

## SCHEDULE

Regulation 4

Application for, and determination of, licences

### PART 1

Application for a licence

#### Submission of licence applications

1. An application for a licence must be submitted to the appropriate agency.

#### Information to be included in an application

2. An application must include—
  - (a) details of any abstraction from the source of supply that is the subject of the application carried out in the seven years prior to 1st January 2018;
  - (b) such other information, including maps, as the appropriate agency may reasonably require to determine the application.

#### Manner of application

3. An application must be—
  - (a) made on a form issued by the appropriate agency for the purpose of the application being made or electronically in a form accessible by the appropriate agency;
  - (b) accompanied by any fee payable under section 41(1)(a) of the Environment Act 1995 <sup>M1</sup>.

#### Marginal Citations

**M1** 1995 c. 25; section 41(1)(a) was amended by S.I. 2013/755 (W. 90).

#### Type of application

4. The appropriate agency may decide that—
  - (a) an application for a new licence ought to be for a variation of an existing licence, or
  - (b) an application for a variation of an existing licence ought to be for a new licence,and may proceed with the application accordingly.

### PART 2

Determination of applications

#### Interpretation

5. In this Part, “valid application” means an application that complies with the provisions of paragraphs 1 to 3.

**Provision of additional information in support of the application**

6. The appropriate agency may, following receipt of a valid application, require the applicant to submit any further information or reports that it considers necessary to determine that application.

**Provision of information to the applicant**

7.—(1) The appropriate agency must, by 30th June 2021, provide the applicant with the following information in relation to a valid application—

- (a) whether a notice of the application has been or is to be published in accordance with section 37(1) <sup>M2</sup>;
- (b) the date by which the applicant must be notified of the appropriate agency's decision on the application;
- (c) the applicant's entitlement to appeal, in accordance with section 43(1)(b), against any failure by the appropriate agency to give notice, within the time period prescribed by paragraph 10(1), of its decision on the application.

(2) But if, when it receives the application, the appropriate agency serves a notice on the applicant under section 36A <sup>M3</sup>, and the applicant appeals against that notice, the appropriate agency must provide the information referred to in sub-paragraph (1) by 30th June 2021 or within 28 days of the final determination of that appeal, whichever is the later.

**Marginal Citations**

**M2** Section 37 was substituted by section 14(1) of the 2003 Act, and amended by [S.I. 2013/755](#) (W. 90).

**M3** Section 36A was inserted by section 13(1) of the 2003 Act.

**Publication of an application**

8.—(1) For the purposes of section 37(1), notice of an application must be published in at least one newspaper circulating in the locality of the proposed point of abstraction and on the appropriate agency's website.

- (2) The notice must be published by—
  - (a) 30th June 2021, or
  - (b) if there is an appeal under section 36A in relation to the application, within 28 days of the determination of that appeal or by 30th June 2021, whichever is the later.
- (3) The notice must specify—
  - (a) the name of the applicant;
  - (b) the type of licence being applied for;
  - (c) the purpose of the abstraction;
  - (d) the point of abstraction;
  - (e) the period over which abstraction will take place;
  - (f) in the case of an application for a full licence, the quantity of water to be abstracted;
  - (g) where and when the application documents and the register containing details of the application may be inspected, and that such inspection is free of charge;
  - (h) the address to which any representations in relation to the application should be sent.
- (4) The notice must not include any information that is to be excluded from a register by virtue of section 191A or 191B <sup>M4</sup>.

(5) The requirements of section 37(1) and (2) do not apply to any application if the appropriate authority notifies the appropriate agency that complying with those requirements in relation to that application would be contrary to the interests of national security.

(6) The requirements of section 37(1) and (2) may be dispensed with if it appears to the appropriate agency that the proposed abstraction would have no appreciable adverse effect on the environment.

#### Marginal Citations

**M4** Sections 191A and 191B were inserted by paragraph 170 of Schedule 22 to the 1995 Act and amended by S.I. 2013/755 (W. 90). Section 191B was amended by S.I. 2010/675.

#### Abstraction in National Parks or the Broads

**9.**—(1) This paragraph applies in the case of a valid application relating to abstraction in the area of a National Park or the Norfolk or Suffolk Broads.

(2) The appropriate agency must serve notice in writing of that application on the National Park authority for that Park or the Broads Authority, as the case may be, by 30th June 2021.

(3) The notice must include—

- (a) a copy of the application;
- (b) a statement that the National Park authority or the Broads Authority may make representations in writing to the appropriate agency in relation to the application within three months, beginning on the date on which the notice is served.

(4) The appropriate agency—

- (a) must not decide on the application before the end of the three month period referred to in sub-paragraph (3)(b);
- (b) must have regard to any representations made by the National Park authority or the Broads Authority when deciding on the application.

(5) This paragraph does not apply if the appropriate authority notifies the appropriate agency that giving such notice would be contrary to the interests of national security.

#### Notification of a decision

**10.**—(1) The appropriate agency must, by [<sup>F1</sup>31st December 2022][<sup>F1</sup>the determination end date], notify the applicant in writing of its decision on an application for a licence.

(2) If the appropriate agency grants a licence on terms that are different in any material respect from the application, or refuses an application, the notification must—

- (a) include a statement of the appropriate agency's reasons for doing so;
- (b) state the applicant's entitlement to appeal under section 43(1).

[<sup>F2</sup>(3) In this paragraph, “determination end date”, in relation to England, means 30th June 2023.]

**F1** Words in Sch. para. 10(1) substituted (E.) (31.12.2022) by The Water Abstraction (Transitional Provisions) (Amendment) (England) Regulations 2022 (S.I. 2022/1302), regs. 1(1), **2(2)(a)**

**F2** Sch. para. 10(3) inserted (E.) (31.12.2022) by The Water Abstraction (Transitional Provisions) (Amendment) (England) Regulations 2022 (S.I. 2022/1302), regs. 1(1), **2(2)(b)**

## **PART 3**

### Appeals procedure

#### **Appeals to the Secretary of State or the Welsh Ministers under section 36A(4) (decision on type of abstraction licence)**

**11.**—(1) The period within which any notice of appeal under section 36A(4) must be served is 28 days from the date on which notice of the decision to which the appeal relates is served on the applicant.

(2) A notice of appeal under section 36A(4) must state the grounds of appeal and be accompanied by a copy of—

- (a) the application to which the appeal relates;
- (b) any information or report submitted to the appropriate agency with the application;
- (c) the notice of the decision on the application;
- (d) all other relevant correspondence with the appropriate agency.

#### **Appeals to the Secretary of State or the Welsh Ministers under section 43 (decision on licence application)**

**12.**—(1) For the purposes of section 43(3)(b), the prescribed period for serving a notice of appeal is 28 days.

(2) A notice of appeal under section 43 must state the grounds of appeal and be accompanied by a copy of—

- (a) the application to which the appeal relates;
- (b) any information or report submitted to the appropriate agency with the application;
- (c) the notice of the decision on the application, if any;
- (d) all other relevant correspondence with the appropriate agency.

(3) The appropriate agency must, within 14 days of receiving a notice of appeal under section 43, serve a copy of that notice on—

- (a) any person who within the period referred to in section 37(4)(b) made representations in writing in relation to the application;
- (b) any National Park authority or the Broads Authority served with a notice in accordance with paragraph 9(2) that, within the period referred to in paragraph 9(3)(b), made representations in writing in relation to the application.

(4) When serving a copy of a notice of appeal, the appropriate agency must notify the recipient in writing—

- (a) that the recipient may make further representations in writing in relation to the appeal;
- (b) of where any such representations must be sent;
- (c) of the date by which those representations must be received.

#### **Prescribed periods**

**13.**—(1) The prescribed period for the purposes of section 44(3)(a) is 21 days from the date on which notice of appeal is served on the persons referred to in section 43(5).

(2) The prescribed period for the purposes of section 45(2)(b) is 21 days from the date on which notice of appeal is served on the National Park authority or the Broads Authority.

**Changes to legislation:**

There are currently no known outstanding effects for the The Water Abstraction (Transitional Provisions) Regulations 2017.