



# Water Act 2003

## 2003 CHAPTER 37

### PART 1

#### ABSTRACTION AND IMPOUNDING

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

### 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, [<sup>F1</sup>the 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
  - (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,

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*Changes to legislation: Water Act 2003, Section 3 is up to date with all changes known to be in force on or before 25 May 2023. 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) View outstanding changes*

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- (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,
  - “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,”.

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#### **Textual Amendments**

- 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)
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#### **Commencement Information**

- I1** S. 3 in force at 1.4.2006 by [S.I. 2006/984](#), [art. 2\(c\)](#) (with Sch. para. 2)

**Changes to legislation:**

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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\(3\)](#)