



Water Act 2003

2003 CHAPTER 37

PART 1

ABSTRACTION AND IMPOUNDING

Restrictions on abstraction and impounding

8 Amendments relating to section 7

- (1) Subsections (2) to (6) make amendments to the WRA consequential on the amendments made by section 7.
- (2) In section 21 (minimum acceptable flows)—
 - (a) in subsection (9), the words from “and in that subsection” to the end are omitted,
 - (b) after subsection (9) there is added—

“(10) In subsection (5) above, the reference to land drainage includes—

 - (a) defence against water (including sea water), irrigation (other than spray irrigation), warping and the carrying on, for any purpose, of any other practice which involves management of the level of water in a watercourse; and
 - (b) the provision of flood warning systems.”
- (3) Sections 30 (notices with respect to borings not requiring licences) and 31 (appeals against notices under section 30) shall cease to have effect.
- (4) In section 70 (civil liability under Chapter 2), for “24, 25 and 30” there is substituted “24 and 25”.
- (5) In section 199 (notice of mining operations which may affect water conservation)—
 - (a) for subsections (2) and (3) there is substituted—

“(2) Where a notice under subsection (1) above is given to the Agency by any person, the Agency may (subject to section 199A below) by

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notice to that person require him, in connection with the construction, extension or use of the work to which that person's notice relates, to take such reasonable measures for conserving water as are specified in the notice.

(2A) The measures that may be specified in a notice under subsection (2) above shall be measures which, in the opinion of the Agency, will not interfere with the winning of minerals.

(3) Section 70 above shall apply to the restrictions imposed by this section as it applies to the restrictions imposed by sections 24 and 25 above.”,

(b) in subsection (4), for “conservation notice given by virtue of” there is substituted “notice under”.

(6) After section 199 there is inserted—

“199A Appeals against conservation notices under section 199

(1) The person on whom a notice under section 199(2) above (“a conservation notice”) is served may, by notice to the Secretary of State, appeal to him against the conservation notice on either or both of the following grounds, that is to say—

- (a) that the measures required by the conservation notice are not reasonable;
- (b) that those measures would interfere with the winning of minerals.

(2) Any notice of appeal against a conservation notice shall be served within such period (not being less than twenty-eight days from the date of service of the conservation notice) and in such manner as may be prescribed.

(3) Before determining an appeal against a conservation notice, the Secretary of State may, if he thinks fit—

- (a) cause a local inquiry to be held; or
- (b) afford to the appellant and the Agency an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose;

and the Secretary of State shall act as mentioned in paragraph (a) or (b) above if a request is made by the appellant or the Agency to be heard with respect to an appeal.

(4) On an appeal against a conservation notice the Secretary of State may confirm, quash or vary the notice as he may consider appropriate.

(5) The decision of the Secretary of State on any appeal against a conservation notice shall be final.

(6) The Secretary of State may by regulations make provision as to the manner in which appeals against conservation notices are to be dealt with, including provision requiring the giving of notices of, and information relating to, the making of such appeals or decisions on any such appeals.

(7) Section 69 above applies to a decision of the Secretary of State on any appeal to him under this section as it applies to a decision of his on an appeal to him

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under Chapter 2 of Part 2, taking the reference in subsection (2)(b) of that section to that Chapter as a reference to this section.

(8) This section is subject to section 114 of the 1995 Act (delegation or reference of appeals).”

(7) In section 114 of the Environment Act 1995 (c. 25) (power of Secretary of State to delegate or refer in connection with appeals), in subsection (2)(a)(v), for “or 191B(5)” there is substituted “, 191B(5) or 199A ”.

Commencement Information

- I1** S. 8(1) in force at 1.4.2006 for specified purposes by S.I. 2006/984, **art. 2(e)**
- I2** S. 8(1) in force at 1.1.2018 in so far as not already in force by S.I. 2017/1043, **art. 2(c)**
- I3** S. 8(2) in force at 1.1.2018 by S.I. 2017/1043, **art. 2(c)**
- I4** S. 8(3)-(7) in force at 1.4.2006 by S.I. 2006/984, **art. 2(e)** (with Sch. para. 45)

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

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

- s. 52(9) inserted by [2014 c. 21 Sch. 7 para. 133\(3\)](#)