

## SCHEDULE

Article 3(1)

### TRANSITIONAL PROVISIONS AND SAVINGS

#### Conversion of certain licences into transfer licences

1.—(1) The Agency must, before 1st May 2006—

- (a) take all reasonable steps to identify the holder of every relevant licence containing relevant provisions; and
- (b) serve on every such holder so identified notice in writing of his entitlement under sub-paragraph (2) and of the requirements of sub-paragraph (3).

(2) The holder of a relevant licence containing relevant provisions may make an application to the Agency for the grant of a transfer licence in substitution for that part of the relevant licence which contains the relevant provisions.

(3) An application must—

- (a) be received by the Agency before 1st October 2006;
- (b) be made on a form issued by the Agency for the purpose; and
- (c) provide, or be accompanied by, such information as the Agency may reasonably request in connection with the application.

(4) Where it receives an application, the Agency must before the relevant date—

- (a) grant to the applicant a transfer licence in materially the same terms as the relevant provisions of the relevant licence to which the application relates; and
- (b) on granting the transfer licence—
  - (i) in the case of a relevant licence which authorises an abstraction otherwise than by virtue of the relevant provisions, vary the relevant licence by omitting the relevant provisions; and
  - (ii) in any other case, revoke the relevant licence.

(5) In sub-paragraph (4), the “relevant date” is the date of the day after the end of the period of six months beginning on the day the application is received by the Agency.

(6) Subsection (5)(b) of section 46 of the WRA(1) (form and content of licences) does not apply in relation to a licence granted in accordance with sub-paragraph (4)(a) of this paragraph.

(7) In relation to a relevant licence to which sub-paragraph (2) applies, section 24A of the WRA(2) (abstraction licences) and subsection (1) of section 102 of the Act (specific transitional and transitory provisions) apply as if section 1 of the Act came into force—

- (a) where an application under sub-paragraph (2) is received by the Agency before 1st October 2006, on the day after the day on which the application is finally disposed of; and
- (b) in any other case, on 1st October 2006.

(8) Subsection (1)(a) of section 43 of the WRA(3) (appeals to the Secretary of State) has effect in relation to the decision of the Agency on an application under sub-paragraph (2)—

- (a) to grant a transfer licence under sub-paragraph (4)(a), and
- (b) to vary or revoke a relevant licence under sub-paragraph (4)(b),

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(1) Section 46 of the WRA was amended by section 19 of the Act.

(2) Section 24A of the WRA was inserted by section 1 of the Act.

(3) Section 43 of the WRA was amended by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 134, and section 14 of the Act.

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as if it were a decision on an application to the Agency for a licence under Chapter 2 of Part 2 of the WRA.

- (9) In this paragraph an application is to be considered finally disposed of when—
- (a) the application is withdrawn;
  - (b) the period within which notice of appeal under subsection (1)(a) of section 43 of the WRA against the decision of the Agency may be given has ended without any such notice having been given; or
  - (c) notice of appeal under subsection (1)(a) of section 43 of the WRA against that decision has been given and the appeal has been withdrawn or determined.

(10) In this paragraph—

“relevant licence” means a licence (other than a combined licence) to abstract water which was in force immediately before 1st April 2006; and

“relevant provisions” means provisions which authorise the abstraction of water from one source of supply over a period of twenty–eight days or more for the purpose of transferring water to another source of supply without intervening use.

(11) In this paragraph and paragraph 2, “combined licence” means a licence under section 36 of the WRA<sup>(4)</sup> (application for combined abstraction and impounding licence) which is in force immediately before 1st April 2006.

### **Conversion of combined licences**

2.—(1) The Agency must, in relation to a combined licence, before 1st April 2007—

- (a) grant to the holder of that licence an impounding licence in materially the same terms as the provisions of the combined licence which authorise the holder to obstruct or impede the flow of inland waters by means of impounding works; and
- (b) vary the combined licence by omitting the provisions referred to in paragraph (a).

(2) A licence granted in accordance with sub-paragraph (1)(a) must provide for the licence to take effect on 1st April 2007.

(3) A combined licence varied in accordance with sub-paragraph (1)(b) must provide for the variations to take effect on 1st April 2007.

(4) In relation to a combined licence, section 24A of the WRA (abstraction licences) and subsection (1) of section 102 of the Act (specific transitional and transitory provisions) apply as if section 1 of the Act came into force on 1st April 2007.

(5) A licence granted in accordance with sub-paragraph (1)(a) in respect of particular impounding works is to be taken to satisfy the condition referred to in paragraph (a) of section 25(1A) of the WRA<sup>(5)</sup> (which sets out the conditions under which the restriction on impounding does not apply) in respect of those impounding works.

(6) Subsection (1)(a) of section 43 of the WRA (appeals to the Secretary of State) has effect in relation to a licence—

- (a) granted in accordance with sub-paragraph (1)(a), or
- (b) varied in accordance with sub-paragraph (1)(b),

as if that licence had been granted or varied (as the case may be) on an application to the Agency.

(7) In relation to a combined licence to which, if it did not authorise the holder to obstruct or impede the flow of inland waters by means of impounding works, paragraph 1 would apply—

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(4) Section 36 of the WRA was repealed by section 12 of the Act.

(5) Section 25(1A) of the WRA was inserted by section 2 of the Act.

- (a) sub-paragraph (4) of this paragraph does not apply; and
- (b) paragraph 1 applies as if—
  - (i) in sub-paragraph (4), for “the relevant date” there were substituted “1st April 2007”, and paragraph (b)(ii) did not apply at any time before the Agency has complied with sub-paragraph (1) of this paragraph;
  - (ii) sub-paragraph (5) were omitted;
  - (iii) in sub-paragraph (7)(a), after “on” where it first appears, there were inserted “1st April 2007, or (if later)”;
  - (iv) in sub-paragraph (7)(b), for “1st October 2006” there were substituted “1st April 2007”; and
  - (v) in sub-paragraph (10), in the definition of “relevant licence”, the words “(other than a combined licence)” were omitted.

(8) In this paragraph, “impounding licence” means a licence(6) under Chapter 2 of Part 2 of the WRA to obstruct or impede the flow of inland waters by means of impounding works.

### **Information to be placed on the register**

3. Subsections (1) and (2) of section 189 of the WRA(7) (register of abstraction and impounding licences), and any regulations having effect under that section, apply in relation to any licence issued, varied or revoked by virtue of paragraph 1 or 2 as if it were a licence under Chapter 2 of Part 2 of the WRA.

### **Offences of contravening a conservation notice**

4.—(1) Subsection (4) of section 30 of the WRA (notices with respect to borings not requiring licences) continues to have effect in relation to any notice under section 30(2) of that Act given before the repeal of section 30 by virtue of section 8(3) and (5) of the Act.

(2) Subsections (2) and (4) of section 199 of the WRA(8) (notice etc. of mining operations which may affect water conservation) continue to have effect in relation to any notice under section 30(2) of that Act (as applied by section 199(2)) given before the coming into force of section 8(5) of the Act as they had effect immediately before the coming into force of that section.

### **Appeals against conservation notices**

5. Section 31 of the WRA (appeals against conservation notices under section 30) continues to have effect in relation to any notice of appeal served on the Secretary of State under subsection (1) of section 31 of the WRA before the repeal of that section by virtue of section 8(3) of the Act.

### **Eligibility to make application to abstract water**

6. Section 35 of the WRA(9) (restrictions on persons who may make applications for abstraction licences) continues to have effect in relation to any application for a licence to abstract water under Chapter 2 of Part 2 of the WRA a notice of which was published by the applicant in accordance with section 37 of the WRA(10) (publication of application for licence) before 1st April 2006.

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(6) For the definition of “licence” in this context, see sections 25(6) and (7) and section 72(1) of the WRA.

(7) Section 198 of the WRA was amended by section 23 of the Act.

(8) Section 199 of the WRA was amended by section 8(5) of the Act.

(9) Section 35 of the WRA was amended by section 11 of the Act.

(10) Section 37 of the WRA was substituted by section 14(1) of the Act.

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### **Notice of an application which has been published in accordance with section 37 of the WRA before 1st April 2006**

7.—(1) In relation to any application for a licence under Chapter 2 of Part 2 of the WRA a notice of which was published before 1st April 2006 in accordance with section 37 of the WRA, that section continues to have effect as it had effect immediately before that date.

(2) Sub-paragraph (1) does not apply in relation to an excepted application.

(3) Paragraph 6 (above), and regulation 36 of the Water Resources (Abstraction and Impounding) Regulations 2006<sup>(11)</sup>, do not have effect in relation to an excepted application.

(4) In this paragraph “an excepted application” means an application submitted to the Agency on or after 1st April 2007.

### **Effect of provisions in relation to water resources management plans**

8.—(1) So far as it has not been given effect before the coming into force of this Schedule, section 37B of the WIA<sup>(12)</sup> (water resources management plans: publication and representations) has effect only in so far as it enables the Secretary of State to make regulations or give directions in relation to water resources management plans.

(2) Section 37A (water resources management plans: preparation and review) and section 37D (water resources management plans: supplementary) of the WIA<sup>(13)</sup> have effect only in so far as they enable the Secretary of State to give directions in relation to water resources management plans under those sections.

### **Devolution: Wales**

9. So far as it has not been given effect before the date of this Order, subsection (6) of section 100 (devolution: Wales) does not have effect in relation to references to any Act generally except to the extent that any such Act has been amended by the Act by virtue of the provisions of this Order.

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<sup>(11)</sup> S.I.2006/641.

<sup>(12)</sup> Section 37B of the WIA was inserted by section 62 of the Act.

<sup>(13)</sup> Sections 37A and 37D of the WIA were inserted by section 62 of the Act.