



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART II

#### WATER RESOURCES MANAGEMENT

### CHAPTER I

#### GENERAL MANAGEMENT FUNCTIONS

#### **21 Minimum acceptable flows.**

- (1) The [<sup>F1</sup>appropriate agency] may, if it thinks it appropriate to do so, submit a draft statement to the Secretary of State containing, in relation to any inland waters that are not discrete waters—
  - (a) provision for determining the minimum acceptable flow for those waters; or
  - (b) where any provision for determining such a flow is for the time being in force in relation to those waters, provision for amending that provision or for replacing it with different provision for determining the minimum acceptable flow for those waters.
- (2) The provision contained in any statement for determining the minimum acceptable flow for any inland waters shall, in relation to the inland waters to which it relates, set out—
  - (a) the control points at which the flow in the waters is to be measured;
  - (b) the method of measurement which is to be used at each control point; and
  - (c) the flow which is to be the minimum acceptable flow at each control point or, where appropriate, the flows which are to be the minimum acceptable flows at each such point for the different times or periods specified in the statement.
- (3) Before preparing so much of any draft statement under this section as relates to any particular inland waters, the [<sup>F1</sup>appropriate agency] shall consult—
  - [<sup>F2</sup>(za) if those waters are in Wales and there are related inland waters in England, the Agency;

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- (zb) if those waters are in England and there are related inland waters in Wales, the NRBW;]
  - (a) any water undertaker having the right to abstract water from those waters;
  - (b) any other water undertaker having the right to abstract water from any related underground strata;
  - (c) the drainage board for any internal drainage district from which water is discharged into those waters or in which any part of those waters is situated;
  - (d) any navigation authority, harbour authority or conservancy authority having functions in relation to those waters or any related inland waters;
  - (e) if those waters are <sup>F3</sup>... situated in Wales (or in an area of the sea adjoining either the coast of Wales or an area of sea forming part of Wales) and they or any related inland waters are tidal waters in relation to which there is no such navigation authority, harbour authority or conservancy authority, [<sup>F4</sup>the Secretary of State for Transport]; and
  - (f) any person authorised by a licence under Part I of the <sup>M1</sup>Electricity Act 1989 to generate electricity [<sup>F5</sup>who has a right to abstract water from those waters].
- (4) In determining the flow to be specified in relation to any inland waters under subsection (2)(c) above, the [<sup>F1</sup>appropriate agency] shall have regard—
  - (a) to the flow of water in the inland waters from time to time;
  - (b) in the light of its duties under [<sup>F6</sup>sections 6(1), 7 and 8 of the 1995 Act], to the character of the inland waters and their surroundings; and
  - (c) to any water quality objectives established under Chapter I of Part III of this Act in relation to the inland waters or any other inland waters which may be affected by the flow in the inland waters in question.
- (5) The flow specified in relation to any inland waters under subsection (2)(c) above shall be not less than the minimum which, in the opinion of the [<sup>F1</sup>appropriate agency], is needed for safeguarding the public health and for meeting (in respect of both quantity and quality of water)—
  - (a) the requirements of existing lawful uses of the inland waters, whether for agriculture, industry, water supply or other purposes; and
  - (b) the requirements, in relation to both those waters and other inland waters whose flow may be affected by changes in the flow of those waters, of navigation, fisheries or land drainage.
- (6) The provisions of Schedule 5 to this Act shall have effect with respect to draft statements under this section and with respect to the approval of statements submitted as draft statements.
- (7) The approval under Schedule 5 to this Act of a draft statement under this section shall bring into force, on the date specified in that approval, so much of that statement, as approved, as contains provision for determining, amending or replacing the minimum acceptable flow for any inland waters.
- (8) For the purposes of subsection (3) above—
  - (a) underground strata are related underground strata in relation to any inland waters if—
    - (i) a water undertaker has a right to abstract water from the strata; and
    - (ii) it appears to the [<sup>F1</sup>appropriate agency], having regard to the extent to which the level of water in the strata depends on the flow of those

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- waters, that the exercise of that right may be substantially affected by so much of the draft statement in question as relates to those waters;
- (b) inland waters are related inland waters in relation to any other inland waters, where it appears to the [<sup>F1</sup>appropriate agency] that changes in the flow of the other waters may affect the flow of the first-mentioned inland waters.
- (9) For the purposes of subsection (5) above the [<sup>F1</sup>appropriate agency] shall be entitled (but shall not be bound) to treat as lawful any existing use of any inland waters unless—
- (a) by a decision given in any legal proceedings, it has been held to be unlawful; and
- (b) that decision has not been quashed or reversed;
- <sup>F7</sup> ... .
- [<sup>F8</sup>(10) In subsection (5) above, the reference to land drainage includes—
- (a) defence against water (including sea water), irrigation (other than spray irrigation), warping and the carrying on, for any purpose, of any other practice which involves management of the level of water in a watercourse; and
- (b) the provision of flood warning systems.]

#### Textual Amendments

- F1** Words in s. 21 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 269(2)** (with Sch. 7)
- F2** S. 21(3)(za)(zb) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 269(3)(a)** (with Sch. 7)
- F3** Words in s. 21(3)(e) omitted (1.4.2013) by virtue of [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 269(3)(b)** (with Sch. 7)
- F4** Words in s. 21(3)(e) substituted (25.11.2002) by S.I. 2002/2626, art. 20, **Sch. 2 para. 18(2)**
- F5** Words in s. 21(3)(f) added (21.9.1995) by 1995 c. 25, s. 120(1), **Sch. 22 para. 133(1)** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 3**
- F6** Words in s. 21(4)(b) substituted (1.4.1996) by 1995 c. 25, s. 120, **Sch. 22 para. 133(2)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F7** Words in s. 21(9) repealed (1.1.2018) by [Water Act 2003 \(c. 37\)](#), ss. 8(2)(a), 105(3), **Sch. 9 Pt. 1**; S.I. 2017/1043, art. 2(c)(h)
- F8** S. 21(10) added (1.1.2018) by [Water Act 2003 \(c. 37\)](#), **ss. 8(2)(b)**, 105(3); S.I. 2017/1043, art. 2(c)

#### Marginal Citations

- M1** 1989 c. 29.

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