



# Water Act 2003

## 2003 CHAPTER 37

### PART 1

#### ABSTRACTION AND IMPOUNDING

##### *Restrictions on abstraction and impounding*

#### **1 Licences to abstract water**

- (1) After section 24 of the Water Resources Act 1991 (c. 57) (in this Act referred to as the “WRA”) there is inserted—

##### **“24A Abstraction licences**

- (1) Each licence to abstract water shall be of one of the following three types—
- (a) a licence to abstract water from one source of supply over a period of twenty-eight days or more for any purpose (a “full licence”);
  - (b) a licence to abstract water from one source of supply over a period of twenty-eight days or more for the purpose of—
    - (i) transferring water to another source of supply; or
    - (ii) transferring water to the same source of supply, but at another point, in the course of dewatering activities in connection with mining, quarrying, engineering, building or other operations (whether underground or on the surface),in either case without intervening use (a “transfer licence”);
  - (c) a licence to abstract water from one source of supply over a period of less than twenty-eight days (a “temporary licence”).
- (2) In this Act, a reference (however expressed) to a licence to abstract water is to be taken as a reference to all types of licence, unless it is clear that a different meaning is intended.”

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(2) In section 72 of the WRA (interpretation of Chapter 2), in subsection (1), in the appropriate places there is inserted—

““full licence” has the meaning given in section 24A above;”,

““temporary licence” and “transfer licence” have the meanings given in section 24A above.”

**Annotations:**

**Commencement Information**

**II** S. 1 in force at 1.4.2006 by S.I. 2006/984, art. 2(a) (with Sch. para. 12)

## 2 Restrictions on impounding

(1) Section 25 of the WRA (restrictions on impounding) is amended as provided in subsections (2) to (5).

(2) For subsection (1) there is substituted—

“(1) Subject to the following provisions of this Chapter and to any drought order or drought permit under Chapter 3 of this Part, no person shall—

- (a) begin, or cause or permit any other person to begin, to construct or alter any impounding works at any point in any inland waters which are not discrete waters; or
- (b) cause or permit the flow of any inland waters which are not discrete waters to be obstructed or impeded at any point by means of impounding works,

unless (in either case) the conditions mentioned in subsection (1A) below are satisfied.

(1A) The conditions are—

- (a) a licence under this Chapter granted by the Agency to obstruct or impede the flow of those inland waters at that point by means of impounding works is in force;
- (b) the impounding works will not (or, as the case may be, do not) obstruct or impede the flow of the inland waters except to the extent, and in the manner, authorised by the licence; and
- (c) any other conditions or requirements imposed by the provisions, as for the time being in force, of the licence (whether as to the provision of compensation water or otherwise) are complied with.”

(3) In subsection (2), the words “, in circumstances not constituting such a contravention,” are omitted.

(4) In subsection (5), for “shall not apply to the construction or alteration of any impounding works” there is substituted “ shall not apply in respect of any impounding works ”.

(5) After subsection (8) there is added—

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- “(9) In relation to impounding works, references to alteration include the removal or partial removal of those works, and cognate expressions shall be construed accordingly.”
- (6) A licence which—
- (a) has been granted in respect of particular impounding works, for the purposes of section 25 of the WRA, before the coming into force of subsection (2), and
  - (b) is in force,
- is to be taken to satisfy the condition referred to in section 25(1A)(a) of that Act, as inserted by subsection (2), in respect of those impounding works.
- (7) In section 64 of the WRA (abstraction and impounding by the Agency), for subsection (1)(b) there is substituted—
- “(b) in relation to—
- (i) the construction or alteration by the Agency of impounding works; and
  - (ii) the obstruction or impeding by the Agency of the flow of inland waters by means of impounding works,”.
- (8) In section 67 of the WRA (ecclesiastical property), in the definition of “the relevant land” in subsection (8), in paragraph (b)(i), after “impounding works” there is inserted “ is, or ”.
- (9) In section 72 of the WRA (interpretation of Chapter 2), in subsection (1), in the definition of “the restriction on impounding works”, for “25(1)” there is substituted “ 25(1)(a) and (b) ”.
- (10) Subject to section 3 of this Act, the amendments of the WRA made by this section apply (as regards any act or omission after this section comes into force) with respect to impounding works whenever constructed.

**Annotations:**

**Commencement Information**

**I2** S. 2 in force at 1.4.2006 by S.I. 2006/984, art. 2(b) (with Sch. para. 2)

### **3 Existing impounding works**

- (1) Except as provided in subsection (3), the restriction in section 25(1)(b) of the WRA (as substituted by section 2 of this Act) does not apply in respect of any existing unlicensed impounding works.
- (2) With respect to any existing unlicensed impounding works to which, but for subsection (1), that restriction would apply, [F1the appropriate agency] may serve a notice on any relevant person requiring him to apply for a licence.
- (3) If that person fails to apply for such a licence within—
- (a) the period of 28 days beginning with—
    - (i) the date of service of the notice, or
    - (ii) if an appeal is brought under subsection (4) and the appeal is dismissed, the date when the decision of the appropriate authority is notified to that person, or

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- (b) such extended period as may be agreed in writing between [<sup>F1</sup>the appropriate agency] and that person,  
 the restriction in section 25(1)(b) of the WRA applies in respect of the impounding works from the expiry of that period.
- (4) If the relevant person on whom a notice is served under subsection (2) is aggrieved by the service of that notice, he may by notice appeal to the appropriate authority.
- (5) The appropriate authority may by regulations make provision with respect to—
- (a) the manner in which notices of appeal under subsection (4) shall be served,
  - (b) the period within which such notices shall be served,
  - (c) the procedure on any such appeal.
- (6) Where an appeal is brought under subsection (4)—
- (a) the appropriate authority may allow or dismiss the appeal or reverse or vary any part of the decision of [<sup>F1</sup>the appropriate agency], whether the appeal relates to that part of the decision or not, and
  - (b) the decision of the appropriate authority shall be final.
- (7) Subsections (4) to (6) are subject to section 114 of the Environment Act 1995 (c. 25) (delegation or reference of appeals).
- (8) On an application for a licence in respect of any existing unlicensed impounding works, section 39(1) of the WRA applies only to the extent that the obstruction or impeding of the flow of inland waters which would, if the licence were granted, be authorised by that licence is to differ in any material respect from that which was taking place at the time the application was made.
- (9) If a licence granted in respect of existing unlicensed impounding works is revoked or varied in the circumstances mentioned in section 61 of the WRA (compensation where licence modified on direction of the Secretary of State), subsection (3) of that section shall apply as if that licence had been granted when construction of the impounding works began and had remained in force since then.
- (10) Subsection (9) does not apply to a licence granted in respect of existing unlicensed impounding works if, before the effective date, there had occurred any contravention of section 25(1) of the WRA in respect of those impounding works.
- (11) Nothing in the preceding subsections affects the application of section 25(1)(a) of the WRA (as substituted by section 2 of this Act) to the alteration, after the effective date, of any existing unlicensed impounding works.
- (12) In this section—
- “the appropriate authority” means—
- (a) in relation to Wales, the Assembly, and
  - (b) in relation to England, the Secretary of State,
- “the effective date” means the date when section 2 of this Act comes into force,
- “existing unlicensed impounding works” means unlicensed impounding works, the construction of which was begun before the effective date,
- “licence” means a licence of the kind referred to in section 25 of the WRA,

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“relevant person” means any person who appears to [<sup>F1</sup>the appropriate agency] to have responsibility in respect of the impounding works in question, and

“unlicensed impounding works” means impounding works (as defined in section 25(8) of the WRA) in respect of which—

- (a) no licence or authorisation of the kind referred to in section 25 of that Act was in force immediately before the effective date, and
- (b) no such licence has been granted since that date.

- (13) In section 114 of the Environment Act 1995 (power of Secretary of State to delegate or refer in connection with appeals), in subsection (2)(a), after paragraph (viii) there is inserted—

“(ix) section 3 of the Water Act 2003,”.

**Annotations:**

**Amendments (Textual)**

- F1** Words in s. 3 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 415](#) (with Sch. 7)

**Commencement Information**

- I3** S. 3 in force at 1.4.2006 by [S.I. 2006/984](#), [art. 2\(c\)](#) (with [Sch. para. 2](#))

#### 4 Existing impounding works: works notices

- (1) Without prejudice to the [<sup>F2</sup>appropriate agency's] power under subsection (2) of section 3, where it appears to [<sup>F3</sup>the appropriate agency] to be necessary for—
- (a) the protection of the environment, or
  - (b) the performance of its functions in connection with the management of water resources,
- [<sup>F3</sup>the appropriate agency] may serve a works notice on any relevant person with respect to any existing unlicensed impounding works of the kind mentioned in subsection (2) of that section.
- (2) For the purposes of subsection (1), a works notice is a notice requiring the person on whom it is served to carry out such works or operations in relation to the impounding works as—
- (a) appear to the [<sup>F4</sup>appropriate agency] to be required for the purposes mentioned in subsection (1)(a) or (b), and
  - (b) are specified in the notice.
- (3) The following provisions of the WRA apply in relation to works notices under this section as they apply in relation to notices referred to in those provisions—
- (a) subsections (5) to (9) of section 25A (as inserted by section 30 of this Act), and
  - (b) sections 161B and 161C,
- including any power to make regulations or give directions, but references in those provisions to the Secretary of State shall be treated as references to the appropriate authority.
- (4) If a person on whom [<sup>F3</sup>the appropriate agency] serves a notice under this section fails to comply with any of its requirements, he shall be guilty of an offence.

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- (5) A person who commits an offence under subsection (4) shall be liable
- (6) If a person on whom a works notice has been served under this section fails to comply with any of its requirements, [<sup>F3</sup>the appropriate agency] may do what that person was required to do and may recover from him any costs or expenses reasonably incurred by [<sup>F3</sup>the appropriate agency] in doing it.
- (7) If [<sup>F3</sup>the appropriate agency] is of the opinion that proceedings for an offence under subsection (4) would afford an ineffectual remedy against a person who has failed to comply with the requirements of a works notice, [<sup>F3</sup>the appropriate agency] may take proceedings in the High Court for the purpose of securing compliance with the notice.
- (8) In this section, “the appropriate authority”, “existing unlicensed impounding works” and “relevant person” have the meanings given in section 3.

**Annotations:**

**Amendments (Textual)**

- F2** Words in s. 4(1) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 416\(2\)](#) (with Sch. 7)
- F3** Words in s. 4 substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 416\(3\)](#) (with Sch. 7)
- F4** Words in s. 4(2)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\), art. 1\(2\), Sch. 2 para. 416\(4\)](#) (with Sch. 7)
- F5** Words in s. 4(5) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\), reg. 1\(1\), Sch. 4 para. 34](#) (with reg. 5(1))

**Commencement Information**

- I4** S. 4 in force at 1.4.2006 by [S.I. 2006/984, art. 2\(d\)](#)

## 5 Rights of navigation, harbour and conservancy authorities

For section 26 of the WRA (rights of navigation, harbour and conservancy authorities) there is substituted—

### “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.

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A supply reservoir of the authority's.                      A water system of the authority's with which that reservoir is connected.

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- (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
  - (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."

**Annotations:**

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**Commencement Information**

**I5** S. 5 in force at 1.1.2018 by S.I. 2017/1043, art. 2(a)

## 6 Rights to abstract small quantities

(1) For section 27 of the WRA (rights to abstract small quantities) there is substituted—

**"27 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,

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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.
- (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.

#### **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) a geographical area; or
  - (b) a class of inland waters; or
  - (c) a class of underground strata; or
  - (d) 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 Agency; but he may direct the Agency to make such an application.
- (3) Such an order may—
  - (a) make different provision in relation to the different paragraphs in subsection (1) above; and
  - (b) 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—
  - (a) which is for the time being in force; but
  - (b) 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.



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- (6) An order under subsection (1) above may include provision for or in relation to the payment by the Agency of compensation, in cases specified in the order, to a person who—
- (a) 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;
  - (b) following the making of that order, requires a licence under this Chapter in order to carry out that abstraction; and
  - (c) has suffered loss or damage as a result of his having been—
    - (i) refused such a licence in respect of that abstraction; or
    - (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.”

(2) Section 28 of the WRA shall cease to have effect.

**Annotations:**

**Commencement Information**

- I6** S. 6(1) in force at 1.4.2004 for specified purposes by S.I. 2004/641, art. 3(a) (with Sch. 3 para. 17)
- I7** S. 6(1) in force at 1.4.2005 in so far as not already in force by S.I. 2005/968, art. 2(a)
- I8** S. 6(2) in force at 1.4.2005 by S.I. 2005/968, art. 2(a)

## 7 Rights to abstract for drainage purposes, etc

(1) Section 29 of the WRA (rights to abstract for drainage purposes etc) is amended as follows.

(2) After subsection (1) there is inserted—

“(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.”

(3) For subsection (2) there is substituted—

“(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

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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 [<sup>F6</sup>appropriate agency] of—

- (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 [<sup>F6</sup>appropriate agency] may give notice to the person referred to in subsection (2B) above that in the [<sup>F7</sup>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 [<sup>F6</sup>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)."

(4) Subsection (3) is omitted.

(5) For subsection (5) there is substituted—

“(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.”

#### Annotations:

#### Amendments (Textual)

**F6** Words in s. 7(3) substituted (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)

**F7** Words in s. 7(3) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 417\(2\)\(b\)](#) (with Sch. 7)

#### Commencement Information

**I9** [S. 7](#) in force at 1.1.2018 by [S.I. 2017/1043](#), art. 2(b)

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## **8 Amendments relating to section 7**

- (1) Subsections (2) to (6) make amendments to the WRA consequential on the amendments made by section 7.
- (2) In section 21 (minimum acceptable flows)—
  - (a) in subsection (9), the words from “and in that subsection” to the end are omitted,
  - (b) after subsection (9) there is added—
    - “(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.”
- (3) Sections 30 (notices with respect to borings not requiring licences) and 31 (appeals against notices under section 30) shall cease to have effect.
- (4) In section 70 (civil liability under Chapter 2), for “24, 25 and 30” there is substituted “24 and 25”.
- (5) In section 199 (notice of mining operations which may affect water conservation)—
  - (a) for subsections (2) and (3) there is substituted—
    - “(2) Where a notice under subsection (1) above is given to the Agency by any person, the Agency may (subject to section 199A below) by notice to that person require him, in connection with the construction, extension or use of the work to which that person’s notice relates, to take such reasonable measures for conserving water as are specified in the notice.
    - (2A) The measures that may be specified in a notice under subsection (2) above shall be measures which, in the opinion of the Agency, will not interfere with the winning of minerals.
    - (3) Section 70 above shall apply to the restrictions imposed by this section as it applies to the restrictions imposed by sections 24 and 25 above.”,
  - (b) in subsection (4), for “conservation notice given by virtue of” there is substituted “notice under”.
- (6) After section 199 there is inserted—

### **“199A Appeals against conservation notices under section 199**

- (1) The person on whom a notice under section 199(2) above (“a conservation notice”) is served may, by notice to the Secretary of State, appeal to him against the conservation notice on either or both of the following grounds, that is to say—
  - (a) that the measures required by the conservation notice are not reasonable;
  - (b) that those measures would interfere with the winning of minerals.

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- (2) Any notice of appeal against a conservation notice shall be served within such period (not being less than twenty-eight days from the date of service of the conservation notice) and in such manner as may be prescribed.
  - (3) Before determining an appeal against a conservation notice, the Secretary of State may, if he thinks fit—
    - (a) cause a local inquiry to be held; or
    - (b) afford to the appellant and the Agency an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose;
 and the Secretary of State shall act as mentioned in paragraph (a) or (b) above if a request is made by the appellant or the Agency to be heard with respect to an appeal.
  - (4) On an appeal against a conservation notice the Secretary of State may confirm, quash or vary the notice as he may consider appropriate.
  - (5) The decision of the Secretary of State on any appeal against a conservation notice shall be final.
  - (6) The Secretary of State may by regulations make provision as to the manner in which appeals against conservation notices are to be dealt with, including provision requiring the giving of notices of, and information relating to, the making of such appeals or decisions on any such appeals.
  - (7) Section 69 above applies to a decision of the Secretary of State on any appeal to him under this section as it applies to a decision of his on an appeal to him under Chapter 2 of Part 2, taking the reference in subsection (2)(b) of that section to that Chapter as a reference to this section.
  - (8) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals).”
- (7) In section 114 of the Environment Act 1995 (c. 25) (power of Secretary of State to delegate or refer in connection with appeals), in subsection (2)(a)(v), for “or 191B(5)” there is substituted “ , 191B(5) or 199A ”.

**Annotations:**

**Commencement Information**

- I10** S. 8(1) in force at 1.4.2006 for specified purposes by S.I. 2006/984, art. 2(e)  
**I11** S. 8(1) in force at 1.1.2018 in so far as not already in force by S.I. 2017/1043, art. 2(c)  
**I12** S. 8(2) in force at 1.1.2018 by S.I. 2017/1043, art. 2(c)  
**I13** S. 8(3)-(7) in force at 1.4.2006 by S.I. 2006/984, art. 2(e) (with Sch. para. 45)

**9 Power to provide for further exemptions**

After section 33 of the WRA there is inserted—

**“33A Power to provide for further exemptions**

- (1) The Secretary of State may make regulations providing for further cases in which—

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**Changes to legislation:** Water Act 2003, Cross Heading: Restrictions on abstraction and impounding is up to date with all changes known to be in force on or before 24 April 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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- (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 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.”

**Annotations:**

**Commencement Information**

**I14** S. 9 in force at 1.4.2004 by S.I. 2004/641, art. 3(b) (with Sch. 3 para. 17)

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*Changes to legislation: Water Act 2003, Cross Heading: Restrictions on abstraction and impounding is up to date with all changes known to be in force on or before 24 April 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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## 10 Orders under section 33 of the WRA, etc

- (1) The appropriate authority may by order revoke—
  - (a) any order made under section 33 of the WRA (power to provide for further rights to abstract),
  - (b) any order made under any local or private Act which provides for any exception from—
    - (i) the restriction on abstraction (within the meaning of Chapter 2 of Part 2 of the WRA), or
    - (ii) that restriction and the one imposed by section 24(2) of the WRA, or for an exception which has the effect of such an exception.
- (2) An order of a kind referred to in paragraph (a) or (b) of subsection (1) is referred to below in this section as an “exception order”.
- (3) In this section, “the appropriate authority” means—
  - (a) in relation to the revocation of an exception order which relates to inland waters or underground strata which are wholly in England, the Secretary of State,
  - (b) in relation to the revocation of an exception order which relates to inland waters or underground strata which are wholly in Wales, the Assembly,
  - (c) in relation to the revocation of an exception order which relates to inland waters or underground strata which are partly in England and partly in Wales—
    - (i) the Secretary of State, in relation to the English part,
    - (ii) the Assembly, in relation to the Welsh part,

and references in this section (however expressed) to the revocation of an exception order are to be construed accordingly.
- (4) Subject to subsection (3)(c), an order under this section may revoke the exception order either wholly, or only in relation to—
  - (a) any one or more areas of inland waters specified in the order under this section or any class of inland waters so specified, or
  - (b) any underground strata described in the order under this section in any way mentioned in section 33(2)(b) of the WRA or any other way.
- (5) An order under this section may make provision, subject to any conditions or limitations specified in the order—
  - (a) for the restriction on abstraction (and, in the case of abstractions from underground strata, the other restrictions in section 24 of the WRA) to continue not to apply to an abstraction despite the revocation of the exception order,
  - (b) for a person to continue to be taken to have a right to abstract water, for the purposes of Chapter 2 of Part 2 of the WRA, to the same extent he was taken to do so under the exception order,
  - (c) for the payment by the [<sup>F8</sup>appropriate agency] of compensation, in cases specified in the order, to any person who suffers loss or damage as a result of the revocation of the exception order.
- (6) If an order under this section provides as mentioned in subsection (5)(a), the order must also say whether or not the exemption so provided for is to be counted cumulatively

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**Changes to legislation:** *Water Act 2003, Cross Heading: Restrictions on abstraction and impounding is up to date with all changes known to be in force on or before 24 April 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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with any other exemption which a person has by virtue of section 27 or 33A of the WRA.

- (7) If an order made under subsection (1)(b) revokes the exception order wholly, or wholly so far as it is not already revoked, the order under subsection (1)(b) may also repeal so much of the local or private Act as constitutes the power to make the exception order.
- (8) The procedure provided for by section 33 of and Schedule 6 to the WRA, or (as the case may be) any corresponding procedure provided for by the local or private Act in question, does not apply in relation to an order under this section.
- (9) The power of the Assembly to make an order by virtue of subsection (3)(b) or (c)(ii) of this section is to be treated as if it were a relevant transferred environmental function for the purposes of paragraph 6 of Schedule 3 to the Government of Wales Act 1998 (c. 38) (intervention in case of functions relating to water).
- (10) No order may be made under this section before the coming into force of section 6 of this Act.
- (11) Section 33 of the WRA shall cease to have effect; but (subject to the provisions of this section) any order under section 33 of the WRA which was in force immediately before its repeal shall continue in force despite the repeal.
- (12) In this section, “inland waters” and “underground strata” have the meanings given in section 221(1) of the WRA.

**Annotations:**

**Amendments (Textual)**

- F8** Words in s. 10(5)(c) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 418** (with Sch. 7)

**Commencement Information**

- I15** S. 10(1)-(10) (12) in force at 1.4.2005 by [S.I. 2005/968](#), **art. 2(b)**  
**I16** S. 10(11) in force at 1.4.2004 by [S.I. 2004/641](#), **art. 3(c)** (with Sch. 3 para. 7)

**Changes to legislation:**

Water Act 2003, Cross Heading: Restrictions on abstraction and impounding is up to date with all changes known to be in force on or before 24 April 2018. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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

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

- s. 52(9) inserted by [2014 c. 21 Sch. 7 para. 133\(3\)](#)