

Information notice

IN 16/04 March 2015



This is a formal document that alerts our stakeholders to a change in the way that we regulate the water sector in England and Wales.

Replacing combined water supply licences in England and Wales

This information notice is to inform interested parties of our plan for replacing the wholesale element of the current Water Supply Licence Combined Supply Licence in England and Wales.

Background

The Water Act 2014 requires the current Water Supply Licensing (WSL) regime to change to support an expanded scope of markets and customer choice for non-household customers served by companies operating wholly or mainly in England. The Welsh Government has retained the existing regulatory framework as the mechanism to ensure that customers receive first class, value for money, water and sewerage services, and to deliver its integrated water and sewerage policies as set out in the Water Strategy for Wales. As a consequence of the new legislation the existing WSL regime needs to be succeeded by the new Water Supply and Sewerage Licensing (WSSL) regime across both jurisdictions. A key element of this change is the replacement of the current licences with new licences that reflect the new scope and purpose of the WSSL regime. This note is about part of this change.

Through the Open Water programme we have already [consulted on the conditions](#) applicable to the WSSLs for the customer facing 'retail' services. These services include, for example, billing and customer contact activities. We have developed and consulted on English retail authorisations, and Welsh restricted retail authorisations (RAs) of the WSSLs that will replace the existing retail WSLs. This included the licence conditions that holders of the licence will be required to follow as well as the application process to obtain one of the licences and be able to provide services in competition with existing undertakers. The application process for the new WSSLs will open on 5 April 2016.

As well as the customer-facing retail activities the new legislation will also bring about other authorisations. These will allow licence holders to undertake activities further upstream in certain circumstances including, for example, introducing water into an undertaker's network

or disposing of sewage/sludge. We will facilitate these changes in line with our statutory duty to protect customers, wherever appropriate by promoting competition, within the context of Welsh and UK Government policies. We expect the work that we have to do to develop these licences to be undertaken within our own Water 2020 programme but these new upstream arrangements will require significant input from the UK and Welsh governments, and other regulators including the Environment Agency, Natural Resources Wales and the Drinking Water Inspectorate.

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For water services this will need the introduction of successors to the wholesale parts of the existing Combined Water Supply Licences (CSLs) under the current WSL regime – the supplementary authorisation that currently allows CSL holders to introduce their own water into water undertakers' networks in certain circumstances. There are currently seven companies that hold these licences but to date the regime has proved to be very ineffective and no company holding one of these licences has ever sought to input water into an undertaker's network. These old supplementary authorisations will be succeeded as part of the new legislation set out in the Water Act 2014 by Wholesale Authorisations (WAs) to introduce water into water networks operated by water undertakers whose area is wholly or mainly in England, and Supplementary Authorisations (SAs) to introduce water into water networks operated by water undertakers whose area is wholly or mainly in Wales.

The new legal framework also includes provisions for extending the existing WSL regime to cover sewerage services and, in line with this, includes provisions for wholesale and disposal authorisations that could allow an entrant to provide certain upstream sewerage activities including, for example, the removal and disposal of sludge.

Please note that the Commission on Devolution in Wales (the Silk Commission) has recommended that the boundaries of devolution for water and sewerage services should be redrawn along national rather than company boundaries, which might have implications for WSSL licences.

Following discussion with the UK and Welsh governments, and other regulators, we are seeking to confirm through this information note that the current CSL arrangements will continue to remain in place until 3 April 2017, but from 3 April 2017 we expect that CSLs will be succeeded by WAs.

These new wholesale authorisations will only succeed the existing wholesale water elements of the current CSLs as there is no intention to introduce wholesale or disposal authorisations for sewerage licences at this time. We have taken this decision now for the following reasons.

- We have only recently consulted on the regulatory arrangements to facilitate the new upstream market arrangements set out in the Water Act 2014 in December, and we are not yet able to fully set out what the regulatory framework of those arrangements is likely to be.

- The existing CSLs include a set of conditions or obligations that relate to both ‘retail’ activities as well as the ‘upstream’ introduction of water in certain circumstances. By developing the new RAs and associated conditions to replace the retail WSLs this raises a corresponding question for the CSLs that needs to be addressed as soon as possible. This is especially true given that there are some companies who currently hold these licences. We certainly need to address this before we are able to fully set out the new upstream framework.
- Under the legal framework provided for in the Water Act 2014 we could have chosen to
 - remove the existing CSL regime for a period of time until the new upstream water market arrangements are in place;
 - create a different transitional regime; or
 - replace the existing CSLs with the new upstream WAs and SAs.

We do not consider that under our duty to protect customers by promoting competition we can reasonably recommend removing the regime as this would take away, albeit for only a relatively short amount of time, the opportunities created by that regime. Furthermore, we do not see the merits in creating a transitional licensing regime that could require substantial work to develop and would only exist for a short period of time. **We therefore propose to replace the existing CSLs with the new WAs in England and SAs in Wales by 3 April 2017.**

These new arrangements will be implemented to preserve, but not extend, the existing opportunities for wholesale market entry in

England and Wales relative to the current CSL arrangements. So, the ability to input water into the water network by a WSSL holder will still be limited to:

- supplying non-household premises that meet the relevant threshold requirement (5 megalitres per year for English water networks and 50MI/year for Welsh water networks);
- adherence to the costs principle;
- licensees supplying only their own non-household customers; and
- compliance with the relevant licence conditions and arrangements in relation to water quality.

The CSLs will continue to exist until 3 April 2017. We will put in place arrangements that will allow existing holders of a CSL to apply for a WA or SA before their CSL is removed. Those who do not hold a CSL will also be able to apply for a WA or SA from November 2016, following consultation over the summer about the proposed licence conditions and application process.

This information note sets out how we intend to introduce new WAs and SAs to succeed the existing CSLs, and the overall timeline for doing so.

The English wholesale authorisation

The existing CSLs allow new entrants to both introduce water into an existing water undertaker’s network and provide customer-facing retail services to customers. The WA, which will replace the wholesale parts of the CSL, will ultimately allow a new entrant to introduce water into an incumbent’s network

without requiring it to provide the customer-facing retail services. However, the WA that will be introduced in April 2017 is intended to be a transitional successor to the wholesale parts of the CSL, and so will retain:

- the relevant threshold requirement for non-household premises (5MI/year);
- the costs principle;
- the requirement for licensees to supply only their own non-household customers; and
- the relevant licence conditions in relation to water quality.

Once in place, we expect the WA to evolve over time as the market architecture for the wholesale water market develops. So, for example, the threshold requirement will be removed in the future. The timing of these future evolutionary changes will be a decision for Defra. These future changes required to implement the Water Act 2014 will be made alongside the development of the other necessary parts of the wholesale market architecture, such as the instruments of appointment and access codes.

The Welsh supplementary authorisation

The Welsh Government has decided to retain the scope of the existing water supply licensing framework. In line with the Water Act 2014 the new SA will be introduced to replace the wholesale elements of the CSL.

Unlike the WA, the SA will not be expected to evolve further after its introduction. However, the Water Act 2014 does give the Welsh Government the power to extend the SA in the future if it considers it appropriate to do so.

The Welsh SA will therefore retain:

- the relevant threshold requirement for non-household premises (50MI/year);
- the cost principle;
- the requirement for licensees to supply only their own non-household customers; and
- the relevant licence conditions in relation to water quality.

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Next steps

The indicative timetable below sets out the key milestones for succeeding the CSLs in England and Wales.

The implementation timeline for other elements of the Water Act 2014 is for the UK and Welsh governments to decide. We are working with them and other regulators to understand how and when we need to contribute to this work, and when changes to elements of the market architecture, such as instruments of appointment and access codes, might be needed.

Indicative timetable

July / August 2016 – Consultation on WA and SA licence conditions, application process, access codes, instruments of appointment, and the overall transition process from CSLs to WAs and SAs.

October 2016 – Final licence conditions for WAs and SAs published.

November 2016 – Ofwat starts accepting applications for WAs and SAs.

3 April 2017 – WAs and SAs come into effect and CSLs cease.

More information

[Consultation on licensing: results and decisions](#), December 2015

[Water 2020: Regulatory framework for wholesale markets and the 2019 price review](#), December 2015

[Standard conditions of water supply licences](#), November 2005

[Water supply licensing – guidance on eligibility](#), September 2011

[Water supply licensing \(WSL\) guidance webpages](#)

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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