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STATUTORY INSTRUMENTS

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**2010 No. 490**

**The Conservation of Habitats and Species Regulations 2010**

**PART 6**

**ASSESSMENT OF PLANS AND PROJECTS**

**CHAPTER 7**

**ENVIRONMENTAL CONTROLS**

**Abstraction and works authorised under water legislation**

**99.**—(1) The assessment provisions apply in relation to the granting of an authorisation by virtue of—

- (a) the granting of a licence under Chapter 2 of Part 2 of the WRA(1) (abstraction and impounding);
- (b) the making of an order under section 27A(2) of the WRA (variation of small quantity threshold);
- (c) the making of regulations under section 33A(3) of the WRA (power to provide for further exemptions), where those regulations relate to—
  - (i) a prescribed geographical area,
  - (ii) a prescribed source of supply (in the case of an exemption from the restriction on abstraction or the other restrictions imposed by section 24(4) of the WRA (restrictions on abstraction)), or
  - (iii) prescribed inland waters (in the case of an exemption from the restriction on impounding works);
- (d) any consent given under paragraph (2);
- (e) the making of an order under section 73(5) of the WRA (power to make ordinary and emergency drought orders) which has the effect of authorising—
  - (i) an abstraction or additional abstraction, or
  - (ii) a discharge or additional discharge;
- (f) the granting of a permit under section 79A(6) of that Act (drought permits);

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(1) 1991 c. 57.

(2) Section 27A was inserted by the Water Act 2003 (c. 37), section 6(1).

(3) Section 33A was inserted by the Water Act 2003 (c. 37), section 9.

(4) Section 24 was amended by S.I. 1996/593, Schedule 2; by the Environment Act 1995 (c. 25), paragraph 128 of Schedule 22; and by the Water Act 2003 (c. 37), section 60(1).

(5) Section 73 was amended by the Environment Act 1995 (c. 25), paragraphs 128 and 139 of Schedule 22.

(6) Section 79A was inserted by the Environment Act 1995 (c. 25), paragraph 140 of Schedule 22, and amended by the Water Act 2003 (c. 37), section 64(3) and Part 3 of Schedule 9.

- (g) any consent given under section 166 of the WIA(7) (consents for certain discharges under section 165) or section 164(8) of the WRA (consents for certain discharges under section 163); or
  - (h) the making of an order under section 167(9) of the WIA (compulsory works orders) or section 168(10) of the WRA (compulsory works orders).
- (2) An exemption conferred by regulations under section 33A of the WRA, other than regulations referred to in paragraph (1)(c), does not apply in relation to any particular abstraction or impounding works unless the Environment Agency has given consent in writing to the abstraction or impounding works being carried out.
- (3) Where, in relation to any plan or project authorised by any means referred to in sub-paragraphs (a) to (h) of paragraph (1), the competent authority consider that any adverse effects of the plan or project on the integrity of a European site or a European offshore marine site would be avoided if the authorisation were subject to conditions, they may grant the authorisation, or cause it to be granted, subject to those conditions.
- (4) Where, by virtue of paragraph (1)(g), the assessment provisions apply in relation to the granting of an authorisation by virtue of a consent under section 166 of the WIA or section 164 of the WRA, the section in question has effect as if in each case—
- (a) in subsection (3), the words “and, subject to that subsection, where an application for any consent is required to be determined within the period specified in paragraph (a) above and is not so determined, the consent applied for shall be deemed to have been given unconditionally.” were omitted; and
  - (b) in paragraph (a) of that subsection, for the words “the period of seven days” there were substituted the words “the period of fourteen days”.
- (5) The review provisions apply to any authorisation mentioned in paragraph (1)(a), (b), (c), (d) or (h).
- (6) Where on the review of any such authorisation the competent authority consider that any adverse effects on the integrity of a European site or a European offshore marine site of the carrying out or, as the case may be, the continuation of the activities authorised by it would be avoided by a variation of the authorisation, they may vary it, or cause it to be varied, accordingly.
- (7) In this regulation—
- (a) “the WIA” means the Water Industry Act 1991(11); and
  - (b) “the WRA” means the Water Resources Act 1991(12).

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(7) 1991 c. 56; section 166 was amended by the Environment Act 1995 (c. 25), paragraph 118 of Schedule 22.

(8) Section 164 was amended by the Environment Act 1995 (c. 25), paragraph 128 of Schedule 22.

(9) Section 167 was amended by the Planning Act 2008 (c. 29), paragraph 50 of Schedule 2.

(10) Section 168 was amended by the Environment Act 1995 (c. 25), paragraph 128 of Schedule 22.

(11) 1991 c. 56.

(12) 1991 c. 57.