



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART II

#### WATER RESOURCES MANAGEMENT

### CHAPTER II

#### ABSTRACTION AND IMPOUNDING

##### *Consideration of licence applications*

#### **40 Obligation to take river flow etc. into account.**

- (1) Without prejudice to sections 38(3) and 39(1) above, subsection (2) or, as the case may be, subsection (3) below shall apply where any application for a licence under this Chapter relates to abstraction from any inland waters or to obstructing or impeding the flow of any inland waters by means of impounding works.
- (2) If, in the case of such an application as is mentioned in subsection (1) above, the application is made at a time when no minimum acceptable flow for the inland waters in question has been determined under Chapter I of this Part, the [<sup>F1</sup>appropriate agency], in dealing with the application, shall have regard to the considerations by reference to which, in accordance with section 21(4) and (5) above, a minimum acceptable flow for those waters would fall to be determined.
- (3) If, in the case of such an application as is mentioned in subsection (1) above, the application is made at a time after a minimum acceptable flow for the waters in question has been determined under Chapter I of this Part, the [<sup>F1</sup>appropriate agency], in dealing with the application, shall have regard to the need to secure or, as the case may be, secure in relation to the different times or periods for which the flow is determined—
  - (a) that the flow at any control point will not be reduced below the minimum acceptable flow at that point; or

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*Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, Section 40. (See end of Document for details)*

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- (b) if it is already less than that minimum acceptable flow, that the flow at any control point will not be further reduced below the minimum acceptable flow at that point.
- (4) Without prejudice to sections 38(3) and 39(1) above, where—
- (a) an application for a licence under this Chapter relates to abstraction from underground strata; and
- (b) it appears to the [<sup>F1</sup>appropriate agency] that the proposed abstraction is likely to affect the flow, level or volume of any inland waters which are [<sup>F2</sup>not discrete waters],
- subsection (2) or, as the case may be, subsection (3) above shall apply as if the application related to abstraction from those waters.

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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** Words in s. 40(4)(b) substituted (1.1.2018) by [Water Act 2003 \(c. 37\)](#), s. 105(3), **Sch. 7 para. 3**; [S.I. 2017/1043](#), art. 2(g)
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**Modifications etc. (not altering text)**

- C1** S. 40(1) applied (1.4.2006) by [Water Resources \(Abstraction and Impounding\) Regulations 2006 \(S.I. 2006/641\)](#), reg. 1(2), **Sch. 2 para. 8(5)**

**Changes to legislation:**

There are currently no known outstanding effects for the Water Resources Act 1991, Section 40.