

# WATER INDUSTRY ACT 1991: SECTION 208

## THE SECURITY AND EMERGENCY MEASURES (WATER UNDERTAKERS) DIRECTION 2017

The Welsh Ministers, in relation to Welsh water undertakers, and the Secretary of State, in relation to English water undertakers, give the following Direction in exercise of the powers conferred by section 208(1) and (2) of the Water Industry Act(a).

It appears to the Welsh Ministers, in relation to all water undertakers whose areas are wholly or mainly in Wales (“Welsh water undertakers”), and to the Secretary of State, in relation to all other water undertakers (“English water undertakers”), that it is requisite and expedient in the interests of national security or for the purpose of mitigating the effects of any civil emergency to give this Direction.

The Welsh Ministers have consulted all Welsh water undertakers and the Secretary of State has consulted all English water undertakers.

### Citation, commencement and application

1.—(1) This Direction may be cited as the Security and Emergency Measures (Water Undertakers) Direction 2017 and comes into force on 2nd January 2018.

(2) This Direction applies to water undertakers in England and Wales.

### Interpretation

2. In this Direction—

“the 1998 Direction” means the Security and Emergency Measures (Water and Sewerage Undertakers) Direction 1998;

“access agreement” means an agreement made or determined under section 66D(2) of the Water Industry Act 1991(b);

“appropriate authority” means the Secretary of State in relation to an English water undertaker, and Welsh Ministers in relation to a Welsh water undertaker;

“emergency or security event” means a civil emergency(c) or an event affecting national security;

“English water undertaker” means a water undertaker who is not a Welsh water undertaker;

“licensee” means a water supply licensee(d) with a wholesale authorisation or supplementary authorisation(e); and

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- (a) 1991 c. 56; section 208 was amended by paragraph 27 of Schedule 7 to, and paragraph 48 of Schedule 8 to the Water Act 2003 (c. 37) and paragraph 117 of Schedule 7 to the Water Act 2014 (c.21). The functions of the Secretary of State under section 208 of the Water Industry Act 1991, of giving directions for the purpose of mitigating the effects of any civil emergency, were transferred to the Welsh Government in relation to any water or sewerage undertaker whose area is wholly or mainly in Wales, and, in relation to any licensed water supplier, so far as relating to licensed activities using the supply system of any such water undertaker. See article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and Schedule 1 to the Water Act 1991, as substituted by article 4 of, and paragraph (e) of Schedule 3 to the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253).
- (b) Section 66D was substituted by paragraph 3 of Schedule 2 to the Water Act 2014.
- (c) As to the meaning of “civil emergency”, see section 208(7) of the Water Industry Act 1991.
- (d) As to the meaning of “water supply licensee”, see section 219(1) of the Water Industry Act 1991 as amended by paragraph 120(2)(f) of Schedule 7 to the Water Act 2014.
- (e) As to the meaning of “wholesale authorisation” and “supplementary authorisation”, see section 17A (as substituted by section 1(1) of the Water Act 2014) and paragraphs 1, 2, 5 and 8 of Schedule 2A to the Water Industry Act 1991, as inserted by section 1(2) of, and Schedule 1 to, the Water Act 2014.

“Welsh water undertaker” means a water undertaker whose area is wholly or mainly in Wales.

### Access agreements

#### 3.—(1) Where—

- (a) a water undertaker has an access agreement with a licensee; and
- (b) the licensee requests the water undertaker to provide it with a supply of water in the event that the licensee is unable to provide a supply to its customers due to an emergency or security event,

the water undertaker must, in accordance with the access agreement, provide a supply during such an event.

(2) The duty in sub-paragraph (1) is subject to any limit on the quantities of water available to the water undertaker, taking account of the needs of the other persons to whom the water undertaker provides supplies.

### Use of facilities

4.—(1) Sub-paragraph (2) applies where a water undertaker provides a licensee with a supply of water in the event that the licensee is unable to provide a supply to its customers due to an emergency or security event.

(2) Where this paragraph applies, the licensee must permit the water undertaker, in relevant circumstances, without the prior authorisation of the licensee, to make use of the licensee’s facilities for the purposes of the supply described in sub-paragraph (1).

#### (3) For the purposes of sub-paragraph (2)—

##### (a) “relevant circumstances” means—

- (i) where providing a supply in accordance with paragraph 3, circumstances where the need to act urgently means it is not reasonably practicable to give instructions to the licensee under paragraph 5(1)(b) of the Standard Conditions of Water Supply Licences(a) so as to achieve an objective which is one of the relevant purposes specified in paragraph 5(2)(b) of those Standard Conditions for which those instructions would otherwise be given; and

(ii) in all other cases, circumstances where the need to act urgently requires it;

- (b) “facilities” includes equipment and resources used for the introduction of water into the water undertaker’s supply system or for any other purpose in relation to the supply of water.

### Duty to notify

5. Without prejudice to the generality of paragraph 1(4)(b)(ii) of the 1998 Direction, when notified by a licensee of an actual or likely emergency or security event affecting water supply, a water undertaker must notify all such persons it considers may be affected.

### Reports

6. A water undertaker must report to the appropriate authority, at such times and in such form as the appropriate authority may specify, on any action taken by the water undertaker pursuant to this Direction.

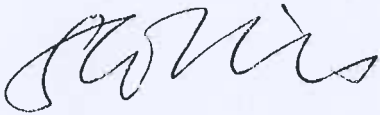
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(a) The Standard Conditions of Water Supply Licences for all licences and those with retail and restricted retail authorisations were published by the Secretary of State, having consulted where appropriate with the Welsh Ministers, under section 17H of the Water Industry Act 1991, on 17th March 2016. A copy may be obtained from the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or from [www.defra.gov.uk](http://www.defra.gov.uk).

**Revocation**

7. The Security and Emergency Measures (Water Undertakers) Direction 2006 is revoked.

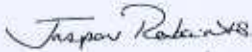
Under the authority of the Secretary of State for Environment, Food and Rural Affairs



*Name: Georgina Collins  
Title: Deputy Director, Defra*

Date 22 December 2017

Under the authority of the Cabinet Secretary for Energy, Planning and Rural Affairs, one of the Welsh Ministers



*Name: Jasper Roberts  
Title: An official in the Welsh Government*

Date 22 December 2017

