
Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Water Resources Act 1991. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 7

Sections 48, 55, 60, 61 and 65.

LICENCES OF RIGHT

*Applications for licences of right under paragraph
30 or 31 of Schedule 26 to the Water Act 1989*

- 1 (1) Paragraphs 30 and 31 of Schedule 26 to the ^{M1}Water Act 1989 shall continue to apply (notwithstanding the repeals made by the ^{M2}Water Consolidation (Consequential Provisions) Act 1991 but subject to the following provisions of this Schedule) in relation—
- (a) to any application made under either of those paragraphs which is outstanding immediately before the coming into force of this Act; and
 - (b) to any appeal against a determination made, on an application under either of those paragraphs, either before the coming into force of this Act or, thereafter, by virtue of paragraph (a) above;
- but for the purposes of any such application or appeal any reference in those paragraphs to a provision of the ^{M3}Water Resources Act 1963 which is re-enacted in this Act shall have effect, in relation to a time after the coming into force of this Act, as a reference to the corresponding provision of this Act.
- (2) Where an application for the grant of a licence by virtue of paragraph 30 or 31 of Schedule 26 to the Water Act 1989 has been made before the end of the period within which such an application was required to be made under that paragraph, then—
- (a) sections 24 and 48 of this Act and Part II of the ^{M4}Gas Act 1965 shall have effect, until the application is disposed of, as if the licence had been granted on the date of the application and the provisions of the licence had been in accordance with the proposals contained in the application; and
 - (b) for the purposes of those sections and Part II of the said Act of 1965 any licence granted on the application shall be treated as not having effect until the application has been disposed of.
- (3) For the purposes of this paragraph an application for the grant of a licence by virtue of paragraph 30 or 31 of Schedule 26 to the Water Act 1989 above shall be taken to be disposed of on (but not before) the occurrence of whichever of the following events last occurs, that is to say—
- (a) the grant, on the determination of the application by the [^{F1}Agency], of a licence the provisions of which are in accordance with the proposals contained in the application;
 - (b) the expiration, without a notice of appeal having been given, of the period (if any) within which the applicant is entitled to give notice of appeal against the decision on the application;
 - (c) the determination or withdrawal of an appeal against that decision;

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- (d) the grant, variation or revocation, in compliance with a direction given by the Secretary of State in consequence of such an appeal, of any licence;
 and in this sub-paragraph any reference to a decision includes a reference to a decision which is to be treated as having been made by virtue of any failure of the [F1 Agency] to make a decision within a specified time.
- (4) Subject to the other provisions of this Schedule, any licence granted by virtue of this paragraph shall have effect as a licence under Chapter II of Part II of this Act; and, so far as necessary for the purposes of this paragraph, anything done under or for the purposes of a provision of the ^{M5}Water Resources Act 1963 applied by paragraph 30 or 31 of Schedule 26 to the 1989 Act, shall have effect as if that paragraph applied the corresponding provision of this Act and that thing had been done under or for the purposes of that corresponding provision.

Annotations:

Amendments (Textual)

- F1** Words in Sch. 7 para. 1 substituted (subject to the 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**

Marginal Citations

- M1** 1989 c. 15.
M2 1991 c. 60.
M3 1963 c. 38.
M4 1965 c. 36.
M5 1963 c. 38.

Section 48 of this Act

- 2 Subsection (2) of section 48 of this Act shall not afford any defence to an action brought before 1st September 1992 if the licence referred to in that subsection is a 1989 Act licence of right; and there shall be no defence afforded to such an action by that subsection as applied by paragraph 1(2) above.

Section 55 of this Act

- 3 No application shall be made under section 55 of this Act (variation of licence on application of owner of fishing rights) in respect of any 1989 Act licence of right.

Section 60 of this Act

- 4 (1) Where the plaintiff in any action brought against the [F2 Agency] in pursuance of section 60 of this Act (liability of the [F2 Agency] for derogation from protected right) is entitled to a protected right for the purposes of Chapter II of Part II of this Act by reason only that he is the holder of, or has applied for, a licence of right, it shall be a defence for the [F2 Agency] to prove—
- (a) that the plaintiff could have carried out permissible alterations in the means whereby he abstracted water from the source of supply in question; and
 - (b) that, if he had carried out such alterations, the abstraction or, as the case may be, the obstruction or impeding of the flow of the inland waters authorised

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by the licence to which the action relates would not have derogated from his protected right for the purposes of that Chapter;

and subsection (3) of that section (liability of [^{F2}Agency] for compliance with direction requiring derogation from protected rights) shall not apply to a direction given in consequence of an appeal against the decision of the [^{F2}Agency] on an application for the grant of a 1989 Act licence of right.

(2) In this paragraph “permissible alterations”—

- (a) in relation to a person who is the holder of a licence of right, means any alteration of works, or modification of machinery or apparatus, which would fulfil the requirements of the licence as to the means whereby water is authorised to be abstracted;
- (b) in relation to a person who is not the holder of a licence of right, but to whose application for such a licence paragraph 1 above applies, means any alteration of works, or modification of machinery or apparatus, by means of which he abstracted water from the source of supply in question during the period of five years ending with 1st September 1989, being an alteration or modification which would be within the scope of the licence if granted in accordance with the application.

Annotations:

Amendments (Textual)

- F2** Words in Sch. 7 para. 4 substituted (subject to the 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**

Section 61 of this Act

- 5 (1) No compensation shall be payable under section 61 of this Act (compensation for revocation or variation of a licence) in respect of the revocation or variation of a 1989 Act licence of right if the revocation or variation is for giving effect to the decision of the court in an action in respect of which paragraph 2 above has effect or in any proceedings in consequence of such an action.
- (2) Nothing in section 61(3) of this Act (compensation not payable in respect of works etc. carried out before the grant of a licence) shall apply in relation to any licence of right.

Licences of right

- 6 (1) In this Schedule references to a licence of right are references to—
- (a) any 1989 Act licence of right, that is to say, a licence granted (whether or not by virtue of paragraph 1 above) under paragraph 30 or 31 of Schedule 26 to the ^{M6}Water Act 1989; or
 - (b) any licence which, having been granted in pursuance of an application under section 33 of the ^{M7}Water Resources Act 1963 (or in pursuance of an appeal consequential on such an application), has effect after the coming into force of this Act by virtue of sub-paragraph (2) below.
- (2) The repeal by the ^{M8}Water Consolidation (Consequential Provisions) Act 1991 of paragraph 29(4) of Schedule 26 to the Water Act 1989 shall not prevent any licence

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granted as mentioned in paragraph (b) of sub-paragraph (1) above from continuing (in accordance with paragraph 1 of Schedule 2 to that Act of 1991 and subject to the preceding provisions of this Schedule) to have effect after the coming into force of this Act as a licence under Chapter II of Part II of this Act.

Annotations:

Marginal Citations

- M6** 1989 c. 15.
M7 1963 c. 38.
M8 1991 c. 60.

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Changes and effects yet to be applied to :

- Sch. 7 para. 1(3) words substituted by S.I. 2013/755 Sch. 2 para. 309
- Sch. 7 para. 4 words substituted by S.I. 2013/755 Sch. 2 para. 309

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by S.I. 2015/770 Sch. 3 para. 5(2)
- Act power to amend conferred by 2010 c. 29 s. 28
- Act power to apply conferred by 2010 c. 29 s. 38(8)-(10)
- Act power to apply conferred by 2010 c. 29 s. 39(12)-(14)
- Blanket amendment words substituted by S.I. 2011/1043 art. 3 4
- Blanket amendment words substituted by S.I. 2011/1043 art. 3 6

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 20A words substituted by S.I. 2013/755 Sch. 2 para. 266(2)
- s. 20A(1) words inserted by S.I. 2013/755 Sch. 2 para. 266(3)
- s. 20B words substituted by S.I. 2013/755 Sch. 2 para. 267
- s. 20C words substituted by S.I. 2013/755 Sch. 2 para. 268(2)
- s. 20C(1) words inserted by S.I. 2013/755 Sch. 2 para. 268(3)
- s. 21(3)(za)(zb) inserted by S.I. 2013/755 Sch. 2 para. 269(3)(a)
- s. 21(10) added by 2003 c. 37 s. 8(2)(b)
- s. 25(1A)(a) words substituted by S.I. 2013/755 Sch. 2 para. 270(b)
- s. 25A words substituted by S.I. 2013/755 Sch. 2 para. 270(c)
- s. 25C words substituted by S.I. 2013/755 Sch. 2 para. 270(d)
- s. 25C(2) words substituted by S.I. 2015/664 Sch. 4 para. 24(4)
- s. 27A words substituted by S.I. 2013/755 Sch. 2 para. 270(e)
- s. 29(1A) inserted by 2003 c. 37 s. 7(2)
- s. 29(2)-(2C) substituted for s. 29(2) by 2003 c. 37 s. 7(3)
- s. 33A-45 words substituted by S.I. 2013/755 Sch. 2 para. 270(g)
- s. 46A(2) words substituted by S.I. 2013/755 Sch. 2 para. 270(h)
- s. 48A(1) applied by S.I. 2017/1329 art. 20(5)
- s. 48A(1) excluded by 2017 c. 7 Sch. 21 para. 3(1)
- s. 48A(1) excluded by S.I. 2013/1967 art. 40(2)
- s. 48A(1) excluded by S.I. 2014/3102 art. 17(2)
- s. 48A(1) excluded by S.I. 2015/2044 art. 36(2)
- s. 48A(1) excluded by S.I. 2017/1329 art. 20(3)
- s. 48A(5) excluded by S.I. 2013/1967 art. 40(5)
- s. 48A(5) excluded by S.I. 2014/3102 art. 17(5)
- s. 48A(5) excluded by S.I. 2017/1329 art. 20(6)
- s. 48A(5) restricted by 2017 c. 7 Sch. 21 para. 3(4)
- s. 59A-59C words substituted by S.I. 2013/755 Sch. 2 para. 270(j)
- s. 72(2A) words inserted by 2011 c. 20 Sch. 19 para. 30
- s. 84(2)(aa) inserted by S.I. 2013/755 Sch. 2 para. 273(3)(c)
- s. 109(7) (8) inserted by 2009 c. 23 s. 82(2)
- s. 118(1)(c) inserted by S.I. 2013/755 Sch. 2 para. 275(2)(e)
- s. 118(7) added by 2010 c. 29 Sch. 2 para. 43(8)
- s. 118(7) words inserted by 2016 anaw 3 Sch. 2 para. 20(2)(a)
- s. 118(7) words inserted by 2016 anaw 3 Sch. 2 para. 20(2)(b)
- s. 154(7)(8) inserted by S.I. 2013/755 Sch. 2 para. 278(6)
- s. 157(7) inserted by S.I. 2013/755 Sch. 2 para. 281(4)
- s. 159(1A) inserted by 2010 c. 29 Sch. 2 para. 45

- s. 160(1A) inserted by 2010 c. 29 Sch. 2 para. 46
- s. 165(1)-(1D) substituted for s. 165(1) by 2010 c. 29 Sch. 2 para. 47(2)
- s. 165(1A) words substituted by S.I. 2013/755 Sch. 2 para. 284(2)
- s. 167A inserted by S.I. 2013/755 Sch. 2 para. 287
- s. 167A(3)(a) repealed by S.I. 2016/475 reg. 30
- s. 168(9) inserted by S.I. 2013/755 Sch. 2 para. 288(3)
- s. 169(3A)(3B) inserted by S.I. 2013/755 Sch. 2 para. 289(4)
- s. 169(5) inserted by S.I. 2013/755 Sch. 2 para. 289(6)
- s. 171(6) inserted by S.I. 2013/755 Sch. 2 para. 291(5)
- s. 172(5) inserted by S.I. 2013/755 Sch. 2 para. 292(6)
- s. 186(1A) inserted by S.I. 2013/755 Sch. 2 para. 297(3)
- s. 193-194E and cross-heading substituted for s. 193 194 by 2014 c. 21 s. 59(2)
- s. 203(1A) words substituted by 2014 c. 21 Sch. 7 para. 125(2)(a)
- s. 203(1A) words substituted by 2014 c. 21 Sch. 7 para. 125(2)(b)
- s. 203(1A) words substituted by 2014 c. 21 Sch. 7 para. 125(2)(c)
- s. 203(2A) word substituted by 2014 c. 21 Sch. 7 para. 125(3)(b)
- s. 203(2A) words substituted by 2014 c. 21 Sch. 7 para. 125(3)(a)
- s. 203(5)(b) words substituted by 2014 c. 21 Sch. 7 para. 125(6)
- s. 203(8) words substituted by 2014 c. 21 Sch. 7 para. 125(7)(a)
- s. 203(8) words substituted by 2014 c. 21 Sch. 7 para. 125(7)(b)
- s. 204(2)(ca) inserted by 2010 c. 29 Sch. 2 para. 48
- s. 204(2)(ga) inserted by 2013 c. 32 Sch. 12 para. 65
- s. 204(3)(a)(ib) inserted by S.I. 2013/755 Sch. 2 para. 300(3)
- s. 204(8) inserted by S.I. 2017/80 Sch. para. 6
- s. 211(3)(b) words substituted by S.I. 2015/664 Sch. 4 para. 24(6)
- s. 221(1)(b) word inserted by 2014 c. 21 Sch. 10 para. 13(a)
- s. 221(1)(b)(iii) and word repealed by 2014 c. 21 Sch. 10 para. 13(b)
- s. 221(1A) inserted by S.I. 2013/755 Sch. 2 para. 304(10)
- Sch. 6 para. 1(6)(ba) inserted by 2015 anaw 4 Sch. 2 para. 16(b)
- Sch. 8 para. 2(7) words inserted by S.I. 2013/755 Sch. 2 para. 310(3)(a)
- Sch. 8 para. 2(7) words inserted by S.I. 2013/755 Sch. 2 para. 310(3)(b)
- Sch. 25 para. 5(3A) (3B) inserted by 2009 c. 23 s. 84(2)
- Sch. 25 para. 5(1A)-(1D) and words substituted for Sch. 25 para. 5(1)(a)(b) by 2010 c. 29 Sch. 2 para. 49
- Sch. 27 para. 1 words substituted by S.I. 2013/755 Sch. 2 para. 315(d)
- Sch. 27 para. 3-5 words substituted by S.I. 2013/755 Sch. 2 para. 315(d)
- Sch. 27 para. 7-9 words substituted by S.I. 2013/755 Sch. 2 para. 315(d)

Commencement Orders yet to be applied to the Water Resources Act 1991

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2011/95 art. 2 commences (2010 c. 29)
- S.I. 2011/556 art. 1-3 commences (2009 c. 23)
- S.I. 2011/694 art. 3 4 commences (2010 c. 29)
- S.I. 2011/1770 art. 3 commences (2010 c. 29)
- S.I. 2011/2204 art. 3 4 commences (2010 c. 29)
- S.I. 2011/2329 art. 2 3 commences (2011 c. 5)
- S.I. 2011/2856 art. 3 Commencement Order