



# Water Act 2003

## 2003 CHAPTER 37

### PART 1

#### ABSTRACTION AND IMPOUNDING

##### *Modification of licences*

#### **21 Modification of licences**

- (1) Section 51 of the WRA (modification of licence on application of licence holder) is amended as follows.
- (2) In subsection (1), after “Chapter” there is inserted “to abstract water”.
- (3) After subsection (1) there is inserted—
  - “(1A) The holder of a licence under this Chapter to obstruct or impede the flow of inland waters (an “impounding licence”) may apply to the Agency to revoke the licence and, on any such application, the Agency may revoke the licence accordingly.
  - (1B) The Agency may require conditions to be met to its satisfaction before revocation of the impounding licence takes effect, and those conditions may in particular include conditions—
    - (a) requiring the removal of all or part of the impounding works;
    - (b) as to the restoration of the site of the impounding works to a state which is satisfactory to the Agency;
    - (c) relating to the inland waters the flow of which is obstructed or impeded by means of the impounding works.
  - (1C) The person making an application under subsection (1A) above (“the applicant”) may by notice appeal to the Secretary of State if—
    - (a) he is dissatisfied with the decision of the Agency as to—
      - (i) whether his licence may be revoked; or

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*Status: This is the original version (as it was originally enacted).*

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- (ii) any conditions imposed by virtue of subsection (1B) above;  
or
  - (b) the Agency fails to give notice of its decision to the applicant within the prescribed period or within such extended period as may be agreed in writing between the Agency and the applicant.
- (1D) The Secretary of State may by regulations make provision with respect to—
- (a) the manner in which notices of appeal under subsection (1C) above shall be served;
  - (b) the period within which such notices shall be served;
  - (c) the procedure on any such appeal.
- (1E) Where an appeal is brought under subsection (1C) above, the Secretary of State may—
- (a) allow or dismiss the appeal or reverse or vary any part of the decision of the Agency, whether the appeal relates to that part of the decision or not; and
  - (b) may deal with the application as if it had been made to him in the first place.
- (1F) The decision of the Secretary of State on any appeal under subsection (1C) above shall be final.
- (1G) Subsections (1C) to (1F) above are subject to section 114 of the 1995 Act (delegation or reference of appeals).”
- (4) 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), after “43,” there is inserted “51,”.
- (5) The amendments made by this section apply (as regards any act or omission after this section comes into force) in respect of impounding licences, regardless of when the impounding works were constructed.

## **22 Proposals for modification at instance of Agency or Secretary of State**

- (1) Section 52 of the WRA (proposals for modification of licences at the instance of the Agency or the Secretary of State) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) In the case of a licence to obstruct or impede any inland waters, a variation may take the form of a requirement that the impounding works be modified in ways specified in the proposed new provision of the licence.”
- (3) In subsection (4), for paragraph (b) there is substituted—
- “(b) be published in the prescribed way or (if no way is prescribed) in a way calculated to bring it to the attention of persons likely to be affected if the licence were revoked or varied as proposed.”
- (4) In subsection (5), for “otherwise than in the London Gazette” there is substituted “as mentioned in subsection (4)(b) above”.
- (5) For subsection (6) there is substituted—

- “(6) A notice for the purposes of subsection (4) above shall—
- (a) include any prescribed matters; and
  - (b) state that, before the end of a period specified in the notice—
    - (i) the holder of the licence may give notice in writing to the Agency objecting to the proposals; and
    - (ii) any other person may make representations in writing to the Agency with respect to the proposals.”

(6) For subsection (7) there is substituted—

- “(7) The period referred to in subsection (6)(b) above—
- (a) begins on the date the notice referred to in subsection (4) above is first published as mentioned there; and
  - (b) shall not end before the end of the period of twenty-eight days beginning with that date.”

(7) Subsection (8) is omitted.