

**WATER SERVICES REGULATION AUTHORITY
WATER ACT 2014, SECTION 55(1)**

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

**Made on 27 March 2017
Coming into effect on 1 April 2017**

The Water Services Regulation Authority, in exercise of the power conferred on it by section 55(1) of the Water Act 2014 ("the 2014 Act"), after consulting appropriate persons as required by section 55(4) of the 2014 Act and considering it to be necessary or expedient to do so in consequence of provision made by or under Part 1 of the 2014 Act (including provision made under section 91 of the 2014 Act in connection with that Part), hereby makes the modifications described in the Schedule attached hereto to the Conditions of the Appointment of South East Water Limited as a water undertaker under Chapter I of Part II of the Water Industry Act 1991.

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

**Cathryn Ross
Chief Executive**

Schedule

1. Paragraphs 1 to 4 of Condition R are deleted.
2. Condition S is deleted and replaced with the following text:

“Condition S: Introductions of water under the water supply licensing regime

Introduction

1 For purposes of this Condition:

(a) “Licensee” means a water supply licensee;

(b) “Primary Water Undertaker” is a water undertaker whose supply system is or will be used for the purposes of enabling the Licensee to provide water supplies to premises in accordance with the Licensee’s retail or restricted retail authorisation;

(c) the “Protocol” means the "**Customer Transfer Protocol**" -

- (i) complying with the requirements of paragraphs 8 to 11 below;
- (ii) served by the Authority on the Appointee on or after the date on which this condition comes into force; and
- (iii) as subsequently amended from time to time in accordance with this Condition;

(c) “Secondary Water Undertaker” is a water undertaker which, at the request of a Licensee, provides or will provide a supply of water to be introduced into the Primary Water Undertaker’s supply system, with the consent of the Primary Water Undertaker, to enable the Licensee to provide water supplies to premises in accordance with the Licensee’s retail or restricted retail authorisation; and

(d) “Statutory Guidance” means any code or guidance issued by the Authority under the Act that makes provision about the terms and conditions of an agreement for the performance of duties under sections 66A, 66B or 66C of

the Water Industry Act 1991 in relation to the introduction of water by a Licensee in accordance with its water supply licence.

- 2 (1) This Condition applies to, and makes provision about, circumstances where a Licensee with a wholesale or supplementary authorisation:
- (a) requests permission to introduce water into the Primary Water Undertaker's supply system in order to supply premises in accordance with the Licensee's retail or restricted retail authorisation; **or**
 - (b) requests a Secondary Water Undertaker to provide a supply of water to be introduced into the Primary Water Undertaker's supply system (with the consent of that undertaker) in order to provide water supplies to premises in accordance with the Licensee's retail or restricted retail authorisation.

The Access Code

- 3 (1) The Appointee shall have an Access Code which complies with paragraphs 4 to 6 of this condition.
- (2) The Appointee shall comply with its Access Code.
- 4 (1) The Access Code shall -
- (a) conform to any Statutory Guidance; and
 - (b) set out -
 - (i) the Appointee's procedure (including timetables) for dealing with a request to which this Condition applies, including requests under sections 66B or 66C of the Water Industry Act 1991, made to it by a Licensee (which procedure shall itself conform to any relevant guidance);

- (ii) the types of feasibility studies which the Appointee may undertake in response to any of those possible applications, including the method of calculation of any costs associated with any such study with a view to recovering them from any such applicant (all of which feasibility studies and the method of calculation shall themselves conform to any relevant guidance); and
 - (iii) the terms (including the basis for calculating charges) upon which the Appointee will offer to perform each relevant duty under sections 66A, 66B and 66C of the Water Industry Act 1991 and indicative charges for performing each such duty (which indicative charges shall themselves be calculated in accordance with any relevant guidance).
- (2) In this paragraph and in paragraph 5 below, "relevant guidance" means guidance -
 - (a) in relation to the matters specified in sub-paragraph (1)(b) above;
 - (b) for the time being issued by the Authority where -
 - (i) before issuing such guidance, the Authority has consulted such persons as it considers appropriate; and
 - (ii) the Authority has published such guidance in such a manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.
- 5 (1) Subject to sub-paragraph (2), the Appointee -
 - (a) shall review its Access Code, and make any revisions to its Access Code consequent upon that review, annually not later than 15 October in each year; and

- (b) may also at any other time revise it.
 - (2) If the Authority revises Statutory Guidance, the Appointee shall revise its Access Code to conform to the revised Statutory Guidance within the timescales set out by the Authority.
 - (3) If the Authority revises any relevant guidance, the Appointee shall revise its Access Code to conform to such revised relevant guidance, within the timescales set out by the Authority, provided that the Authority has -
 - (a) consulted such persons as it considers appropriate before revising that relevant guidance; and
 - (b) published that revised relevant guidance in such a manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.
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- (1) The Appointee shall -
 - (a) include the text of its Access Code, as revised from time to time, on any Internet website which it may maintain; and
 - (b) in response to any request, provide a copy of it free of charge.
 - (2) The Appointee shall provide to the Authority -
 - (a) free of charge a copy of its Access Code; and
 - (b) within seven days of making them, written particulars of any modifications of it.

Customer transfer protocol

7 The Appointee shall comply with the Protocol.

8 In relation to circumstances where a Licensee proposes to introduce water in pursuance of its licence, or the cessation of such an introduction is proposed,

the Protocol shall provide a clear, simple and standardised process for the timely and efficient transfer of supplies to premises of customers:

- (a) between any water undertaker and any Licensee; and
- (b) between any two Licensees.

9 The Protocol shall -

- (a) make the same provision for all of the transfers referred to in paragraph 8 above; and
- (b) include provisions for its amendment which shall -
 - (i) allow the Authority and such other persons as the Protocol shall specify to propose amendments;
 - (ii) subject to (iii) below, require the agreement of the Authority and such majorities, as the Protocol shall specify, of water undertakers and of Licensees with wholesale or supplementary authorisations, before any amendment can be made; and
 - (iii) in the case of such disagreements as the Protocol shall specify, about any amendment to the Protocol which has been proposed other than by the Authority, allow the Authority to determine whether that amendment shall be made.

10 The Protocol shall include provisions to the effect that, where -

- (a) any water undertaker or Licensee ("the Old Supplier") is supplying water to the premises of a customer;
- (b) that customer has failed to pay outstanding charges due to the Old Supplier in respect of that supply;
- (c) those charges have been demanded by notice served on the customer; and

(d) they have remained unpaid for 30 days or more after the date of that notice,

the old supplier may suspend the transfer of the supply of water to those premises of that customer until satisfactory provision has been made for the outstanding debt to be paid to the old supplier.

11 Where the Authority so determines, the Protocol shall provide for such matters as are specified or are of a type specified in the Protocol to be referred to and determined by the Authority.”