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## SCHEDULES

### SCHEDULE 3

Section 3.

#### REQUIREMENTS OF DEEMED IMPOUNDMENT LICENCE

##### *Introductory*

- 1 The provisions of the licence treated as having been granted by section 3 of this Act shall be taken to impose—
- (a) the requirements relating to the construction of the barrage, and the carrying out of other works and operations, specified in paragraph 2 below,
  - (b) the requirements relating to sewage outfalls specified in paragraph 3 below,
  - (c) the requirements relating to fish specified in paragraph 4 below, and
  - (d) the requirements relating to monitoring specified in paragraph 5 below.

##### *Works and operations*

- 2 (1) The licence shall be taken to require—
- (a) that, except in case of emergency, no relevant work or operation be commenced unless—
    - (i) full details of the work or operation have been submitted to [<sup>F1</sup>the Natural Resources Body for Wales],
    - (ii) the details have been approved by [<sup>F2</sup>the Natural Resources Body for Wales],
    - (iii) reasonable notice of the date and time when the work or operation is to be commenced has been given to [<sup>F3</sup>the Natural Resources Body for Wales, and]
    - (iv) a copy of any plans or sections sent to the Secretary of State for the purposes of paragraph 7 of Schedule 2 to this Act, and (on any such plans or sections being approved by the Secretary of State) a copy of the approval and of any conditions or restrictions imposed by the Secretary of State under that paragraph, have been sent to [<sup>F4</sup>the Natural Resources Body for Wales],
  - (b) that, where any relevant work or operation is carried out in case of emergency, the Development Corporation submit to [<sup>F5</sup>the Natural Resources Body for Wales]—
    - (i) before beginning the work or operation, such details of the work or operation as it is reasonably practicable to submit, and
    - (ii) as soon as possible afterwards, full details of the work or operation,
  - (c) that, subject to paragraph 7 of Schedule 2 to this Act, any relevant work or operation be carried out in accordance with the details submitted to [<sup>F6</sup>the Natural Resources Body for Wales],

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- (d) that the Development Corporation, in carrying out any relevant work or operation, comply with any requirements [<sup>F7</sup>which the Natural Resources Body for Wales may] reasonably impose as conditions of their approval, or (in case of emergency) on receipt of any details required to be given by paragraph (b) above, in order—
- (i) to protect the quality of water in the inland bay by ensuring that it meets or continues to meet the relevant standard,
  - (ii) to prevent or alleviate flooding, or
  - (iii) to protect fish in the inland bay or allow the passage of migratory fish to or from the inland bay, and
- (e) that the Development Corporation [<sup>F8</sup>allow the Natural Resources Body for Wales access] at all reasonable times for the purpose of inspecting any relevant work or operation.
- (2) In this paragraph “relevant work or operation” means the construction of the barrage or any other work or operation authorised by section 1 of this Act, or Schedule 2 to this Act, which—
- (a) may affect the bed or banks of any watercourse, or
  - (b) may affect the quality of water, or obstruct the passage of fish, in any watercourse.
- (3) For the purposes of sub-paragraph (1)(d)(i) above, whether the quality of water meets the relevant standard shall be determined as for the purposes of section 8 of this Act.

#### Textual Amendments

- F1** Words in Sch. 3 para. 2(1)(a)(i) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 358(2)(a)(i)** (with Sch. 7)
- F2** Words in Sch. 3 para. 2(1)(a)(ii) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 358(2)(a)(ii)** (with Sch. 7)
- F3** Words in Sch. 3 para. 2(1)(a)(iii) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 358(2)(a)(iii)** (with Sch. 7)
- F4** Words in Sch. 3 para. 2(1)(a)(iv) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 358(2)(a)(iv)** (with Sch. 7)
- F5** Words in Sch. 3 para. 2(1)(b) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 358(2)(b)** (with Sch. 7)
- F6** Words in Sch. 3 para. 2(1)(c) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 358(2)(c)** (with Sch. 7)
- F7** Words in Sch. 3 para. 2(1)(d) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 358(2)(d)** (with Sch. 7)
- F8** Words in Sch. 3 para. 2(1)(e) substituted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 358(2)(e)** (with Sch. 7)

#### *Sewage outfalls*

- 3 Except as may be otherwise agreed by the National Rivers Authority, the licence shall be taken to require that any sewage outfall which will be rendered inoperative or otherwise adversely affected in consequence of the impoundment of water by means of the barrage be removed, relocated or improved before the commencement of impoundment in such manner as the National Rivers Authority may approve.

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### *Fish*

- 4 (1) The licence shall be taken to require—
- (a) that at all times during the construction of the barrage the Development Corporation maintain a channel sufficient for the passage of migratory fish to and from the inland bay in which, except where circumstances beyond their control prevent it, the flow of water is not less than the relevant minimum flow,
  - (b) that, except where circumstances beyond their control prevent it and except as may be otherwise [F<sup>9</sup>agreed by the Natural Resources Body for Wales, at] all times after completion of the barrage the Development Corporation maintain a flow of water through the fish passes in the barrage not less than the relevant minimum flow,
  - (c) that before the commencement of construction of the barrage the Development Corporation submit to the National Rivers Authority details of the steps which they have taken, or propose to take, to enable them to comply with paragraphs (a) and (b) above and that those steps have been approved by the National Rivers Authority as adequate for that purpose,
  - (d) that the fish passes be approved by the Secretary of State, and
  - (e) that the Development Corporation pay to [F<sup>10</sup>the Natural Resources Body for Wales costs] reasonably incurred by them—
    - (i) in formulating in consultation with the Development Corporation, and giving effect to, a programme for monitoring the effect on fish of the construction, and any alteration or replacement, of the barrage and of its operation, and
    - (i) in supervising the operation of the fish passes and of the sluices, gates and other parts of the barrage in securing the passage of migratory fish.
- (2) For the purposes of sub-paragraph (1) above the relevant minimum flow of water is a flow not less than that for which the fish passes in the barrage are designed or adapted.
- (3) Where an approval for the purposes of the requirement in sub-paragraph (1)(d) above is given (by reference to the design of the fish passes) before the time when the barrage is completed, the approval may be withdrawn if it appears to the Secretary of State during such period beginning with that time as he considers appropriate for monitoring the operation of the fish passes that their operation is unsatisfactory.

#### **Textual Amendments**

- F9** Words in Sch. 3 para. 4(1)(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 358\(3\)\(a\)](#) (with Sch. 7)
- F10** Words in Sch. 3 para. 4(1)(e) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 358\(3\)\(b\)](#) (with Sch. 7)

### *Monitoring*

- 5 The licence shall be taken to require—
- (a) that the Development Corporation provide and maintain apparatus for the continuous monitoring and recording of—

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- (i) the flow of water and passage of fish through the fish passes in the barrage, and
- (ii) the quality, level and temperature of the water in the inland bay,
- (b) that the apparatus be designed and located in accordance with any requirements [<sup>F11</sup>which the Natural Resources Body for Wales may] reasonably impose,
- (c) that the Development Corporation [<sup>F12</sup>allow the Natural Resources Body for Wales access] at all reasonable times to the apparatus and to records of the readings taken from the apparatus, and
- (d) that the Development Corporation [<sup>F13</sup>send to the Natural Resources Body for Wales as soon] as is reasonably practicable after the end of each month details of the readings taken from the apparatus during that month.

#### Textual Amendments

- F11** Words in Sch. 3 para. 5(b) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 358(4)(a)** (with Sch. 7)
- F12** Words in Sch. 3 para. 5(c) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 358(4)(b)** (with Sch. 7)
- F13** Words in Sch. 3 para. 5(d) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 358(4)(c)** (with Sch. 7)

#### Approvals

- 6 Any approval requested for the purposes of paragraph 2(1)(a)(ii), 3 or 4(1)(c) above shall not be unreasonably withheld.

#### Appeals

- 7 (1) Where there arises any dispute as to—
- (a) the reasonableness of the withholding [<sup>F14</sup>by the Natural Resources Body for Wales of approval required by paragraph 2(1)(a)(ii) above],
  - (b) whether, in relation to any work or operation, the requirement imposed by paragraph 2(1)(c) has been complied with, or
  - (c) the reasonableness of any requirements imposed under paragraph 2(1)(d) or 5(b) above,
- the matter shall be referred to the Secretary of State for determination by him.
- (2) Any difference between the Development Corporation [<sup>F15</sup>and the Natural Resources Body for Wales as to] whether costs have been reasonably incurred as mentioned in paragraph 4(1)(e) above shall be determined by arbitration.

#### Textual Amendments

- F14** Words in Sch. 3 para. 7(1)(a) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 358(5)(a)** (with Sch. 7)
- F15** Words in Sch. 3 para. 7(2) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 358(5)(b)** (with Sch. 7)

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