



Water Resources Act 1963

1963 CHAPTER 38

PART IV

CONTROL OF ABSTRACTION AND IMPOUNDING OF WATER

Minister's powers in relation to applications for licences

41 Provisions supplementary, to ss. 38 to 40

- (1) The provisions of this section shall have effect in relation to—
 - (a) applications referred to the Minister under section 38 of this Act;
 - (b) appeals to the Minister under section 39 of this Act where the application to the river authority was for a licence other than a licence of right; and
 - (c) appeals to the Minister under section 39 of this Act where the application to the river authority was for a licence of right.
- (2) In relation to any application referred to the Minister as mentioned in paragraph (a) of the preceding subsection, the provisions of subsections (1) and (3) of section 28 and of subsection (3) and subsections (5) to (7) of section 29 of this Act shall apply as if in those provisions, except in section 29 (3) (a), any reference to the river authority were a reference to the Minister.
- (3) In determining any application referred to him under section 38 of this Act, and, in particular, in determining what (if any) direction to give under subsection (4) of that section, the Minister shall consider whether any such direction would require the grant of a licence so as to authorise derogation from protected rights.
- (4) Subject to the provisions of subsections (2) and (3) of this section and of section 30 of this Act, on any such application the Minister—
 - (a) may determine that a licence shall be granted containing such provisions as he considers appropriate, or
 - (b) if, having regard to the provisions of this Act, he considers it necessary or expedient to do so, may determine that no licence shall be granted.

*Status: This is the original version (as it was originally enacted). This
item of legislation is currently only available in its original format.*

- (5) In relation to any such appeal as is mentioned in paragraph (b) of subsection (1) of this section—
- (a) the provisions of subsection (3) (with the omission of paragraph (a)) and of subsections (5) to (7) of section 29 of this Act shall apply as if in those provisions any reference to the river authority were a reference to the Minister; and
 - (b) in determining the appeal, and, in particular, in determining what (if any) direction to give under section 39 (6) of this Act, the Minister shall consider whether any such direction would require the grant or variation of a licence so as to authorise derogation from protected rights.
- (6) In relation to any such appeal as is mentioned in paragraph (c) of subsection (1) of this section, section 33 (4) and (5) and section 34 of this Act, or section 35 of this Act, as the case may be, shall apply as if any reference to the river authority were a reference to the Minister.
- (7) The provisions of this section shall have effect without prejudice to section 38 (3) and section 39 (4) and (5) of this Act.
- (8) In subsections (5) to (7) of section 29 of this Act, as applied by any enactment contained in this section, any reference to " the preceding provisions " shall be construed as a reference to—
- (a) subsection (3) of that section as so applied, and
 - (b) subsection (3) or subsection (5)(b) of this section, as the case may be.
- (9) References in this section to section 39 of this Act include references to the provisions of that section as applied by section 40 of this Act; and any reference in this section to authorising derogation from protected rights is a reference to authorising the abstraction of water, or, as the case may be, authorising the flow of an inland water to be obstructed or impeded by means of impounding works, so as to derogate from rights which, at the time when the direction in question is given, are protected rights under this Act.