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STATUTORY INSTRUMENTS

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**2017 No. 1012**

**The Conservation of Habitats and Species Regulations 2017**

**PART 6**

Assessment of plans and projects

CHAPTER 7

Environmental Controls

**Abstraction and works authorised under water legislation**

**102.**—(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 (abstraction and impounding) <sup>M1</sup>;
- (b) the making of an order under section 27A of the WRA (variation of small quantity threshold) <sup>M2</sup>;
- (c) the making of regulations under section 33A of the WRA (power to provide for further exemptions) <sup>M3</sup>, 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 of the WRA (restrictions on abstraction) <sup>M4</sup>); 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 of the WRA (power to make ordinary and emergency drought orders) <sup>M5</sup> 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 of that Act (drought permits) <sup>M6</sup>;
- (g) any consent given under section 166 of the WIA (consents for certain discharges under section 165) <sup>M7</sup> or section 164 of the WRA (consents for certain discharges under section 163) <sup>M8</sup>; or
- (h) the making of an order under section 167 of the WIA (compulsory works orders) <sup>M9</sup> or section 168 of the WRA (compulsory works orders) <sup>M10</sup>.

(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

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**Changes to legislation:** *The Conservation of Habitats and Species Regulations 2017, Section 102 is up to date with all changes known to be in force on or before 21 April 2024. 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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works unless the Environment Agency in relation to England or the Natural Resources Body for Wales in relation to Wales 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 paragraph (1) (a) to (h), the competent authority considers 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, it 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 in subsection (3)—

- (a) in paragraph (a), for “seven” there were substituted “fourteen”; and
- (b) the words from “and, subject to” to the end were omitted.

(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 considers 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, it may vary it, or cause it to be varied, accordingly.

(7) In this regulation—

“the WIA” means the Water Industry Act 1991 <sup>M11</sup>;

“the WRA” means the Water Resources Act 1991 <sup>M12</sup>.

#### Marginal Citations

- M1** 1991 c. 57.
- M2** Section 27A was inserted by the [Water Act 2003 \(c. 37\)](#), [section 6\(1\)](#); and amended by [S.I. 2013/755](#).
- M3** Section 33A was inserted by the [Water Act 2003 \(c. 37\)](#), section 9; and amended by [S.I. 2013/755](#).
- M4** Section 24 was amended by the [Environment Act 1995 \(c. 25\)](#), [Schedule 22](#), paragraph 128; and by [S.I. 1996/593](#), [2013/755](#) and [2015/664](#).
- M5** Section 73 was amended by the [Environment Act 1995 \(c. 25\)](#), [Schedule 22](#), paragraphs 128 and 139; and by [S.I. 2013/755](#).
- M6** Section 79A was inserted by the [Environment Act 1995 \(c. 25\)](#), [Schedule 22](#), paragraph 140, and amended by the [Water Act 2003 \(c. 37\)](#), [section 64\(3\)](#) and [Schedule 9](#), Part 3; and by [S.I. 2013/755](#).
- M7** 1991 c. 56; section 166 was amended by the [Environment Act 1995 \(c. 25\)](#), [Schedule 22](#), paragraph 118; and by [S.I. 2013/755](#).
- M8** Section 164 was amended by the [Environment Act 1995 \(c. 25\)](#), [Schedule 22](#), paragraph 128; and by [S.I. 2013/755](#).
- M9** Section 167 was amended by the [Planning Act 2008 \(c. 29\)](#), [Schedule 2](#), paragraph 50; and the [Flood and Water Management Act 2010 \(c. 29\)](#), [section 41\(1\)](#) and (2).
- M10** Section 168 was amended by the [Environment Act 1995 \(c. 25\)](#), [Schedule 22](#), paragraph 128.
- M11** 1991 c. 56.
- M12** 1991 c. 57.

**Changes to legislation:**

The Conservation of Habitats and Species Regulations 2017, Section 102 is up to date with all changes known to be in force on or before 21 April 2024. 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.

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

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

- reg. 41(2)(aa) inserted by [2023 c. 55 Sch. 8 para. 38\(5\)](#)
- reg. 108(6) inserted by [2023 c. 55 Sch. 8 para. 39\(6\)](#)
- reg. 111(2)(aa)(ab) substituted for reg. 111(2)(a)(b) by [2023 c. 55 Sch. 8 para. 40\(3\)\(a\)](#)