
DRAFT STATUTORY INSTRUMENTS

2013 No.

The Natural Resources Body for Wales
(Consequential Provision) Order 2013

PART 5

Charging schemes

Charges in respect of abstraction and impounding licences: cross-border matters

19. After section 41A of the 1995 Act, insert—

“Charging schemes in respect of abstraction and impounding licences: joint charging schemes

41B.—(1) A charging scheme under section 41 relating to licences under Chapter II of Part II of the 1991 Act may be made by both of the appropriate agencies acting jointly (referred to in this section as a “joint charging scheme”), if that scheme prescribes charges in relation to licences granted within a combined area that—

- (a) is partly in England and partly in Wales; and
- (b) includes all of, or any part of, the catchment areas of the rivers Dee, Wye and Severn.

(2) A joint charging scheme must—

- (a) designate the combined area to which it applies; and
- (b) specify the manner in which the sums recovered by way of charges prescribed by the scheme are to be apportioned between, and paid to, each appropriate agency.

(3) Subsections (9) and (9A) of section 41 do not apply to joint charging schemes.

(4) Subject to subsection (5), the appropriate agencies may not make a joint charging scheme unless the provisions of the scheme have been approved under section 42 by the Secretary of State and the Welsh Ministers acting jointly.

(5) Section 42 applies in relation to joint charging schemes as though references in that section to—

- (a) anything done by or in relation to either the Secretary of State or the Welsh Ministers were references to that thing being done by or in relation to the Secretary of State and the Welsh Ministers acting jointly;
- (b) a charging authority were references to both of the appropriate agencies acting jointly.

(6) This section does not affect any power of an appropriate agency to make a charging scheme under section 41.

Charging schemes in respect of abstraction and impounding licences: cross-border arrangements

41C.—(1) An appropriate agency may not make or revise a relevant charging scheme unless it has—

- (a) notified the other appropriate agency of its proposal; and
- (b) had regard to any information provided by the other appropriate agency relating to costs or expenses—
 - (i) which the other appropriate agency has incurred or expects to incur, and
 - (ii) in respect of which the other appropriate agency considers that the relevant charging scheme should make provision.

(2) Subsection (1) does not apply to a joint charging scheme made in accordance with section 41B.

(3) An appropriate agency may not, without the consent of the other appropriate agency, enter into any agreement, or any variation of an agreement, as a result of which it will be liable to incur costs or expenses—

- (a) in respect of which it would expect a relevant charging scheme made by the other appropriate agency (or by both of the appropriate agencies acting jointly) to make provision; and
- (b) which would, if an existing relevant charging scheme were revised to make provision for the purpose of recovering the amount required to meet those costs or expenses in full, result in a significant increase in the charges payable under that charging scheme.

(4) Either appropriate agency may refer the question of whether consent should be given for the purposes of subsection (3) for determination by the Secretary of State and the Welsh Ministers acting jointly.

(5) The Secretary of State and the Welsh Ministers, acting jointly—

- (a) may give guidance to the appropriate agencies as to the exercise of the appropriate agencies' functions under this section;
- (b) must arrange for any guidance given under this subsection to be published in such manner as they consider appropriate.

(6) The appropriate agencies must have regard to any guidance given under subsection (5).

(7) In this section, “relevant charging scheme” means a charging scheme under section 41 which relates to any extent to licences granted under Chapter II of Part II of the 1991 Act in respect of abstractions from, or impounding of, waters in the catchment areas of the rivers Dee, Wye and Severn.”