



Water Resources Act 1991

1991 CHAPTER 57

PART II

WATER RESOURCES MANAGEMENT

CHAPTER II

ABSTRACTION AND IMPOUNDING

Rights to abstract or impound

28 Curtailment of rights under section 27.

- [^{F1}(1) The provisions of this section shall have effect where a person ("the occupier") is entitled, by virtue of subsection (6) of section 27 above, to a protected right for the purposes of this Chapter by reason of his being the occupier of such a holding as is mentioned in subsection (4) of that section in relation to an abstraction falling within that subsection ("the holding").
- (2) If it appears to the [^{F2}Agency] that the occupier is entitled, as against other occupiers of land contiguous to the inland waters in question, to abstract water from those waters for use on part of the holding ("the relevant part"), but is not so entitled to abstract water for use on other parts of the holding—
- (a) the [^{F2}Agency] may serve on him a notice specifying the relevant part of the holding; and
 - (b) subject to the following provisions of this section, the notice shall have effect so as to require subsections (3) and (4) of section 27 above to be construed in relation to the holding as if the references in subsection (4) to use on the holding were references to use on the part of the holding specified in the notice.
- (3) Where a notice is served under subsection (2) above and the occupier objects to the notice on the grounds—

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- (a) that he is entitled, as against other occupiers of land contiguous to the inland waters in question, to abstract water from those waters for use on every part of the holding; or
- (b) that he is so entitled to abstract water for use on a larger part of the holding than that specified in the notice,

he may, within such period (not being less than twenty-eight days from the date of service of the notice) and in such manner as may be prescribed, appeal to the court against the notice.

- (4) On any appeal under subsection (3) above, the court shall determine the matter in dispute and, in accordance with its decision, confirm, quash or vary the [^{F2}Agency's] notice and—
 - (a) where the court quashes a notice served under subsection (2) above, paragraph (b) of that subsection shall not have effect; and
 - (b) where the court varies such a notice, that paragraph shall have effect, but with the substitution, for the reference to the part of the holding specified in the notice, of a reference to the part specified in the notice as varied by the court.

- (5) In this section—

“the court” means the county court for the district in which the holding, or the part of the holding which is contiguous to the inland waters in question, is situated; and

“entitled” (except in subsection (1) above) means entitled apart from this Chapter or any other statutory provision.]

Textual Amendments

F1 S. 28 repealed (1.4.2005) by [Water Act 2003 \(c. 37\)](#), ss. 6(2), 105(3), [Sch. 9 Pt. 1](#); S.I. 2005/968, [art. 2\(a\)\(n\)](#)

F2 Words in s. 28 substituted (subject to other provisions of the amending Act) (1.4.1996) by [1995 c. 25](#), s. 120, [Sch. 22 para. 128](#) (with ss. 7(6), 115, 117); S.I. 1996/186, [art. 3](#)

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