



Water Resources Act 1991

1991 CHAPTER 57

PART II

WATER RESOURCES MANAGEMENT

CHAPTER II

ABSTRACTION AND IMPOUNDING

Rights to abstract or impound

[^{F1}26] **Rights of navigation, harbour and conservancy authorities.**

- (1) Subject to subsection (2) below, the restriction on abstraction shall not apply to any transfer, without intervening use, of water from inland waters described in the first column of the Table below to inland waters described in the corresponding entry in the second column, if the transfer is in the course of, or results from, any operations carried out by a navigation authority, harbour authority or conservancy authority in the carrying out of their functions as such an authority.

<i>Transfer from</i>	<i>Transfer to</i>
A water system of the authority's.	The same water system.
A water system of the authority's.	Inland waters not forming part of that water system.
A supply reservoir of the authority's.	A water system of the authority's with which that reservoir is connected.

- (2) Subsection (1) above shall not apply to a transfer of water from a water system to any inland waters outside that water system in order to—
- (a) empty a dry dock; or

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- (b) introduce into those inland waters all or part of a quantity of water to be abstracted from any connected inland waters in pursuance of a licence to do so granted under this Chapter.
- (3) The restriction on impounding works shall not apply to—
 - (a) the construction or alteration of impounding works; or
 - (b) the obstruction or impeding of inland waters by means of impounding works, in the course of the performance by a navigation authority, harbour authority or conservancy authority of their functions as such an authority, unless the construction, alteration, obstruction or impeding affects any inland waters in relation to which the authority does not have functions.
- (4) In this section, references to—
 - (a) an authority’s water system are to a water system in relation to which the authority has functions;
 - (b) an authority’s supply reservoir are to a reservoir—
 - (i) belonging to a navigation authority;
 - (ii) used for the purposes of supplying that navigation authority’s water system; and
 - (iii) which does not discharge to any inland waters other than that water system.
- (5) For the purposes of this section, “water system” means the canals, the harbours, or the canals and harbours constituting the system in question—
 - (a) together with the locks, docks, balancing reservoirs, weirs and other works associated with the system (other than any supply reservoir as described in subsection (4)(b) above); but
 - (b) excluding any part of the system which consists of a navigable river or part of one.]

Textual Amendments

F1 S. 26 substituted (1.1.2018) by [Water Act 2003 \(c. 37\), ss. 5, 105\(3\)](#); S.I. 2017/1043, art. 2(a)

[F27 Rights to abstract small quantities.

- (1) The restriction on abstraction shall not apply to any abstraction of a quantity of water not exceeding twenty cubic metres in any period of twenty-four hours, if the abstraction does not form part of a continuous operation, or of a series of operations, by which a quantity of water which, in aggregate, is more than twenty cubic metres is abstracted during the period.
- (2) In the case of any abstraction of water from underground strata which falls within subsection (1) above, the restriction imposed by section 24(2) above shall not apply—
 - (a) to the construction or extension of any well, borehole or other work; or
 - (b) to the installation or modification of machinery or other apparatus,
 if the well, borehole or other work is constructed or extended, or the machinery or apparatus is installed or modified, for the purpose of abstracting the water.

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- (3) Where a person is authorised by a licence under this Chapter to carry on a particular abstraction operation (or series of operations), this section does not permit him to carry it on beyond the authorisation conferred by the licence.

Textual Amendments

- F2** Ss 27, 27A substituted (1.4.2004 for the insertion of s. 27A, 1.4.2005 in so far as not already in force) for s. 27 by [Water Act 2003 \(c. 37\)](#), **ss. 6(1), 105(3)**; S.I. 2004/641, **art. 3(a)** (with [Sch. 3 paras. 17](#)); S.I. 2005/968, **art. 2(a)**

27A Variation of small quantity threshold

- (1) The Secretary of State may by order made by statutory instrument provide that section 27(1) above is to have effect in relation to—
- a geographical area; or
 - a class of inland waters; or
 - a class of underground strata; or
 - a class of inland waters or of underground strata within a geographical area, (in each case as specified in the order) as if for “twenty cubic metres” there were substituted another quantity specified in the order.
- (2) The Secretary of State shall not make such an order except upon the application of the [^{F3}appropriate agency]; but he may direct the [^{F3}appropriate agency] to make such an application.
- (3) Such an order may—
- make different provision in relation to the different paragraphs in subsection (1) above; and
 - make different provision for different areas, waters or underground strata.
- (4) Schedule 6 to this Act shall have effect with respect to applications for orders under subsection (1) above and with respect to the making of such orders.
- (5) An order under subsection (1) above which specifies a greater quantity than the one which previously had effect in relation to the area, waters or strata in question may make provision for a licence to abstract water granted under this Chapter—
- which is for the time being in force; but
 - which by virtue of the order has become wholly or partly unnecessary, to cease to have effect, or to cease to have effect to the extent specified in the order.
- (6) An order under subsection (1) above may include provision for or in relation to the payment by the [^{F3}appropriate agency] of compensation, in cases specified in the order, to a person who—
- immediately before the making of an order under subsection (1) above, had been in a position to carry out an abstraction to which, by virtue of section 27(1) above, the restriction on abstraction did not apply;
 - following the making of that order, requires a licence under this Chapter in order to carry out that abstraction; and
 - has suffered loss or damage as a result of his having been—
 - refused such a licence in respect of that abstraction; or

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- (ii) granted such a licence, but in respect of an abstraction of more limited extent than the one he had been in a position to carry out.
- (7) Paragraphs (e) and (f) of section 219(2) below apply in relation to orders under subsection (1) above as they apply to regulations made under this Act.
- (8) A statutory instrument containing an order under subsection (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

- F2** Ss 27, 27A substituted (1.4.2004 for the insertion of s. 27A, 1.4.2005 in so far as not already in force) for s. 27 by [Water Act 2003 \(c. 37\)](#), **ss. 6(1), 105(3)**; S.I. 2004/641, **art. 3(a)** (with [Sch. 3 paras. 17](#)); S.I. 2005/968, **art. 2(a)**
- F3** Words in s. 27A 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(e)** (with [Sch. 7](#))

28 Curtailment of rights under section 27.

- [^{F4}(1) The provisions of this section shall have effect where a person (“the occupier”) is entitled, by virtue of subsection (6) of section 27 above, to a protected right for the purposes of this Chapter by reason of his being the occupier of such a holding as is mentioned in subsection (4) of that section in relation to an abstraction falling within that subsection (“the holding”).
- (2) If it appears to the [^{F5}Agency] that the occupier is entitled, as against other occupiers of land contiguous to the inland waters in question, to abstract water from those waters for use on part of the holding (“the relevant part”), but is not so entitled to abstract water for use on other parts of the holding—
- (a) the [^{F5}Agency] may serve on him a notice specifying the relevant part of the holding; and
 - (b) subject to the following provisions of this section, the notice shall have effect so as to require subsections (3) and (4) of section 27 above to be construed in relation to the holding as if the references in subsection (4) to use on the holding were references to use on the part of the holding specified in the notice.
- (3) Where a notice is served under subsection (2) above and the occupier objects to the notice on the grounds—
- (a) that he is entitled, as against other occupiers of land contiguous to the inland waters in question, to abstract water from those waters for use on every part of the holding; or
 - (b) that he is so entitled to abstract water for use on a larger part of the holding than that specified in the notice,
- he may, within such period (not being less than twenty-eight days from the date of service of the notice) and in such manner as may be prescribed, appeal to the court against the notice.
- (4) On any appeal under subsection (3) above, the court shall determine the matter in dispute and, in accordance with its decision, confirm, quash or vary the [^{F5}Agency’s] notice and—

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- (a) where the court quashes a notice served under subsection (2) above, paragraph (b) of that subsection shall not have effect; and
 - (b) where the court varies such a notice, that paragraph shall have effect, but with the substitution, for the reference to the part of the holding specified in the notice, of a reference to the part specified in the notice as varied by the court.
- (5) In this section—
- “the court” means the county court for the district in which the holding, or the part of the holding which is contiguous to the inland waters in question, is situated; and
 - “entitled” (except in subsection (1) above) means entitled apart from this Chapter or any other statutory provision.]

Textual Amendments

- F4** S. 28 repealed (1.4.2005) by [Water Act 2003 \(c. 37\)](#), ss. 6(2), 105(3), [Sch. 9 Pt. 1](#); S.I. 2005/968, art. 2(a)(n)
- F5** Words in s. 28 substituted (subject to other provisions of the amending Act) (1.4.1996) by [1995 c. 25](#), s. 120, [Sch. 22 para. 128](#) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3

29 Rights to abstract for drainage purposes etc.

- (1) The restriction on abstraction shall not apply to any abstraction of water from a source of supply in the course of, or resulting from, any operations for purposes of land drainage.
- [^{F6}(1A) The restriction on abstraction shall not apply to any abstraction of water from inland waters within the district of an internal drainage board if—
 - (a) the abstraction is carried out by or on behalf of that board in connection with its functions;
 - (b) the water abstracted is transferred to another area of inland waters within the board’s district without intervening use; and
 - (c) the sole or main purpose of the transfer is to augment that other area of inland waters.]
- [^{F7}(2) The restriction on abstraction shall not apply to any abstraction of water from a source of supply in so far as the abstraction (where it does not fall within subsection (1) or (1A) above) is an emergency abstraction and the person abstracting the water complies with subsection (2B) below.
- (2A) An abstraction of water is an emergency abstraction if, in the opinion of the abstractor, an emergency has arisen which makes the abstraction necessary to prevent immediate danger of interference with any mining, quarrying, engineering, building or other operations (whether underground or on the surface) or, in relation to such operations, to prevent an immediate risk—
 - (a) to a human being of death, personal injury or harm to health;
 - (b) of serious damage to works resulting from any such operations; or
 - (c) of serious damage to the environment.
- (2B) In the case of any emergency abstraction, the person abstracting the water shall before the end of the period of five days beginning with the date on which the abstraction started give notice to the appropriate agency of—

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- (a) the abstraction and of the source of supply in question; and
- (b) the reasons for the abstractor’s opinion that an emergency had arisen and that the abstraction was necessary.

(2C) The appropriate agency may give notice to the person referred to in subsection (2B) above that in the appropriate agency's opinion an emergency had not arisen, or that the abstraction is not, or is no longer, necessary for any of the reasons set out in subsection (2A) above; and, if the appropriate agency does so, the restriction on abstraction shall apply to the abstraction from the time when the notice is served (and, if applicable, the restriction imposed by section 24(2) above shall apply accordingly).]

^{F8}(3)

- (4) In the case of any abstraction of water from underground strata which falls within subsection (1) or (2) above, the restriction imposed by section 24(2) above shall not apply—
 - (a) to the construction or extension of any well, borehole or other work; or
 - (b) to the installation or modification of machinery or other apparatus,
 if the well, borehole or other work is constructed or extended, or the machinery or apparatus is installed or modified, for the purpose of abstracting the water.

[^{F9}(5) In this section, “land drainage”—

- (a) includes the protection of land against erosion or encroachment by water, whether from inland waters or from the sea; but
- (b) does not include warping, irrigation (including spray irrigation), or transferring water from one source of supply to another (whether with or without intervening use) solely or mainly in order to augment the latter.]

Textual Amendments

F6 S. 29(1A) inserted (1.1.2018) by [Water Act 2003 \(c. 37\)](#), **ss. 7(2)**, 105(3); S.I. 2017/1043, art. 2(b)

F7 S. 29(2)-(2C) substituted for s. 29(2) (1.1.2018) by [Water Act 2003 \(c. 37\)](#), **ss. 7(3)**, 105(3); S.I. 2017/1043, art. 2(b) (as amended (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), Sch. 2 para. 417(2)(a) (with Sch. 7))

F8 S. 29(3) repealed (1.1.2018) by [Water Act 2003 \(c. 37\)](#), **ss. 7(4)**, 105(3), **Sch. 9 Pt. 1**; S.I. 2017/1043, art. 2(b)(h)

F9 S. 29(5) substituted (1.1.2018) by [Water Act 2003 \(c. 37\)](#), **ss. 7(5)**, 105(3); S.I. 2017/1043, art. 2(b)

^{F10}**30 Notices with respect to borings not requiring licences.**

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Textual Amendments

F10 S. 30 repealed (1.4.2006) by [Water Act 2003 \(c. 37\)](#), **ss. 8(3)**, 105(3), **Sch. 9 Pt. 1**; S.I. 2006/984, art. 2(e)(s)(ii) (with savings in [Sch. paras. 4, 5](#))

^{F11}**31 Appeals against conservation notices under section 30.**

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Textual Amendments

F11 S. 31 repealed (1.4.2006) by [Water Act 2003 \(c. 37\)](#), ss. 8(3), 105(3), [Sch. 9 Pt. 1](#); S.I. 2006/984, art. 2(e)(s)(ii) (with savings in [Sch. paras. 4, 5](#))

32 Miscellaneous rights to abstract.

- (1) The restriction on abstraction shall not apply to any abstraction by machinery or apparatus installed on a vessel, where the water is abstracted for use on that, or any other, vessel.
- (2) The restriction on abstraction and the other restrictions imposed by section 24 above shall not apply to the doing of anything—
 - (a) for [^{F12}extinguishing fires or protecting life and property in the event of fire]; or
 - (b) for the purpose of testing apparatus used for [^{F13}either of] those purposes or of training or practice in the use of such apparatus.
- (3) The restriction on abstraction and the other restrictions imposed by section 24 above shall not apply—
 - (a) to any abstraction of water;
 - (b) to the construction or extension of any well, borehole or other work; or
 - (c) to the installation or modification of machinery or other apparatus,if the abstraction, construction, extension, installation or modification is for any of the purposes specified in subsection (4) below and takes place with the consent of the [^{F14}appropriate agency] and in compliance with any conditions imposed by the [^{F14}appropriate agency].
- (4) The purposes mentioned in subsection (3) above are—
 - (a) the purpose of ascertaining the presence of water in any underground strata or the quality or quantity of any such water; and
 - (b) the purpose of ascertaining the effect of abstracting water from the well, borehole or other work in question on the abstraction of water from, or the level of water in, any other well, borehole or other work or any inland waters.

Textual Amendments

- F12** Words in s. 32(2)(a) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 79\(a\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F13** Words in s. 32(2)(b) inserted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 79\(b\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F14** Words in s. 32(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. 270\(f\)](#) (with [Sch. 7](#))

^{F15}33 Power to provide for further rights to abstract.

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Textual Amendments

F15 S. 33 repealed with a saving (1.4.2004) by [Water Act 2003 \(c. 37\)](#), ss. 10(11), 105(3), [Sch. 9 Pt. 1](#); S.I. 2004/641, art. 3(c)(z)

[^{F16}33A Power to provide for further exemptions

- (1) The Secretary of State may make regulations providing for further cases in which—
 - (a) the restriction on abstraction (and, in the case of abstractions from underground strata, the other restrictions imposed by section 24 above); or
 - (b) the restriction on impounding works,
 shall not apply; and in this section such a case is referred to as an “exemption”.
- (2) The regulations may, in particular, make provision, in relation to an exemption—
 - (a) for the exemption to apply only for a prescribed period;
 - (b) for the exemption not to apply unless prescribed conditions are satisfied, or continue to be satisfied;
 - (c) for the [^{F17}appropriate agency] to be notified, or its consent obtained—
 - (i) before any particular abstraction operation or series of such operations begins; or
 - (ii) in connection with such an operation or series of operations relating to the abstraction of water in underground strata, before any other thing which is mentioned in section 24(2) above is done; or
 - (iii) before any impounding works are constructed or altered, in reliance on the exemption.
- (3) The regulations may provide for an exemption to apply generally or to relate to—
 - (a) a prescribed geographical area;
 - (b) a prescribed source of supply (in the case of an exemption from the restriction on abstraction or the other restrictions imposed by section 24 above); or
 - (c) prescribed inland waters (in the case of an exemption from the restriction on impounding works).
- (4) Subject to subsection (5) below, if regulations under this section provide for an exemption falling within subsection (1)(a) above, the regulations shall—
 - (a) if appropriate, make provision for the exemption not to permit a person who is authorised by a licence under this Chapter to carry on an abstraction operation (or series of operations) to carry it on beyond the authorisation conferred by the licence; and
 - (b) make provision as to whether or not, in relation to any abstraction, the exemption provided for by the regulations is to be counted cumulatively with any other exemption which a person has by virtue of this section or section 27 above.
- (5) The regulations may make provision for a licence granted under this Chapter and which is for the time being in force to cease to have effect, or to cease to have effect to the extent specified in the regulations, if it authorises an activity which falls to any extent within the exemption provided for by the regulations.]

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Textual Amendments

- F16** S. 33A inserted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 9**, 105(3); S.I. 2004/641, art. 3(b) (with Sch. 3 paras. 17)
- F17** 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)

Changes to legislation:

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