



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART II

#### WATER RESOURCES MANAGEMENT

### CHAPTER II

#### ABSTRACTION AND IMPOUNDING

##### *Call-in of applications*

#### **41 Secretary of State's power to call in applications**

- (1) The Secretary of State may give directions to the [<sup>F1</sup>appropriate agency] requiring applications for licences under this Chapter to be referred to him, instead of being dealt with by the [<sup>F1</sup>appropriate agency].
- (2) A direction under this section—
  - (a) may relate either to a particular application or to applications of a class specified in the direction; and
  - (b) may except from the operation of the direction such classes of applications as may be specified in the direction in such circumstances as may be so specified.
- [<sup>F2</sup>(3) An application may not be referred to the Secretary of State under this section—
  - (a) if in relation to the application the [<sup>F1</sup>appropriate agency] is still considering whether to make any such decision as is referred to in subsection (1) of section 36A above, or if it has made such a decision but has not yet served the notice referred to in subsection (3) of that section; or
  - (b) where the [<sup>F1</sup>appropriate agency] has served a notice on the applicant under subsection (3) of that section, until the period for appealing under that section has expired or (if the applicant appeals) the appeal has been determined.]

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*Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, Cross Heading: Call-in of applications. (See end of Document for details)*

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#### Textual Amendments

- F1** Words in ss. 33A-45 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 270(g)** (with Sch. 7)
- F2** S. 41(3) added (1.4.2006) by [Water Act 2003 \(c. 37\)](#), ss. **13(2)**, 105(3); S.I. 2006/984, art. 2(h) (with Sch. para. 7)

#### Modifications etc. (not altering text)

- C1** S. 41 applied (1.4.2006) by [Water Resources \(Abstraction and Impounding\) Regulations 2006 \(S.I. 2006/641\)](#), reg. 1(2), **Sch. 2 para. 8(5)**

## 42 Consideration of called-in applications.

- (1) Subject to the following provisions of this section and to section 46 below, the Secretary of State, on considering a called-in application—
- (a) may determine that a licence shall be granted containing such provisions as he considers appropriate; or
  - (b) if, having regard to the provisions of this Act, he considers it necessary or expedient to do so, may determine that no licence shall be granted.
- (2) Before determining a called-in application, the Secretary of State may, if he thinks fit—
- (a) cause a local inquiry to be held; or
  - (b) afford to the applicant and the [F<sup>1</sup>appropriate agency] an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose;
- and the Secretary of State shall act as mentioned in paragraph (a) or (b) above if a request is made by the applicant or the [F<sup>1</sup>appropriate agency] to be heard with respect to the application.
- (3) The provisions of sections 37, 38(1) and (3), 39(2) and 40 above shall apply in relation to any called-in application as if—
- (a) any reference in those provisions to the [F<sup>1</sup>appropriate agency], except the references in sections [F<sup>3</sup>37 ] and 38(3)(a), were a reference to the Secretary of State; and
  - (b) any reference to section 39(1) above were a reference to subsection (4) below.
- (4) [F<sup>4</sup>Subject to subsection (4A) below,] in determining any called-in application and, in particular, in determining what (if any) direction to give under subsection (5) below, the Secretary of State shall consider whether any such direction would require the grant of a licence which would so authorise—
- (a) the abstraction of water; or
  - (b) the flow of any inland waters to be obstructed or impeded by means of impounding works,
- as to derogate from rights which, at the time when the direction in question is given, are protected rights for the purposes of this Chapter.

[F<sup>5</sup>(4A) Subsection (1A) of section 39 above applies in relation to subsection (4) above as it applies in relation to section 39(1) above.]

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- (5) Where the decision of the Secretary of State on a called-in application is that a licence is to be granted, the decision shall include a direction to the [<sup>F1</sup>appropriate agency] to grant a licence containing such provisions as may be specified in the direction.
- (6) The decision of the Secretary of State on any called-in application shall be final.
- (7) In this section “called-in application” means an application referred to the Secretary of State in accordance with directions under section 41 above.

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#### **Textual Amendments**

- F1** Words in ss. 33A-45 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), [Sch. 2 para. 270\(g\)](#) (with Sch. 7)
- F3** Word in s. 42(3)(a) substituted (1.4.2006) by [Water Act 2003 \(c. 37\)](#), [ss. 14\(3\)\(b\)](#), 105(3); S.I. 2006/984, art. 2(i) (with [Sch. paras. 1, 2](#))
- F4** Words in s. 42(4) inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 16\(6\)\(a\)](#), 105(3); S.I. 2004/641, art. 3(e) (with [Sch. 3 para. 7](#))
- F5** S. 42(4A) inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), [ss. 16\(6\)\(b\)](#), 105(3); S.I. 2004/641, art. 3(e) (with [Sch. 3 para. 7](#))

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#### **Modifications etc. (not altering text)**

- C2** S. 42 applied (with modifications) (1.4.2006) by [Water Resources \(Abstraction and Impounding\) Regulations 2006 \(S.I. 2006/641\)](#), reg. 1(2), [Sch. 2 para. 7](#)

**Changes to legislation:**

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