



Water Act 2003

2003 CHAPTER 37

PART 1

ABSTRACTION AND IMPOUNDING

Transfer and apportionment of licences

23 Transfer and apportionment of licences

(1) After section 59 of the WRA there is inserted—

“Transfer and apportionment of licences

59A Transfer of licence

- (1) The following licences—
 - (a) a full licence;
 - (b) a transfer licence; or
 - (c) a licence to obstruct or impede the flow of inland waters by means of impounding works,may be transferred by the holder of the licence to another person (“the transferee”) in accordance with the following provisions of this section.
- (2) The holder and the proposed transferee shall give notice (a “transfer notice”) to the Agency of their agreement that the licence should be transferred.
- (3) The transfer notice shall include—
 - (a) such information as the Agency reasonably requires; and
 - (b) (in the case of the transfer of a full licence or of a transfer licence) a declaration by the proposed transferee that—

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- (i) he has, or at the time when the proposed transfer is to take effect will have, a right of access in relation to each point of abstraction; and
 - (ii) he will continue to have such a right for the period of at least one year beginning with the date on which the proposed transfer is to take effect, or until the licence is to expire (if sooner),
- and may specify the date on which the holder and the transferee wish the transfer to take effect.
- (4) If the holder is a person in whom the licence has vested under section 59B below, a transfer notice shall be of no effect unless the notice required by section 59B(4) has been given.
 - (5) Subject to subsection (4) above, if the Agency receives a transfer notice which complies with the requirements of subsections (2) and (3) above, the Agency shall amend the licence by substituting the name of the transferee as holder of the licence.
 - (6) The transfer shall take effect—
 - (a) from the date on which the Agency amends the licence; or
 - (b) from the date specified in the transfer notice, if later.
 - (7) Nothing in this section shall affect the liability of the holder of the licence for any failure by him, before the transfer took effect, to comply with any condition or requirement of that licence.
 - (8) In this section—
 - “point of abstraction” means a place where the licence authorises water to be abstracted from inland waters or (as the case may be) a place consisting of or comprising underground strata from which the licence authorises water to be abstracted; and
 - “right of access” means, in relation to a point of abstraction, a right of access to land of the kind referred to in subsection (2)(a) or, as the case may be, (3)(a) of section 35 above; and references to a person who will have such a right of access shall be construed in accordance with that section (including subsections (4) to (6)).

59B Vesting of licence on death or bankruptcy of holder

- (1) On the death of the holder of a licence under this Chapter, the licence shall be regarded as property forming part of the deceased’s personal estate, whether or not it would be so regarded apart from this subsection, and shall accordingly vest in his personal representatives.
- (2) If a bankruptcy order is made against the holder of a licence under this Chapter, the licence shall be regarded for the purposes of any of the Second Group of Parts of the Insolvency Act 1986 (insolvency of individuals; bankruptcy) as property forming part of the bankrupt’s estate, whether or not it would be so regarded apart from this subsection, and shall accordingly vest as such in the trustee in bankruptcy.
- (3) A person in whom a licence vests under this section shall become the holder of the licence, in place of the prior holder, from the date of the vesting.

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- (4) Where a licence other than a temporary licence vests in any person under this section, that person shall give notice of that fact to the Agency not later than the end of the period of fifteen months beginning with the date of the vesting.
- (5) If—
 - (a) a licence vests in any person under this section; but
 - (b) that person fails to give the notice required by subsection (4) above within the period mentioned there,the licence shall cease to have effect.

59C Apportionment of licence to abstract

- (1) The holder of a full licence or of a transfer licence (the “old licence”) may apply to the Agency for the division of the holder’s right to abstract water in accordance with the old licence and for the transfer—
 - (a) to another person of part, or to a number of other persons of parts not amounting to the whole; or
 - (b) to a number of other persons of parts amounting in all to the whole, of that right.
- (2) The holder of the old licence and any person proposing to carry on a part of the abstraction authorised by the old licence in place of the holder (a “successor”) shall give notice to the Agency of their agreement to the division and transfer (an “apportionment notice”).
- (3) The apportionment notice shall, in relation to the abstraction authorised by the old licence—
 - (a) specify, for each proposed successor, what quantity of water he proposes to abstract, and (if the holder of the old licence is to continue the abstraction in part) what quantity of water he proposes to abstract;
 - (b) specify the purpose or purposes for which those persons referred to in paragraph (a) above who would require a new licence granted under subsection (5) below would abstract water (being one or more of the purposes for which abstraction is authorised under the old licence);
 - (c) specify the point (or points) of abstraction from which it is proposed that the persons referred to in paragraph (a) above would abstract water (being one or more of the points from which abstraction is authorised under the old licence);
 - (d) include a declaration by each of those persons who requires a licence under this Chapter in order to carry on the abstraction that—
 - (i) he has, or at the time when the proposed grant to him of a new licence under subsection (5) below is to take effect will have, a right of access in relation to each such point of abstraction; and
 - (ii) he will continue to have such a right for the period of at least one year beginning with the date on which the new licence is to take effect, or until it is to expire (if sooner); and
 - (e) include such other information as the Agency reasonably requires, and may specify the date on which the holder and the successor (or successors) wish the division and transfer (or transfers) to take effect.

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- (4) The apportionment notice shall be accompanied by an application on the part of the holder of the old licence for its revocation.
- (5) Subject to subsection (9) below, if the Agency receives an apportionment notice and the application for revocation referred to in subsection (4) above, the Agency shall—
 - (a) revoke the old licence;
 - (b) if the holder is to continue the abstraction in part and a licence is required under this Chapter for that purpose, grant to the holder of the old licence a licence relating to that part of the abstraction; and
 - (c) grant to each successor who requires a licence under this Chapter in order to carry on his part of the abstraction a licence relating to that part of the abstraction.
- (6) Sections 34 to 45 above shall not apply to the grant of a new licence under subsection (5) above.
- (7) Subject to section 46 above and to any provision of regulations made under section 59D(1) below, each new licence to be granted under subsection (5) above shall be granted subject to provisions which correspond as nearly as practicable to those of the old licence in relation to the part of the abstraction to be authorised by the new licence.
- (8) The revocation of the old licence and the grant of the new licences shall take effect—
 - (a) from the date on which the Agency revokes the old licence and grants the new ones; or
 - (b) from the date specified in the apportionment notice, if later.
- (9) The Agency shall not grant a new licence to the holder of the old licence or to a successor if, by virtue of an exemption, the restriction on abstraction would not apply to that part of the abstraction proposed in relation to him in the apportionment notice.
- (10) For the purposes of this Chapter, a person (whether the holder of the old licence or a successor) who proposes to carry on a part of the abstraction in the circumstances mentioned in subsection (9) above shall, if the old licence was a full licence, be taken to have the right to do so in relation to that part, subject to subsection (11) below.
- (11) For the purposes of this Chapter, a person shall cease to be taken to have a right, by virtue of subsection (10) above, to carry on an abstraction if—
 - (a) during a period mentioned in subsection (12) below that person does not carry out any such abstraction; or
 - (b) following an order under section 27A(1) above or regulations under section 33A above, that person is granted a full licence in respect of abstraction from the same point.
- (12) The period referred to in subsection (11)(a) above is—
 - (a) four years; or
 - (b) if the abstractions authorised under the old licence were abstractions planned to be carried out at intervals of more than four years, or

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abstractions for emergency purposes only, such longer period as the Agency may determine on the application of the person in question.

(13) For the purposes of section 39A above, a new licence granted under subsection (5) above shall be treated—

- (a) as if it had been granted at the time the old licence was granted; and
- (b) as if it and any other new licence granted by virtue of the relevant apportionment notice had been granted in place of the old licence.

(14) In this section—

“exemption” means the disapplication of the restriction on abstraction under or by virtue of section 27 or 33A above; and

“point of abstraction” and “right of access” have the same meanings as in section 59A above.

59D Apportionment of licence to abstract: supplementary

(1) The Secretary of State may make regulations about the provisions to be contained in licences granted under section 59C above.

(2) Nothing in section 59C above shall affect the liability of the holder of the old licence for any failure by him, before the revocation of that licence took effect, to comply with any condition or requirement of that licence.

(3) If the holder of the old licence is a person in whom the old licence has vested under section 59B above, an apportionment notice shall be of no effect unless the notice required by section 59B(4) has been given.

(4) In this section, “apportionment notice” and “old licence” have the same meanings as in section 59C above.”

(2) In section 47 of the WRA (holders of licence)—

(a) for subsection (2) there is substituted—

“(2) The person to whom a licence under this Chapter is granted to abstract water or to obstruct or impede any inland waters is the holder of the licence for the purposes of this Act, subject to sections 59A to 59C and 67 below.”,

(b) subsection (3) is omitted.

(3) In section 189 of the WRA (register of abstraction and impounding licences), in subsection (1)(b), for the words from “section 49” to the end there is substituted “section 59A, 59B or 59C above”.

(4) Sections 49 and 50 of the WRA (which relate to the succession to licences to abstract water) shall cease to have effect.

(5) Subsection (4) does not affect the succession to a licence to abstract water where the death or other act or event referred to in section 49(2)(a) or 50(1)(a) or (b) of the WRA occurred before the coming into force of that subsection, and section 49 of the WRA or (as applicable) any regulations under section 50 of the WRA which were in force immediately before the coming into force of subsection (4) are to continue to have effect in relation to such a case despite the repeal of the applicable section.

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Commencement Information

II [S. 23](#) in force at 1.4.2006 by [S.I. 2006/984](#), [art. 2\(m\)](#) (with [Sch. para. 3](#))

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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\(3\)](#)