
Statutory transition scheme – notification to holders of Water Supply Licences and Combined Licences granted under the Water Industry Act 1991 (WIA91)

About this document

We explained in earlier documents, including the [response document](#) to our consultation on the use of a statutory transition scheme that we would use a statutory transition scheme to help prepare for the opening of the expanded business retail market in April 2017. The transition scheme is referred to as a qualifying scheme in Schedule 11 of the Water Act 2014 ("WA14").

In particular, we explained that we would use the statutory transition scheme to:

- Revoke all old Water Supply Licences (WSLs) (an "old" WSL is defined in Schedule 11 to the WA14 as a water supply licence granted under old section 17A of the WIA91), including Combined Licences; and
- Provide that the compensation payable in respect of the revocation of each WSL under the scheme shall be nil.

This document is intended to inform affected parties of the process we will adopt to implement the statutory transition scheme. The form of the scheme is appended to this document for companies' information. If you have any material concerns with the form of the scheme and would like to discuss this further, please contact Dan Mason (Daniel.Mason@ofwat.gsi.gov.uk) no later than 5pm on Tuesday 21 February 2017.

Background

The WA14 will allow all eligible business customers to choose their supplier of water and wastewater retail services from April 2017. Opening the expanded business retail market requires new systems, licences, rules and processes to enable eligible business and other non-household customers to engage with the market, and for new retailers to enter the market. These licences, rules and processes are contained in the various codes which have been developed as part of the new [legal and regulatory framework](#).

Under the new retail market arrangements, water and wastewater retail services will be provided by either a regional water and/or sewerage company holding an Instrument of Appointment (IoA) (appointed company) - covering both wholesale and retail activities - or a licensed retailer holding a new Water Supply and/or Sewerage Licence (WSSL) (all of whom are referred to as market participants). Licensed retailers currently provide water supply services to large users of water under old WSLs, and these are being replaced by WSSLs under changes to the legal framework made by the WA14. Although the size of the market will not be changing in Wales due to current Welsh Government policy, we will still be replacing old WSLs in Wales. This is therefore one of the areas where we need to manage transition effectively.

As part of the transition from the current legal and regulatory framework to the new market arrangements, we need to make sure that certain elements of the current framework that will no longer be required, are revoked or otherwise 'switched off'. Included in those elements are the old WSLs (including Combined Licences), as they will be replaced by the new WSSLs.

The legal basis for a statutory transition scheme

Under the provisions of Schedule 11 of the WA14, which is given effect by section 91 of the WA14, Ofwat may use a 'qualifying scheme' to establish the necessary transition arrangements for water supply licensing. Under paragraph 2(3) of Schedule 11, a scheme is only a qualifying scheme if it is made by us and it makes provision about the matters set out in paragraph 2(4) of Schedule 11, namely provision about revocation of old WSLs. A qualifying scheme may also contain provision about matters set out in paragraphs (5) and (6), although that list is not exhaustive.

Content of the transition scheme and what this will mean for holders of a WSL (including holders of Combined Licences)

A seamless transition is extremely important for both customers and market participants, as it is essential for the effective operation of the expanded market from April 2017. We set out below the issues that will be covered by the transition scheme.

Revoking old WSLs

All retailers who wish to participate in the retail market after April 2017 must hold a WSSL with an (English) retail authorisation and/or a (Welsh) restricted retail authorisation in accordance with the provisions of the WIA91 (as amended by the WA14). So any holder of an old WSL that wishes to continue to participate in the retail market after April 2017 must have been granted a WSSL before April 2017. Any holder of a Combined Licence that wishes to retain the right to make introductions of water to supply their own customer(s) from Market Opening must have applied for and have been granted a new water supply licence with a (English) wholesale authorisation or a (Welsh) supplementary authorisation prior to April 2017.

We will use the transition scheme to revoke all old WSLs (including Combined Licences). This will happen immediately prior to Market Opening (currently expected to be at the end of 23:59:59 hrs on 31 March 2017), to provide a seamless transition to the new WSSLs, which will take effect at the beginning of the date of Market Opening (currently expected to be 1 April 2017).

The transition scheme will be made by Ofwat at the beginning of March 2017, subject to the Secretary of State's decision on Market Opening. As soon as possible after the transition scheme is made, Ofwat will publish a notice under section 195A of the WIA91 stating the reasons why the old WSLs will be revoked. Ofwat will also serve a copy of this notice on each holder of a revoked old WSL.

In our response document we noted that Defra intended to include provisions relating to old section 66D agreements in its 8th Commencement Order, and that this meant we did not need to provide for this in our transition scheme. Defra now intends to make this provision in the 9th Commencement Order.

Compensation

Under paragraph 2 (4)(b) of Schedule 11, and more particularly under article 4 of the [7th Commencement Order](#), any transition scheme must make provision in relation to the payment of compensation by Ofwat in connection with the revocation of rights attached to WSLs or other restrictions imposed on WSLs under that transition scheme. Under the 7th Commencement Order, the transition scheme may make provision for the compensation payable to be nil.

We will therefore use the scheme to provide that the level of compensation payable in relation to the revocation of old WSLs will be nil. We are not required to include a process in the scheme for claiming compensation, as compensation will be stated to be nil and such a process would therefore be unnecessary.

Next Steps

Provided interested parties have raised no material concerns about the form of the transition scheme by 5pm on Tuesday 21 February 2017, Ofwat will designate the scheme at the beginning of March 2017 (subject to the Secretary of State's decision on Market Opening) and issue notices to affected parties shortly thereafter. When issuing notices regarding revocation, we also intend to issue the relevant notices bringing into effect the WSSLs with effect from Market Opening. Issuing these notices in early March should provide, early certainty for WSL and WSSL holders regarding the carrying out of retail activities from Market Opening.

Appendices

Appendix one: Draft qualifying scheme and designation document.

THE WATER SERVICES REGULATION AUTHORITY

THE WATER ACT 2014, SECTION 91 AND SCHEDULE 11

**THE WATER ACT 2014 (COMMENCEMENT NO. 7 AND TRANSITIONAL PROVISIONS)
ORDER 2016/1007**

DESIGNATION OF QUALIFYING SCHEME

Pursuant to:

1. the Water Act 2014, section 91 and Schedule 11, paragraphs 2(3) and (4); and
2. the Water Act 2014 (Commencement No. 7 and Transitional Provisions) Order 2016/1007, article 4,

the Water Services Regulation Authority hereby issues the document annexed hereto as the qualifying scheme within the meaning of those provisions.

Signed for and on behalf of the Water Services Regulation Authority

Date

DRAFT

ANNEX

TRANSITION SCHEME MADE AS A QUALIFYING SCHEME PURSUANT TO THE WATER ACT 2014, SECTION 91 AND SCHEDULE 11, PARAGRAPHS 2(3) AND (4), AND TO THE WATER ACT 2014 (COMMENCEMENT NO. 7 AND TRANSITIONAL PROVISIONS) ORDER 2016/1007, ARTICLE 4

1. Revocation of old water supply licences

The old water supply licences described in in the table below are hereby revoked with effect at the end of 23:59:59 on 31 March 2017.

Licensee Name	Date granted	Type of licence (retail/combined)	Licence Number
Avon Valley Water Limited	3 August 2010	Retail	R03/2010
Anglian Water Business (National) Limited (formerly Osprey Water Services Ltd, Hartlepool Water Ltd)	4 January 2007	Combined	C06/2007
NWG Business Limited	15 April 2014	Retail	R11/2014
Peel Water Limited	15 April 2014	Combined	C10/2014
Scottish Water Business Stream Ltd	23 September 2009	Retail	R02/2009
Source for Business Limited	18 February 2014	Retail	R09/2014
SSWB Limited	7 June 2016	Retail	R14/2016
Sutton and East Surrey Water Services Limited	23 December 2014	Retail	R13/2014
Water Plus Select Limited (formerly Severn Trent Select Limited)	1 December 2005	Combined	C03/2005
Thames Water Commercial Services Limited	20 September 2012	Combined	C07/2012
Three Sixty Water Services Limited (formerly Kelda Water Services (Retail) Limited) (formerly YorWater Limited)	21 March 2006	Retail	R01/2006
Water Plus Ltd (formerly United Utilities Water Sales Ltd)	3 January 2007	Combined	C05/2007
Water 2 Business Limited	11 November 2014	Retail	R12/2014

2. **Measure of compensation payable in connection with revocation**

The compensation payable by the Authority in respect of the revocation of each of the old water supply licences listed in section 1 shall be nil.

3. **Interpretation**

Words and expressions defined in Water Industry Act 1991 and/or in the Water Act 2014 shall have the same meaning in this qualifying scheme.