

SCHEDULES

SCHEDULE 3

CERTIFICATES AS RESPECTS PLANNING PERMISSION AND
GRANT OF STATUTORY LICENCES TO ABSTRACT WATER

Certificates as respects planning permission

- 1
- (1) At any time after an application has been made for the consent of [F1the Secretary of State] to the carrying out of any controlled operations for which planning permission is required but has not been granted any person concerned may apply to the local planning authority for a certificate under this Schedule as respects those controlled operations.

(2) Where such an application is made the local planning authority shall issue to the applicant a certificate stating that planning permission for the carrying out of the controlled operations could, or could not, reasonably have been expected to have been granted if the land had not been comprised in the storage area or protective area.

(3) Where, in the opinion of the local planning authority, planning permission might reasonably have been expected to be granted but would only have been granted subject to conditions, the certificate shall specify those conditions in addition to the other matters required to be contained in the certificate.

(4) On issuing the certificate, the local planning authority shall serve a copy of the certificate on the [F2public gas supplier].

Textual Amendments	
F1	Words substituted by virtue of S.I. 1969/1498, arts. 2(1), 5(6), 1970/1537, arts. 2(2), 7(4) and 1974/692, arts. 2(3), 5(3)
F2	Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(2), Sch. 8 para. 33

- 2
- (1) Where the local planning authority have issued a certificate under this Schedule, the applicant for the certificate or the [F3public gas supplier] may appeal to the planning Minister against the certificate.

(2) On the appeal the planning Minister shall consider the matters to which the certificate relates as if the application for the certificate had been made to him in the first instance, and shall either confirm the certificate, or vary it, or cancel it and issue a different certificate in its place, as he may consider appropriate.

(3) Before determining any such appeal the planning Minister shall, if the applicant or the [F3public gas supplier] so desires, afford to them and to the local planning authority an opportunity of appearing before and being heard by a person appointed by that Minister for the purpose.

Changes to legislation: Gas Act 1965, SCHEDULE 3 is up to date with all changes known to be in force on or before 29 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (4) Where an application is made to a local planning authority for a certificate under this Schedule, and at the expiry of the time prescribed by regulations made under this Schedule for the issue of the certificate (or, if an extended period is at any time agreed upon in writing by the applicant and the local planning authority, at the end of that period) no certificate has been issued by the local planning authority in accordance with this Schedule, the foregoing provisions of this paragraph shall apply as if the local planning authority had issued a certificate under this Schedule stating that planning permission for the carrying out of the controlled operations could not reasonably have been expected to have been granted.

Textual Amendments

- F3** Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(2\)](#), [Sch. 8 para. 33](#)

^{F43}

Textual Amendments

- F4** Sch. 3 para. 3 repealed (25. 9. 1991) by [Planning and Compensation Act 1991 \(c. 34, SIF 123:1, 2\)](#), ss. [31\(4\)](#), [60\(6\)](#), [84\(6\)](#), [Sch. 6 para. 2](#), [Sch. 12 para. 2](#), [Sch. 19 Pt. II](#), Pt. IV; which repeal is in force for E & W only by S.I 1991/2067, art. 3 and for S. only by S.I 1991/2092, art. 3, Sch. 1

Certificates as respects statutory licences to abstract water

- 4 (1) At any time after an application has been made for the consent of [^{F5}the Secretary of State] to the carrying out of any controlled operations for which a statutory licence to abstract water is required but has not been granted any person concerned may [^{F6}[^{F7}apply to the appropriate agency for a] certificate under this Schedule as respects those controlled operations.]
- (2) [^{F8}Where such an application is [^{F9}made, the appropriate agency shall]] issue to the applicant a certificate stating that the statutory licence to abstract water required for the carrying out of the controlled operations could, or could not, reasonably have been expected to have been granted if the land had not been comprised in the storage area or protective area.
- (3) [^{F10}Where, in the opinion [^{F11}of the appropriate agency, a statutory]] licence to abstract water might reasonably have been expected to be granted but would only have been granted subject to conditions, limitations or restrictions, the certificate shall specify those conditions, limitations or restrictions in addition to the other matters required to be contained in the certificate.
- (4) [^{F12}[^{F13}On issuing the certificate, the appropriate agency] shall]] serve a copy of the certificate on the gas authority.

Textual Amendments

- F5** Words substituted by virtue of [S.I. 1969/1498](#), [arts. 2\(1\)](#), [5\(6\)](#), [1970/1537](#), arts. 2(2), 7(4) and 1974/692, arts. 2(3), 5(3)

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- F6** Words from “apply to the National Rivers Authority” to “operations.” substituted (E.W.) for the words from “apply to the river authority” to “operations” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 32\(7\)\(a\)\(i\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F7** Words in [Sch. 3 para. 4\(1\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(2\)\(a\)](#) (with [Sch. 7](#))
- F8** Words from “Where” to “the National Rivers Authority shall” substituted (E.W.) for words from “Where” to “the river authority shall” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1) [Sch. 25](#), para. 32(7)(a)(ii) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F9** Words in [Sch. 3 para. 4\(2\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(2\)\(b\)](#) (with [Sch. 7](#))
- F10** Words “Where, in the opinion of the National Rivers Authority, a statutory” substituted (E.W.) for words from “Where” to “statutory” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1) [Sch. 25](#), para. 32(7)(a)(iii) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F11** Words in [Sch. 3 para. 4\(3\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(2\)\(c\)](#) (with [Sch. 7](#))
- F12** Words “On issuing the certificate, the National Rivers Authority shall” substituted (E.W.) for words “On issuing the certificate, the river authority shall” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1) [Sch. 25](#), para. 32(7)(a)(iv) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F13** Words in [Sch. 3 para. 4\(4\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(2\)\(d\)](#) (with [Sch. 7](#))

- 5 (1) [^{F14}[^{F15}Where the appropriate agency] has issued] a certificate under this Schedule, the applicant for the certificate or the gas authority may appeal to the Minister concerned with water resources against the certificate.
- (2) On the appeal the said Minister shall consider the matters to which the certificate relates as if the application for the certificate had been made to him in the first instance, and shall either confirm the certificate, or vary it, or cancel it and issue a different certificate in its place, as he may consider appropriate.
- (3) Before determining any such appeal the said Minister shall, if the applicant or the [^{F16}public gas supplier] so desires, afford to them [^{F17}[^{F18}and to the appropriate agency an] opportunity] of appearing before and being heard by a person appointed by that Minister for the purpose.
- (4) [^{F19}Where an application is [^{F20}made to the appropriate agency for a] certificate under this Schedule and at the expiry of any period prescribed by regulations under this Schedule (or if an extended period is at any time agreed upon in writing by the [^{F21}applicant and the appropriate agency, at the end] of that period) no certificate has been [^{F22}issued by the appropriate agency in accordance] with this Schedule, the foregoing provisions of this paragraph shall apply [^{F23}as if the appropriate agency had issued]] a certificate under this Schedule stating that the statutory licence to abstract water required for the carrying out of the controlled operations could not reasonably have been expected to be granted.

Textual Amendments

- F14** Words “Where the National Rivers Authority has issued” substituted (E.W.) for words “Where the river authority have issued” by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1) [Sch. 25](#), para. 32(7)(b)(i) (with

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- ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F15** Words in [Sch. 3 para. 5\(1\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(3\)\(a\)](#) (with [Sch. 7](#))
- F16** Words substituted by virtue of [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 6\(2\)](#), [Sch. 8 para. 33](#)
- F17** Words “and to the National Rivers Authority an opportunity” substituted (E.W.) for words “and to the river authority an opportunity” by [Water Act 1989 \(c. 15, SIF 130\)](#), [s. 190\(1\) Sch. 25](#), para. 32(7)(b) (ii) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F18** Words in [Sch. 3 para. 5\(3\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(3\)\(b\)](#) (with [Sch. 7](#))
- F19** Words from “Where” to “the National Rivers Authority had issued” substituted (E.W.) for the words from “Where” to “the river authority issued” by [Water Act 1989 \(c. 15, SIF 130\)](#), [s. 190\(1\) Sch. 25](#), para. 32(7)(b)(iii) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58.
- F20** Words in [Sch. 3 para. 5\(4\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(3\)\(c\)\(i\)](#) (with [Sch. 7](#))
- F21** Words in [Sch. 3 para. 5\(4\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(3\)\(c\)\(ii\)](#) (with [Sch. 7](#))
- F22** Words in [Sch. 3 para. 5\(4\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(3\)\(c\)\(iii\)](#) (with [Sch. 7](#))
- F23** Words in [Sch. 3 para. 5\(4\)](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(3\)\(c\)\(iv\)](#) (with [Sch. 7](#))

- 6 In entertaining an application under paragraph 4 of this Schedule, or any appeal under ^{F24}paragraph 5 of this Schedule, the appropriate agency or as] the case may be the minister concerned with water resources shall, in coming to a decision, apply the principles which would have been applied if the application or the appeal had been an application for a licence under Part IV of the ^{M1}Water Resources Act 1963, or an appeal against a refusal of such a licence, as the case may be.

Textual Amendments

- F24** Words in [Sch. 3 para. 6](#) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 38\(4\)](#) (with [Sch. 7](#))

Marginal Citations

- M1** [1963 c. 38.\(130\)](#)

Procedure on application for certificate

- 7 (1) ^{F25}The Secretary of State]and the planning Minister acting jointly may by regulations contained in a statutory instrument prescribe the manner in which applications are to be made for certificates under this Schedule, and any such regulations may contain such supplemental or incidental provisions as appear to those Ministers to be expedient.
- (2) The regulations may in particular apply with or without modification any of the provisions of a development order under ^{F26}the Town and Country Planning Act

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1990] or under [^{F27}the Town and Country Planning (Scotland) Act 1997] or of regulations made under the ^{M2}Water Resources Act 1963.

Textual Amendments

- F25** Words substituted by virtue of S.I. 1969/1498, **arts. 2(1), 5(6), 1970/1537**, arts. 2(2), 7(4) and 1974/692, arts. 2(3), 5(3)
- F26** Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(3)(b)**
- F27** Words in Sch. 3 para. 7(2) substituted (27.5.1997) by 1997 c. 11, ss. 4, 6(2), **Sch. 2 para. 10(3)**

Modifications etc. (not altering text)

- C1** Sch. 3 para. 7 amended by S.I. 1970/1681, **Sch. 3 para. 10(2)**

Marginal Citations

- M2** 1963 c. 38.(130)

Interpretation

- 8 References in this Schedule to cases of controlled operations for which planning permission or a statutory licence to abstract water is required but has not been granted are references to cases where the planning permission or, as the case may be, the statutory licence to abstract water has not been granted, or has not been granted in the form required for the carrying out of the controlled operations.
- [^{F28}8A In this Schedule, “the appropriate agency” means—
- (a) in relation to England, the Environment Agency;
 - (b) in relation to Wales, the Natural Resources Body for Wales.]

Textual Amendments

- F28** Sch. 3 para. 8A inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755), art. 1(2), **Sch. 2 para. 38(5)** (with Sch. 7)

- 9 In the application of this Schedule to Scotland—
- (a) for any reference to [^{F29}section 120 of the Town and Country Planning Act 1990] there shall be substituted a reference to [^{F30}section 135 of the Town and Country Planning (Scotland) Act 1972]; for any reference to [^{F31}Part V of the said Act of 1990] there shall be substituted a reference to [^{F32}Part VII of the said Act of 1972]; and for any reference to [^{F33}sections 80 and 81 of the said Act of 1990] there shall be substituted references to [^{F34}sections 35 and 36 of the said Act of 1972];
 - (b) for paragraphs 4 to 6 there shall be substituted the following paragraphs:—

“4 (1) At any time after an application has been made for the consent of [^{F35}the Secretary of State] to the carrying out of any controlled operations for which a statutory right to take water is required but has not been granted any person concerned may apply to the Secretary of State for a certificate under this Schedule as respects those controlled operations.

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- (2) On receiving any such application the Secretary of State shall serve a copy of the application on the gas authority.
- (3) Before coming to his decision on the application the Secretary of State shall, if the applicant or the [^{F36}public gas supplier]so desires, afford to them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- 5 (1) Where the Secretary of State decides to grant an application he shall issue to the applicant a certificate stating that the statutory right to take water required for carrying out of the controlled operations could reasonably have been expected to have been granted if the land had not been comprised in the storage area or protective area.
- (2) Where, in the opinion of the Secretary of State, a statutory right to take water might reasonably have been expected to have been granted but would only have been granted subject to conditions, limitations or restrictions, the certificate shall specify those conditions, limitations and restrictions in addition to the other matters required to be contained in the certificate.
- (3) On issuing the certificate the Secretary of State shall serve a copy of the certificate on the gas authority.
- 6 In entertaining an application under paragraph 4 of this Schedule the Secretary of State shall, in coming to a decision, apply the principles which would have been applied if the application had been an application for an order approving an agreement to take water under section [^{F37}17(1)]of the Water (Scotland) Act [^{F38}1980].”

Textual Amendments

- F29** Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(3)(c)**
- F30** Words substituted by Town and Country Planning Act (Scotland) Act 1972 (c. 52, SIF 123:2), **Sch. 21 Pt. II**
- F31** Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(3)(c)**
- F32** Words substituted by Town and Country Planning Act (Scotland) Act 1972 (c. 52, SIF 123:2), **Sch. 21 Pt. II**
- F33** Words substituted by virtue of Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 12(3)(c)**
- F34** Words substituted by Town and Country Planning Act (Scotland) Act 1972 (c. 52, SIF 123:2), **Sch. 21 Pt. II**
- F35** Words substituted by virtue of S.I. 1969/1498, **arts. 2(1), 5(6)**, 1970/1537, arts. 2(2), 7(4) and 1974/692, arts. 2(3), 5(3)
- F36** Words substituted by virtue of Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 6(2), **Sch. 8 para. 33**
- F37** Word substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112(1), **Sch. 10 Pt. II**
- F38** Word substituted (S.) by Water (Scotland) Act 1980 (c. 45, SIF 130), s. 112(1), **Sch. 10 Pt. II**

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Changes and effects yet to be applied to :

- Sch. 3 para. 7(2) words inserted by [2004 c. 5 Sch. 7 para. 1](#)