



# Water Resources Act 1991

## 1991 CHAPTER 57

### PART II

#### WATER RESOURCES MANAGEMENT

### CHAPTER II

#### ABSTRACTION AND IMPOUNDING

*Remedies and compensation in respect of infringement of protected rights etc.*

#### **61 Compensation where licence modified on direction of the Secretary of State.**

- (1) Where a licence [<sup>F1</sup>held by a person other than a water undertaker or sewerage undertaker] is revoked or varied in pursuance of a direction under section 54 or [<sup>F2</sup>56] above and it is shown that the holder of the licence—
  - (a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or variation; or
  - (b) has otherwise sustained loss or damage which is directly attributable to the revocation or variation,the [<sup>F3</sup>appropriate agency] shall pay him compensation in respect of that expenditure, loss or damage.
- (2) For the purposes of this section, any expenditure incurred in the preparation of plans for the purposes of any work, or upon other similar matters preparatory to any work, shall be taken to be included in the expenditure incurred in carrying out that work.
- (3) Subject to subsection (2) above and to Schedule 7 to this Act, no compensation shall be paid under this section—
  - (a) in respect of any work carried out before the grant of the licence which is revoked or varied; or

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- (b) in respect of any other loss or damage arising out of anything done or omitted to be done before the grant of that licence.
- (4) No compensation shall be payable under this section in respect of a licence to abstract water, if it is shown that no water was abstracted in pursuance of the licence during the period of [<sup>F4</sup>four] years ending with the date on which notice of the proposals for revoking or varying the licence was served on the holder of the licence.

[<sup>F5</sup>(4A) No compensation shall be payable under this section in respect of the variation of a full licence, or of a transfer licence which specifies a minimum value under section 46(2A) above, so as to reduce the quantity of water which the holder of the licence is authorised by the licence to abstract from the source of supply to which the licence relates if—

- (a) the ground for varying the licence is that the Secretary of State is satisfied that the variation is necessary in order to protect the availability of water in the source of supply to which the licence relates;
- (b) the variation does not reduce the quantity of water which the holder of the licence is authorised by the licence to abstract to less than the minimum value specified in the licence under section 46(2A) above for the purposes of this subsection; and
- (c) the conditions set out in subsection (4B) below are satisfied.

(4B) Those conditions are that—

- (a) the licence was granted after the coming into force of section 19 of the Water Act 2003;
- (b) the variation is made no sooner than the end of the period of six years beginning with the date on which the licence took effect; and
- (c) the variation takes effect no sooner than the end of the period of six years beginning with the date of the variation.]

- (5) Any question of disputed compensation under this section shall be referred to and determined by the [<sup>F6</sup>Upper Tribunal]; and in relation to the determination of any such compensation the provisions of [<sup>F7</sup>section] 4 of the <sup>M1</sup>Land Compensation Act 1961 shall apply, subject to any necessary modifications.
- (6) For the purpose of assessing any compensation under this section, in so far as that compensation is in respect of loss or damage consisting of depreciation of the value of an interest in land, the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.
- (7) Where the interest in land, in respect of which any compensation falls to be assessed in accordance with subsection (6) above, is subject to a mortgage—
- (a) the compensation shall be assessed as if the interest were not subject to the mortgage;
  - (b) a claim for the compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
  - (c) no such compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage);
  - (d) any such compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than

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one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

#### Textual Amendments

- F1** Words in s. 61(1) inserted (14.7.2014) by [Water Act 2014 \(c. 21\)](#), **ss. 58(2)**, 94(2)(l)
- F2** Word in s. 61(1) substituted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), s. 105(3), **Sch. 7 para. 6**; S.I. 2004/641, art. 3(y), **Sch. 2** (with **Sch. 3 para. 7**)
- F3** Words in s. 61 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(k)** (with **Sch. 7**)
- F4** Word in s. 61(4) substituted (1.4.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 25(2)**, 105(3) (with s. 25(4)); S.I. 2004/641, art. 3(h) (with **Sch. 3 para. 7**)
- F5** S. 61(4A)(4B) inserted (1.4.2006) by [Water Act 2003 \(c. 37\)](#), **ss. 25(3)**, 105(3); S.I. 2006/984, art. 2(n)
- F6** Words in s. 61(5) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 228(a)** (with **Sch. 5**)
- F7** Word in s. 61(5) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 228(b)** (with **Sch. 5**)

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

- C1** S. 61 modified (1.4.2004) by [Water Act 2003 \(c. 37\)](#), **ss. 27(2)**, 105(3); S.I. 2004/641, art. 3(i) (with **Sch. 3 para. 7**)
- C2** S. 61 excluded (1.4.2006) by [Water Resources \(Abstraction and Impounding\) Regulations 2006 \(S.I. 2006/641\)](#), regs. 1(2), **24**

#### Marginal Citations

- M1** 1961 c. 33.

**Changes to legislation:**

There are currently no known outstanding effects for the Water Resources Act 1991, Section 61.