



# Water Act 2003

## 2003 CHAPTER 37

### PART 1

#### ABSTRACTION AND IMPOUNDING

VALID FROM 01/04/2006

#### *Enforcement*

### **30 Enforcement notices, and related procedures and offences**

After section 25 of the WRA there is inserted—

#### **“25A Enforcement notices**

- (1) Subject to the following provisions of this section, where it appears to the Agency that a person is—
  - (a) in breach of section 24(1) or (2) or section 25(1) above; or
  - (b) for the purposes of section 24 or 25 above a holder of a licence under this Chapter and has not complied with a condition or requirement imposed by the provisions, as for the time being in force, of that licence,the Agency shall be entitled to serve an enforcement notice on him if the condition in subsection (2) below is satisfied.
- (2) The condition is that it appears to the Agency that the breach or failure to comply is causing or is likely to cause significant damage to the environment.
- (3) An enforcement notice is a notice requiring the person on whom it is served—

*Status: Point in time view as at 28/05/2004. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: Water Act 2003, Cross Heading: Enforcement is up to date with all changes known to be in force on or before 15 September 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)*

- (a) to cease his breach of section 24(1) or (2) or section 25(1) above, or to comply with the condition or requirement in question; and
  - (b) to carry out any works or operations specified in the notice.
- (4) The works or operations which may be specified are works or operations which it appears to the Agency are appropriate for the purpose of remedying or mitigating the effects of the breach or failure to comply, and may include—
  - (a) works or operations for the purpose, so far as it is reasonably practicable to do so, of restoring any affected waters, including any flora and fauna dependent on them, to their state immediately before the breach or failure to comply; and
  - (b) in the case of a breach of section 25(1) above, the removal of any unauthorised impounding works or the reversal of any unauthorised alteration to impounding works.
- (5) An enforcement notice must specify the periods within which the person on whom it is served must do each of the things specified in the notice.
- (6) Before serving an enforcement notice on any person, the Agency shall take reasonable steps to consult that person about the works or operations which are to be specified in the notice.
- (7) The Secretary of State may by regulations make provision for or in connection with—
  - (a) the form or content of enforcement notices;
  - (b) requirements for consultation, before the service of an enforcement notice, with persons other than the person upon whom the notice is to be served;
  - (c) steps to be taken for the purposes of any consultation required under subsection (6) above or regulations made by virtue of paragraph (b) above;
  - (d) any other steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of an enforcement notice.
- (8) An enforcement notice is not invalid, or invalidly served, merely because of a failure to comply with subsection (6) above or with regulations made by virtue of subsection (7)(b) above.
- (9) The Secretary of State may, if he thinks fit in relation to any person, give directions to the Agency as to whether or how it should exercise its powers under this section.
- (10) In proceedings for any offence under section 24 or 25 above against a person upon whom an enforcement notice has been served, the following are not to be taken as evidence that he has committed the offence—
  - (a) the fact that an enforcement notice has been served on him;
  - (b) the fact that he does not appeal against it;
  - (c) the fact that on an appeal against it the notice is confirmed (whether with or without modifications).

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## **25B Rights of entry and appeals**

Sections 161B and 161C below (including any power to make regulations) shall apply in relation to enforcement notices as they apply in relation to works notices under section 161A below.

## **25C Consequences of not complying with an enforcement notice**

- (1) If a person on whom the Agency serves an enforcement notice fails to comply with any of its requirements, he shall be guilty of an offence.
- (2) A person who commits an offence under subsection (1) above shall be liable—
  - (a) on summary conviction, to a fine not exceeding £20,000;
  - (b) on conviction on indictment, to a fine.
- (3) If a person on whom an enforcement notice has been served fails to comply with any of its requirements, the Agency may do what that person was required to do and may recover from him any costs or expenses reasonably incurred by the Agency in doing it.
- (4) If the Agency is of the opinion that proceedings for an offence under subsection (1) above would afford an ineffectual remedy against a person who has failed to comply with the requirements of an enforcement notice, the Agency may take proceedings in the High Court for the purpose of securing compliance with the notice.”

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