

---

*Changes to legislation: Water Act 2014, Cross Heading: Restrictions on Crown application is up to date with all changes known to be in force on or before 17 May 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*

---

## SCHEDULES

### SCHEDULE 8

#### REGULATION OF THE WATER ENVIRONMENT

#### PART 2

#### SUPPLEMENTARY PROVISION

##### *Restrictions on Crown application*

- 38 (1) To the extent that the regulations bind the Crown (by virtue of provision made under paragraph 31), they are subject to the following restrictions.
- (2) No contravention of any provision of the regulations may make the Crown criminally liable; but the regulations may provide that the High Court may, on the application of a regulator, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (3) Sub-paragraph (2) does not affect the criminal liability of persons in the service of the Crown.
- (4) The regulations must provide that if the Secretary of State certifies that it appears to him, as respects any Crown premises and any relevant powers of entry, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to those premises, those powers shall not be exercisable in relation to those premises.
- (5) Subject to sub-paragraph (6), where a power is conferred in relation to land by any provision of the regulations, the regulations must provide that—
- (a) that power is to be exercisable in relation to any land in which there is a Crown or Duchy interest only with the consent of the appropriate authority, and
  - (b) that a consent for such purposes may be given on such financial and other conditions as the appropriate authority giving the consent may consider appropriate.
- (6) But provision contained in the regulations in accordance with sub-paragraph (5) is not to require any consent to be given for the exercise of any power in relation to any land in which there is a Crown or Duchy interest to the extent that that power would be so exercisable apart from provision in the regulations made by virtue of paragraph 31.
- (7) In this paragraph—
- “the appropriate authority” has the same meaning as in section 293 of the Town and Country Planning Act 1990;

---

**Changes to legislation:** *Water Act 2014, Cross Heading: Restrictions on Crown application is up to date with all changes known to be in force on or before 17 May 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*

---

“Crown or Duchy interest” means an interest belonging to Her Majesty in right of the Crown or the Duchy of Lancaster, or to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for the purposes of a government department;

“Crown premises” means premises held by or on behalf of the Crown;

“relevant powers of entry” means powers of entry that are—

- (a) contained in the regulations,
- (b) exercisable in relation to the premises in question, and
- (c) specified in the Secretary of State's certificate under sub-paragraph (4).

**Changes to legislation:**

Water Act 2014, Cross Heading: Restrictions on Crown application is up to date with all changes known to be in force on or before 17 May 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.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1288, art. 3(c)(d) by [S.I. 2019/706 art. 2](#)
- specified provision(s) amendment to earlier commencing S.I. 2017/462, arts. 4, 5 by [S.I. 2017/926 art. 2](#)