the maximum total number of additional Supply Points of each Service Category in respect of which it has capacity to provide Interim Supply across all Areas in respect of which it is an Eligible Licensee;
- (d) confirmation that the Eligible Licensee would be able to finance any additional costs to its business associated with the provision of Interim Supply to the maximum number of additional Supply Points indicated above, including (but not limited to) the costs of Wholesale Charges and Credit Support for which the Eligible Licensee would be liable under the terms of the Wholesale-Retail Code;
- (e) confirmation that the Eligible Licensee would be able to provide Interim Supply to the maximum number of additional Supply Points which it has indicated without materially affecting its supply of Water Retail Services and/or Sewerage Retail Services to its existing Non-Household Customers;
- (f) the reasons for any limitation on the number of additional Supply Points in respect of which the Eligible Licensee has capacity to provide Interim Supply;



- (g) any expected material increase or decrease in the Eligible Licensee's capacity to provide Interim Supply and the reasons and expected timing for any such change;
- (h) confirmation that the Eligible Licensee has suitable arrangements in place that would enable it to provide the information to Affected Customers in a full and timely manner, as required under Section 9 of this code; and
- (i) confirmation that the Eligible Licensee has suitable arrangements in place that would enable it to provide Affected Customers with timely and accurate bills.

4.2.3 An Eligible Licensee shall provide a copy of its current or revised Statement of Interim Supply Capacity to the Authority in each of the following circumstances:

- (a) at the same time as it first Elects to be an Eligible Licensee;
- (b) at the same time as it Elects to be an Eligible Licensee in respect of any additional Areas and/or Service Categories;
- (c) promptly following any change in circumstances that materially affects the Eligible Licensee's capacity to provide Interim Supply;
- (d) at the same time as the Eligible Licensee Suspends its Election in accordance with the further provisions of this code;
- (e) prior to the Eligible Licensee removing its Election in respect of one or more Service Categories and/or Areas in accordance with the further provisions of this code; and
- (f) upon request by the Authority at any time and within the timescales specified in the request.

4.2.4 The Authority may at any time request in writing reasonable additional information or evidence from an Eligible Licensee to support its Statement of Interim Supply Capacity. An Eligible Licensee shall respond to any such request within the timescale specified by the Authority in any such request.

### **4.3 Removal of Election**

- 4.3.1 An Eligible Licensee that no longer wishes to be an Eligible Licensee in respect of any Area and/or Service Category shall be entitled to remove its Election in respect of one or more Service Categories and/or Areas at any time, subject to the further provisions of this section.
- 4.3.2 Prior to removing its Election in respect of one or more Service Categories and/or Areas, an Eligible Licensee shall provide a revised Statement of Interim Supply Capacity to the Authority together with an explanation of the Eligible Licensee's reasons for removing or amending its Election, with reference to the revised Statement of Interim Supply Capacity.
- 4.3.3 An Eligible Licensee may remove its Election in respect of one or more Service Categories and/or Areas by submitting a notification to the Market Operator to that effect in accordance with the relevant provisions of the Wholesale-Retail Code.
- 4.3.4 The notification shall include:
- (a) the Area or Areas in relation to which its Election is to be removed; and
  - (b) in respect of each such Area whether it wishes remove its Election in relation to Water Retail Services and/or Sewerage Retail Services or both.

### **4.4 Suspension of Election following a Notice of Relevant Cessation of Supply**

- 4.4.1 An Eligible Licensee may Suspend its Election in respect of one or more Service Categories and/or Areas following the issue by the Authority of a Notice of Relevant Cessation of Supply, subject to the further provisions of this section.
- 4.4.2 The Authority shall not direct an Eligible Licensee to provide Interim Supply in respect of any Interim Duty Supply Points which relate to any Area and/or Service Category in respect of which the Eligible Licensee has Suspend its Election.

- 4.4.3 A Notice of Relevant Cessation of Supply issued by the Authority shall specify the Suspension Deadline. This deadline may be on the same day that the relevant Notice of Relevant Cessation of Supply is issued.
- 4.4.4 Any Retailer wishing to Suspend its Election shall send a notification to that effect to the Authority in accordance with the Notice of Relevant Cessation of Supply and to the Market Operator in accordance with the relevant provisions of the Wholesale-Retail Code.
- 4.4.5 Any notification that is received by either the Authority or the Market Operator after the deadline specified in the relevant Notice of Relevant Cessation of Supply shall not have any effect unless otherwise directed by the Authority.
- 4.4.6 The details that the Eligible Licensee shall be required to provide in its notification of Suspension shall include:
- (a) confirmation that it wishes to Suspend its Election in relation to the specified Notice of Relevant Cessation of Supply;
  - (b) the Area(s) in respect of which it wishes to Suspend its Election;  
and
  - (c) whether it wishes to Suspend its Election in relation to Water Retail Services or Sewerage Retail Services or both in each such Area.
- 4.4.7 At the same time that an Eligible Licensee sends notification to the Market Operator to Suspend its Election, the Eligible Licensee shall provide a revised Statement of Interim Supply Capacity to the Authority together with an explanation of the Eligible Licensee's reasons for Suspending its Election, with reference to the revised Statement of Interim Supply Capacity.
- 4.4.8 An Eligible Licensee shall be deemed by the Authority to have Suspended its Election in the event that its status as an Opted in Retailer has been suspended in the circumstances set out in the Wholesale-Retail Code following an Insolvency Event.
- 4.4.9 Following the Allocation of all the Interim Duty Supply Points identified in the Notice of Relevant Cessation of Supply, an Eligible Licensee which had Suspended its Election in relation to that Notice of Relevant

Cessation of Supply shall immediately become an Eligible Licensee for each Area and/or Service Category that was affected by the Suspension, in accordance with its Election as an Opted-In Retailer.

## **4.5 Contact Details**

- 4.5.1 An Eligible Licensee shall provide the Authority with the contact details of the person(s) within its organisation to whom all notices, information and directions issued under this code shall be sent. This information shall be provided at the same time as an Eligible Licensee first Elects to be an Eligible Licensee and shall be updated following any change to the relevant contact details. This information shall include contact details for use outside of Delivery Hours where this is necessary in view of the urgency of a Relevant Cessation of Supply event. It is the responsibility of the Eligible Licensee to keep contact details up to date.

## **PART B: PROCEDURE FOLLOWING A RELEVANT CESSATION OF SUPPLY**

### **5. Relevant Cessation of Supply**

#### **5.1 Circumstances in which the Authority's power of direction may be exercised**

5.1.1 The Authority shall only use its power under section 63AC and/or section 110L of the 1991 Act to direct an Eligible Licensee to provide Interim Supply in respect of any Premises in the following circumstances:

- (a) there has been a Relevant Cessation of Supply in relation to the Premises;
- (b) that Previous Licensee is not a Self-Supply Licensee; and
- (c) an Interim Duty Supply Point relating to the Premises has been Allocated to the Eligible Licensee in accordance with this code.

#### **5.2 Date of Relevant Cessation of Supply**

5.2.1 The Authority shall determine the Date of Relevant Cessation of Supply in relation to each Relevant Cessation of Supply.

5.2.2 The Date of Relevant Cessation of Supply shall be:

- (a) the date on which the relevant Previous Licensee's Licence was (or will be) revoked, as set out in the relevant revocation notice issued by the Authority; or
- (b) the date on which a Wholesale Contract between the relevant Previous Licensee and a relevant undertaker was terminated.

## **6. Notice of Relevant Cessation of Supply**

### **6.1 Issue of Notice of Relevant Cessation of Supply in respect of which the Authority proposes to give a direction to an Eligible Licensee**

6.1.1 The Authority shall issue a Notice of Relevant Cessation of Supply where:

- (a) there has been a Relevant Cessation of Supply in respect of which the Authority proposes to give a direction under section 63AC(3) or section 110L(3) of the 1991 Act; or
- (b) a Relevant Cessation of Supply will occur at a date specified in a Licence revocation notice which has already been issued or which is issued at the same time as the Notice of Relevant Cessation of Supply and the Authority proposes to give a direction under section 63AC(3) or section 110L(3) of the 1991 Act in respect of such Relevant Cessation of Supply.

6.1.2 The Authority shall send a copy of the Notice of Relevant Cessation of Supply to each Eligible Licensee which is identified in the List of Eligible Licensees on the date on which the Notice of Relevant Cessation of Supply is issued and is eligible for at least one relevant combination of Area and Service Category in respect of the Relevant Cessation of Supply.

6.1.3 At the same time, the Authority shall also send a copy of the Notice of Relevant Cessation of Supply to:

- (a) each relevant undertaker in whose Area there is an Interim Duty Supply Point; and
- (b) the Market Operator.

6.1.4 The information to be included in a Notice of Relevant Cessation of Supply shall include (but need not be limited to):

- (a) the identity of the Previous Licensee which has ceased or which shall cease to supply Premises as of the Date of Relevant Cessation of Supply;

- (b) the Date of Relevant Cessation of Supply, which may be a date in the future in the circumstances described in Section 6.1.1(b) of this code; and
- (c) the Suspension Deadline, which in urgent circumstances may be on the same day that the Notice of Relevant Cessation of Supply is issued.

6.1.5 The Authority shall provide the following information to all recipients of a Notice of Relevant Cessation of Supply and/or procure that the following information is otherwise made available to the recipients:

- (a) the Area(s) in which the Relevant Cessation of Supply has occurred or shall occur; and
- (b) the number (or expected number) of Interim Duty Supply Points of each Service Category in each Area in respect of which the Relevant Cessation of Supply has occurred or shall occur.

6.1.6 The above information shall be made available prior to the deadline specified within the Notice of Relevant Cessation of Supply by which any Eligible Licensee entitled to Suspend its Election in respect of the Relevant Cessation of Supply must do so.

6.1.7 In addition to the information specified above, the Authority may provide such additional information as it considers appropriate in the particular circumstances and/or procure that such additional information is otherwise made available to the recipients. This additional information could include, but need not be limited to:

- (a) the number of Interim Duty Supply Points in each Area subject to a particular Wholesale Tariff;
- (b) the meter read history of the Interim Duty Supply Points;
- (c) the number of Interim Duty Supply Points in each Area which receive Trade Effluent Services; and
- (d) disaggregation of the number of Interim Duty Supply Points in each Area, such as by size or type of customer.

## **6.2 Issue of Notice of Relevant Cessation of Supply in respect of which the Authority does not propose to give a direction to an Eligible Licensee**

6.2.1 The Authority shall issue a Notice of Relevant Cessation of Supply where:

- (a) there has been a Relevant Cessation of Supply in respect of which the Authority does not propose to give a direction under section 63AC(3) or section 110L(3) of the 1991 Act; or
- (b) a Relevant Cessation of Supply will occur at a date specified in a Licence revocation notice which has already been issued or which is issued at the same time as the Notice of Relevant Cessation of Supply and the Authority does not propose to give a direction under section 63AC(3) or section 110L(3) of the 1991 Act in respect of such Relevant Cessation of Supply.

6.2.2 The Authority shall send a copy of a Notice of Relevant Cessation of Supply issued pursuant to Section 6.2.1 to the recipients identified in Sections 6.1.2 and 6.1.3 of this code.

6.2.3 The information to be included within a Notice of Relevant Cessation of Supply issued pursuant to this Section 6.2 shall include (but need not be limited to):

- (a) the identity of the Previous Licensee which has ceased or which shall cease to supply Premises as of the Date of Relevant Cessation of Supply;
- (b) the Date of Relevant Cessation of Supply, which may be a date in the future in the circumstances described in Section 6.2.1(b) of this code; and
- (c) the Area(s) in which the Relevant Cessation of Supply has occurred or will occur.

6.2.4 Where section 63AC(2) or section 110L(2) of the 1991 Act applies and the Authority notifies the Market Operator that no direction is to be made under section 63AC(3) or section 110L(3) of the 1991 Act, the Market Operator shall Register the Interim Duty Supply Points to the relevant undertaker for the Area in which the relevant Premises are located with



effect from the Date of Relevant Cessation of Supply, in accordance with the provisions of the Wholesale-Retail Code.

## **6.3 Use of Information**

6.3.1 An Eligible Licensee shall only use the information provided pursuant to Section 6.1 of this code for the purposes of making a decision about whether it intends to Suspend its Election in relation to the notified Relevant Cessation of Supply or to make an Interim Supply Offer.

6.3.2 An Eligible Licensee shall comply with all applicable law in relation to such information.

## **6.4 Request for information from market participants and Market Operator**

6.4.1 The Authority may issue a request to a Previous Licensee, relevant undertaker or Market Operator to provide relevant data or information to facilitate the provision of the information specified in Section 6.1 of this code.

6.4.2 This provision shall be without prejudice to any other rights in law under which the Authority is entitled to request information from Licensees or any other party.

## **7. Allocation of Interim Duty Supply Points**

### **7.1 Selection of method of Allocation by Authority**

7.1.1 The following provisions shall apply where the Authority has issued a Notice of Relevant Cessation of Supply in respect of which the Authority proposes to give a direction to an Eligible Licensee.

7.1.2 Only those Eligible Licensees identified in Section 6.1.2 of this code shall be eligible to be given such a direction under section 63AC(3) or section 110L(3) of the 1991 Act in respect of the notified Relevant Cessation of Supply.

- 7.1.3 After the relevant Suspension Deadline has passed, the Authority may decide in respect of each relevant Area or combination of relevant Areas:
- (a) that it is minded to make a direction or directions for one or more relevant Areas or for any combination of relevant Areas on the basis of Interim Supply Offers sought from relevant Eligible Licensees in accordance with the process set out in Section 7.2 of this code; or
  - (b) to request the Market Operator to allocate the relevant Interim Duty Supply Points in one or more relevant Areas by implementing the Interim Supplier Allocation Process in accordance with the process set out in Section 7.3 of this code and the relevant provisions of the Wholesale-Retail Code following which a direction will be made to give effect to the outcome of that process; or
  - (c) that it no longer proposes to direct an Eligible Licensee under section 63AC(3) or section 110L(3) of the 1991 Act to continue the supply in respect of the relevant Interim Duty Supply Points in one or more relevant Areas; or
  - (d) that the Allocation of the relevant Interim Duty Supply Points should be undertaken on the basis of any combination of (a), (b) or (c) above.
- 7.1.4 The Authority may issue guidance setting out any criteria or other considerations that it shall use to select the most appropriate method of Allocation on a case by case basis.

## **7.2 Interim Supply Offers**

- 7.2.1 This Section shall apply where the Authority decides pursuant to Section 7.1.3(a) of this code that it is minded to make an Allocation and direction or directions in respect of a relevant Area or any combination of relevant Areas on the basis of Interim Supply Offers sought from relevant Eligible Licensees.
- 7.2.2 The purpose of seeking Interim Supply Offers in respect of a relevant Area or combination of relevant Areas (as applicable) shall be to Allocate

all of the Interim Duty Supply Points within any such Area or combination of Areas to a single Eligible Licensee.

7.2.3 In respect of each such Area or combination of Areas (as applicable) the Authority shall invite each relevant Eligible Licensee to submit an Interim Supply Offer where that Eligible Licensee:

- (a) has not Suspended its Election in respect of the relevant Area or any Area within a combination of Areas in respect of which the Interim Supply Offer is being sought; and
- (b) has indicated in its most recently submitted Statement of Interim Supply Capacity that it has the ability to provide Interim Supply to all of the Affected Customers within the Area or combination of Areas in respect of which the Interim Supply Offer is being sought.

7.2.4 The Authority shall confirm in the Interim Supply Offer invitation to each relevant Eligible Licensee:

- (a) the Area or combination of Areas in respect of which the Interim Supply Offer is being sought;
- (b) the required format and content of the Interim Supply Offer; and
- (c) the deadline by which any Interim Supply Offer must be submitted in order to be considered.

7.2.5 In respect of each Area or each combination of Areas (as applicable) in respect of which Interim Supply Offers have been invited, the Authority will take the following steps:

- (a) consider all the Interim Supply Offers received;
- (b) Allocate all of the Interim Duty Supply Points within each relevant Area or each combination of Areas (as applicable) to a single Eligible Licensee on the terms set out in the Interim Supply Offer submitted by that Eligible Licensee; and
- (c) issue a direction under section 63AC(3) or section 110L(3) of the 1991 Act to give effect to this decision.

- 7.2.6 The Authority may issue guidance setting out the expected format and content of Interim Supply Offers and the criteria or other considerations that it will use to select the Interim Supply Offer it considers offers the best terms of Interim Supply for Affected Customers in each case.
- 7.2.7 After consideration of all the Interim Supply Offers received in respect of each relevant Area or combination of Areas (as applicable), the Authority may decide that the Interim Duty Supply Points in any such Area or combination of Areas shall be Allocated using one of the other methods set out in Section 7.1.3 of this code. In these circumstances the Authority will either:
- (a) instruct the Market Operator to implement the Interim Supplier Allocation Process in respect of these Interim Duty Supply Points in accordance with Section 7.3 of this code; or
  - (b) instruct the Market Operator to Register these Interim Duty Supply Points to the relevant undertaker(s) in accordance with the notice issued under Section 7.4 of this code.
- 7.2.8 In the event that the Authority decides that the relevant Interim Duty Supply Points shall be Allocated using one of the other methods set out in Section 7.1.3 of this code, such Allocation shall be undertaken for each relevant Area independently, and any combination of Areas which may previously have been used for the purposes of inviting Interim Supply Offers shall no longer be relevant.

### **7.3 Particular provisions about use of the Interim Supplier Allocation Process under the Wholesale-Retail Code**

- 7.3.1 The following provisions shall apply where the Authority has decided pursuant to Sections 7.1 or 7.2 of this code that any Interim Duty Supply Points shall be Allocated by the Market Operator on the basis of the Interim Supplier Allocation Process.
- 7.3.2 In these circumstances the Authority shall:
- (a) notify the Market Operator of each Area in respect of which Interim Duty Supply Points are to be Allocated on the basis of the Interim Supplier Allocation Process;

- (b) instruct the Market Operator to implement the Interim Supplier Allocation Process in respect of each such Area; and
- (c) notify the Market Operator of the timetable within which the Interim Supplier Allocation Process is to be completed.

## **7.4 Notification and implementation of Allocation**

- 7.4.1 The Authority shall notify all relevant Eligible Licensees, relevant undertakers and the Market Operator by issuing an Allocation Notice setting out its Allocation decision(s).
- 7.4.2 The Allocation Notice shall include for each relevant Area or combination of Areas the following information:
  - (a) whether the Authority has made a direction(s) pursuant to section 63AC(3) and/or section 110L(3) of the 1991 Act to direct one or more Interim Licensees to continue supply and/or whether section 63AC(2) or section 110L(2) of the 1991 Act applies and no direction has been made under section 63AC(3) or section 110L(3) of the 1991 Act and that the relevant Supply Points should be Registered to the relevant undertaker(s) for the Area(s) in which the Eligible Premises are situated;
  - (b) identification of the Interim Duty Supply Points Allocated to each Interim Licensee or relevant undertaker as applicable; and
  - (c) the Date of Relevant Cessation of Supply.
- 7.4.3 The Market Operator shall Register the Allocated Interim Duty Supply Points to the relevant Interim Licensee(s) and/or relevant undertaker(s) in respect of each Area as applicable with effect from the Date of Relevant Cessation of Supply.
- 7.4.4 In all cases the Interim Duty Supply Points to be Registered to the relevant Interim Licensee(s):
  - (a) shall include Supply Points Registered to the Previous Licensee at the Date of Relevant Cessation of Supply including those in the process of being Deregistered or Disconnected; and

- (b) shall include New Supply Points in the process of being Registered to the Previous Licensee at the Date of Relevant Cessation of Supply; but
- (c) shall not include Supply Points in the process of being Registered to an Incoming Retailer at the Date of Relevant Cessation of Supply.

## **PART C: BASIS OF INTERIM SUPPLY BY AN INTERIM LICENSEE**

### **8. Provisions about Schemes**

#### **8.1 Date from which a Scheme shall apply to an Affected Customer**

8.1.1 The date from which an Interim Licensee shall be required to continue the supply of Water Retail Services and/or Sewerage Retail Services to a Premises by way of a direction under section 63AC(3) or section 110L(3) of the 1991 Act shall be the Date of Relevant Cessation of Supply.

8.1.2 In the absence of alternative terms and conditions being agreed between an Interim Licensee and an Affected Customer, the Interim Licensee's applicable Scheme shall be the basis upon which it shall provide Interim Supply to any such Affected Customer from the Date of Relevant Cessation of Supply.

#### **8.2 Modification of a Scheme by an Interim Supply Offer**

8.2.1 In the event that an Interim Licensee has been directed by the Authority to continue supply to an Affected Customer as a result of an Interim Supply Offer having been accepted in accordance with Section 7.2 of this code then:

- (a) In the absence of alternative terms and conditions being agreed between an Interim Licensee and the Affected Customer, the terms and conditions on which the Interim Licensee shall provide Interim Supply to the Affected Customer shall be its Scheme as modified by the terms of the relevant Interim Supply Offer;
- (b) the Authority shall give a direction to the Interim Licensee that its Scheme must be so modified; and
- (c) any such modification shall only apply in respect of the provision of Interim Supply to the Premises that were the subject of the relevant Interim Supply Offer and this shall be without prejudice to the

application of the Eligible Licensee's Scheme in any other circumstances.

## **8.3 General requirements in respect of Schemes**

8.3.1 In the making or revision of its Scheme, an Eligible Licensee shall ensure that its Scheme complies with the following:

- (a) the Eligible Licensee shall ensure that the price terms within the Scheme are reasonable in the circumstances;
- (b) the Eligible Licensee shall ensure that there is no undue preference shown to and that there is no undue discrimination against any Affected Customer compared with the Eligible Licensee's other Non-Household Customers of the same class as the Affected Customer;
- (c) the Scheme must be consistent with the Eligible Licensee's obligations under the 1991 Act and its Licence;
- (d) the Interim Licensee shall not vary or terminate the terms and conditions of its Scheme as it applies to an Affected Customer without the consent of that Affected Customer for a period of three (3) months commencing from the date from which the Interim Licensee was required to continue the supply of Water Retail Services and/or Sewerage Retail Services to that Affected Customer's Premises by way of a direction under section 63AC(3) or section 110L(3) of the 1991 Act and subject to the Interim Licensee providing the Affected Customer one (1) months' notice in writing of such variation or termination; and
- (e) other than the right of an Eligible Licensee to submit a Cancellation Request to the Market Operator under the Wholesale-Retail Code, nothing in the Scheme shall prevent or restrict the Affected Customer's right or ability to transfer its supply of retail services to another Licensee or relevant undertaker or to other terms and conditions offered by the Eligible Licensee at any time.



## **9. Provision of information to Affected Customers**

9.1.1 Within five (5) Business Days of the date of the Market Operator sending a Report in accordance with the Wholesale Retail Code confirming that an Interim Duty Supply Point has been Registered to it as the result of the Authority's direction to provide Interim Supply to an Affected Customer, the Interim Licensee shall write to the Affected Customer in plain and intelligible language in order to provide at least the following information:

- (a) that the Interim Licensee is now the Affected Customer's provider of Water Retail Services and/or Sewerage Retail Services and that the Previous Licensee is no longer supplying the Affected Customer;
- (b) the reason why this is the case;
- (c) the date from which the Interim Licensee commenced the provision of Interim Supply to the Affected Customer which, unless the Authority advises to the contrary, shall be the Date of Relevant Cessation of Supply;
- (d) relevant contact details of the Interim Licensee;
- (e) that the Affected Customer has the right to switch to an alternative provider of Water Retail Services and/or Sewerage Retail Services at any time;
- (f) the steps the Interim Licensee shall take to resolve any outstanding service requests and/or complaints between the Affected Customer and the Previous Licensee;
- (g) a copy of the applicable Scheme, where relevant as modified by an Interim Supply Offer in accordance with Section 8.2 of this code, or an indication where the Scheme can be found on its website; and
- (h) a statement that alternative terms and conditions from the applicable Scheme may be available and how information about such alternative terms and conditions may be obtained.

Ofwat (The Water Services Regulation Authority) is a non-ministerial government department. We regulate the water sector in England and Wales. Our vision is to be a trusted and respected regulator, working at the leading edge, challenging ourselves and others to build trust and confidence in water.

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