



# Water Resources (Scotland) Act 2013

## 2013 asp 5

### PART 2

#### CONTROL OF WATER ABSTRACTION

##### *Introduction*

#### **5 Qualifying abstraction**

- (1) In this Part, “qualifying abstraction” means abstraction of water by any person—
  - (a) from a particular body of inland water within Scotland, and
  - (b) at a rate above the relevant threshold.
- (2) In this Part, “abstraction” in relation to a body of inland water has the same meaning as in section 20(3)(b) of the 2003 Act in relation to a body of water of the sort to which that section relates (see section 20(6) of that Act).
- (3) In this Part, “inland water” is as defined by section 3 of the 2003 Act.

#### **Commencement Information**

**II** S. 5 in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

#### **6 Prohibition arising**

- (1) A qualifying abstraction is prohibited if it is not—
  - (a) approved as described in subsection (2), or
  - (b) exempt by virtue of section 7.
- (2) It is approved if—
  - (a) it has been approved by the Scottish Ministers under this Part, and
  - (b) their approval has not ceased to have effect by reason of—
    - (i) the expiry of any period specified under section 12(1)(a) (including where extended), or

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*Changes to legislation: There are currently no known outstanding effects for the Water Resources (Scotland) Act 2013, Cross Heading: Introduction. (See end of Document for details)*

- (ii) the imposition of a suspension or revocation under section 15(1)(a) to (c).

**Commencement Information**

**I2** S. 6 in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

**7 Exemption from approval**

- (1) A qualifying abstraction is exempt if, on the day on which this subsection comes into force, it is subject to an authorisation under the Controlled Activities Regulations.
- (2) The exemption under subsection (1) comes to an end if the authorisation subsequently—
  - (a) is varied so as to relate to a greater rate of abstraction than that to which it relates on the day mentioned in that subsection, or
  - (b) ceases to have effect for any reason, except temporarily.
- (3) A qualifying abstraction is exempt if it is carried out for the sole or principal purpose of the exercise by Scottish Water of its core functions in relation to premises in Scotland.
- (4) A qualifying abstraction is exempt if it is carried out for the sole or principal purpose of—
  - (a) generating electricity by hydro-power,
  - (b) irrigating agricultural or horticultural land,
  - (c) operating a fish farm, or
  - (d) maintaining a quarry or a coal or other mine.
- (5) In subsection (3), the reference to Scottish Water's core functions is to be construed in accordance with section 70(2) of the 2002 Act.
- (6) The Scottish Ministers may by regulations—
  - (a) modify any of the exemptions under this section,
  - (b) specify further circumstances in which a qualifying abstraction is exempt from their approval under this Part.

**Commencement Information**

**I3** S. 7 in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

**8 The relevant threshold**

- (1) In this Part, “the relevant threshold” means—
  - (a) the rate of 10 megalitres of water per day, or
  - (b) such other rate as the Scottish Ministers may by regulations prescribe.
- (2) The Scottish Ministers may by regulations prescribe a method of calculation for the purpose of subsection (1).
- (3) Regulations under subsection (2) may (in particular) include provision for all or some of an amount of water abstracted to be left out of account in specified circumstances.

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**Commencement Information**

**I4** [S. 8](#) in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

**9 Consultation on changes**

Before making regulations under section 7(6) or 8(1)(b) or (2), the Scottish Ministers must consult—

- (a) Scottish Water,
- (b) SEPA,
- (c) Scottish Natural Heritage,
- (d) such other persons as they consider appropriate.

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**Commencement Information**

**I5** [S. 9](#) in force at 10.6.2013 for specified purposes by [S.S.I. 2013/163](#), art. 3, [Sch.](#)

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**Changes to legislation:**

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