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STATUTORY INSTRUMENTS

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**2017 No. 1044**

**The Water Abstraction and Impounding  
(Exemptions) Regulations 2017**

**PART 2**

**Exemptions from restriction on abstraction**

**Navigation, harbour and conservancy authorities and dry docks**

**3.—**(1) The restriction on abstraction does not apply to any abstraction of water that is carried out by, or on behalf of, a navigation authority, harbour authority or conservancy authority if—

- (a) the purpose of the abstraction is a transfer, without intervening use, of water from any inland waters downstream of the normal tidal limit to that authority's water system, and
- (b) the water is abstracted at any time other than in the hour before or in the hour after low tide at the point of abstraction.

(2) The restriction on abstraction does not apply to any abstraction of water that is carried out if it is for the purpose of a transfer of water, without intervening use—

- (a) into a dry dock from a water system of the authority for use within that dry dock, or
- (b) from that dry dock back into the same water system.

(3) In this regulation, “water system” has the meaning given by sections 26(4)(a) and (5) of the 1991 Act <sup>M1</sup>.

**Marginal Citations**

**M1** [Section 26\(4\)](#) and (5) was inserted by section 5 of the Water Act 2003.

**Emergency abstractions by navigation, harbour and conservancy authorities**

**4.—**(1) The restriction on abstraction does not apply to any abstraction of water that is carried out by, or on behalf of, a navigation authority, harbour authority or conservancy authority in connection with its functions as such an authority if—

- (a) the purpose of the abstraction is a transfer of water without intervening use,
- (b) the abstraction is an emergency abstraction as defined in paragraph (2), and
- (c) the authority gives notice in accordance with paragraphs (3) and (4) (but see paragraph (5)).

(2) An abstraction of water is an emergency abstraction if, in the opinion of the authority, an emergency has arisen which makes the abstraction necessary to prevent immediate danger of interference with any operations relating to that authority or, in relation to such operations, to prevent an immediate risk of—

- (a) death, personal injury, or harm to health of a human being,

- (b) damage to property, or
  - (c) damage to the environment.
- (3) The authority referred to in paragraph (2) must give notice to the appropriate agency of—
- (a) the fact that the abstraction has taken place and of the source of supply in question, and
  - (b) the reason that the authority considered that—
    - (i) an emergency had arisen, and
    - (ii) the abstraction was a necessary measure to prevent an immediate danger or risk identified in paragraph (2).
- (4) Notice under paragraph (3) must be given before the end of the period of five days beginning with the date on which the abstraction started.
- (5) On receipt of a notice under paragraph (3), the appropriate agency may give notice to the authority that—
- (a) in the appropriate agency's opinion an emergency has not arisen, or
  - (b) that the abstraction is not, or is no longer, necessary for any of the reasons set out in paragraph (2).
- (6) If the appropriate agency gives notice under paragraph (5), the restriction on abstraction applies to the abstraction from the time when the notice is served (and, where appropriate, the restriction imposed by section 24(2) of the 1991 Act also applies accordingly).

#### **Small scale dewatering in the course of building or engineering works**

- 5.—(1) The restriction on abstraction does not apply to an abstraction or series of abstractions of water carried out in the course of building or engineering works for the purpose of dewatering from a sump or excavation if—
- (a) the abstraction or series of abstractions are temporary and in any event carried out over a period of less than six consecutive months beginning with commencement of the first abstraction,
  - (b) each abstraction does not cause or is not likely to cause damage to a conservation site or specific features in such a site,
  - (c) each abstraction does not cause or is not likely to cause damage to protected species, and
  - (d) either—
    - (i) the water abstracted is immediately discharged to a soakaway, or
    - (ii) the volume of water abstracted is less than 100 cubic metres of water per day and there is no intervening use of that water before discharge (but see paragraph (2)).
- (2) Where the abstraction is undertaken within 500 metres of a conservation site or within 250 metres of a spring, well or borehole used to supply water for any lawful use, paragraph (1)(d)(ii) applies in respect of that abstraction as if the reference to 100 cubic metres of water per day were a reference to 50 cubic metres of water per day.

#### **Surface water abstraction in the course of building or engineering works**

6. The restriction on abstraction does not apply to any abstraction or series of abstractions of surface water in order to prevent interference with building or engineering works, if the following conditions are met—
- (a) the abstraction or series of abstractions are temporary and in any event carried out over a period of less than six consecutive months beginning with the commencement of the first abstraction;

- (b) each abstraction does not cause or is not likely to cause damage to a conservation site or specific features in such a site;
- (c) each abstraction does not cause or is not likely to cause damage to protected species;
- (d) the water abstracted is immediately discharged downstream of the building or engineering works.

#### **Abstraction in the course of dredging**

7.—(1) The restriction on abstraction does not apply to any abstraction of water in the course of dredging —

- (a) in inland waters downstream of the normal tidal limit, or
- (b) in inland waters upstream of the normal tidal limit, if that dredging is carried out by, or on behalf of, any authority in the exercise of its functions in those inland waters.

(2) In paragraph (1)(b), “authority” means the Environment Agency, the Natural Resources Body for Wales, a navigation authority, a harbour authority, a conservancy authority, an internal drainage board or a local authority.

#### **Abstraction within a managed wetland system**

8. The restriction on abstraction does not apply to any abstraction of water within a managed wetland system if the abstraction is for the sole purpose of the management, operation or maintenance of water levels or flows in that managed wetland system.

#### **Abstraction from specified saliferous strata**

9.—(1) The restriction on abstraction and the restrictions imposed by section 24(2) of the 1991 Act do not apply to the abstraction of water from the saliferous strata underlying the surface of the land in the areas listed in the Schedule to these Regulations <sup>M2</sup>.

(2) In paragraph (1), “saliferous strata” means strata which (whether in their natural state or when water is artificially introduced) yield an aqueous solution with a salt content of more than 100,000 milligrams per litre.

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#### **Marginal Citations**

- M2** These areas are delineated on a map available from the Environment Agency at [www.gov.uk/government/organisations/environment-agency](http://www.gov.uk/government/organisations/environment-agency) and a copy of the map can be obtained from the Environment Agency, National Customer Contact Centre, PO Box 544, Rotherham S60 1BY.

**Changes to legislation:**

There are currently no known outstanding effects for the The Water Abstraction and Impounding (Exemptions) Regulations 2017, PART 2.