



Water Resources (Scotland) Act 2013

2013 asp 5

PART 2

CONTROL OF WATER ABSTRACTION

Role of Ministers

10 Application for approval

- (1) Any person may apply to the Scottish Ministers for their approval of a qualifying abstraction.
- (2) The Scottish Ministers must by regulations make provision about the procedure in relation to an application under subsection (1).
- (3) In particular, the regulations may—
 - (a) specify the form in which it is to be made,
 - (b) fix a reasonable fee for making it,
 - (c) describe the information that is to accompany it,
 - (d) require the applicant to give public notice of it,
 - (e) allow interested persons to make representations about it.

11 Factors as to approval

- (1) In deciding whether to approve a qualifying abstraction, the Scottish Ministers must have regard to—
 - (a) the applicant's financial position,
 - (b) the proposed use of the water to be abstracted,
 - (c) any—
 - (i) economic, social or other benefit that may arise in Scotland (or an area within it) in consequence of the abstraction,
 - (ii) adverse impact of any kind that may arise in Scotland (or an area within it) in consequence of the abstraction,
 - (d) any relevant advice given under section 14(3) or (4),
 - (e) such additional factors as they consider to be relevant.

- (2) If the Scottish Ministers do not approve a qualifying abstraction, they must give the applicant their reasons.

12 Conditions of approval

- (1) If the Scottish Ministers approve a qualifying abstraction, they may—
- (a) specify the period for which their approval has effect,
 - (b) attach conditions to their approval.
- (2) Conditions under subsection (1)(b) may—
- (a) impose restrictions on—
 - (i) the rate at which water may be abstracted (above the relevant threshold),
 - (ii) the purposes for which the water may be used,
 - (b) require that particular steps be taken in relation to the abstraction or any associated operations,
 - (c) relate to compensation for any adverse impact of a specific kind caused by the abstraction,
 - (d) concern such other matters as the Scottish Ministers consider to be relevant.
- (3) It is the holder who is subject to any conditions attached under subsection (1)(b).
- (4) Except with the Scottish Ministers' prior consent, their approval of a qualifying abstraction is not transferable by the holder to another person.
- (5) After consulting the holder, the Scottish Ministers may—
- (a) under subsection (1)(a), extend any period specified under that subsection,
 - (b) under subsection (1)(b)—
 - (i) vary or remove any conditions attached to their approval, or
 - (ii) attach new conditions to their approval.

13 Additional requirements

- (1) The holder must—
- (a) at such times and in such form as they may require, give the Scottish Ministers a report on the holder's activities in carrying out (or in relation to) the abstraction or any associated operations, and
 - (b) pay the Scottish Ministers such reasonable fee as they may by regulations fix in accordance with subsection (2)(a) (and do so as required by virtue of subsection (2)(b)).
- (2) Regulations under subsection (1)(b)—
- (a) must relate to costs attributable to the exercise of the Scottish Ministers' administrative functions under this Part,
 - (b) may require payment of the fee annually or otherwise.
- (3) In the application of subsection (2)(a), no account is to be taken of costs to which a fee fixed by virtue of section 10(3)(b) relates.

14 Advice from other bodies

- (1) Subsections (3) and (4) apply where the Scottish Ministers are considering—
 - (a) an application under section 10(1),
 - (b) what period (if any) should be specified under section 12(1)(a), or
 - (c) what conditions (if any) should be attached under section 12(1)(b).
- (2) Subsection (3) does not apply if Scottish Water is the applicant.
- (3) Scottish Water must give the Scottish Ministers such advice as they may reasonably seek from it concerning any adverse impact on the exercise of its core functions in relation to premises in Scotland.
- (4) SEPA must give the Scottish Ministers such advice as they may reasonably seek from it concerning any adverse impact on the environment in Scotland.
- (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) In subsections (3) and (4), the references to impact are to impact that may arise if the qualifying abstraction in question were to be carried out.

15 Suspension and revocation

- (1) The Scottish Ministers may suspend or revoke their approval of a qualifying abstraction—
 - (a) if the holder requests that they do so,
 - (b) if the holder—
 - (i) breaches any conditions attached under section 12(1)(b), or
 - (ii) fails to comply with section 13(1), or
 - (c) in such other circumstances as they may by regulations prescribe.
- (2) Before imposing a suspension or revocation under subsection (1)(b) or (c), the Scottish Ministers must—
 - (a) with reasons, inform the holder of their intention to do so,
 - (b) allow the holder to make representations.