
STATUTORY INSTRUMENTS

2017 No. 1044

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

PART 3

Exemptions from restriction on impounding works

Construction or alteration of impounding works in emergencies

10.—(1) The restriction on impounding works does not apply to the construction or alteration of impounding works carried out in an emergency where the works are undertaken—

- (a) by the appropriate agency pursuant to its powers as enforcement authority under section 16 of the Reservoirs Act 1975(1);
- (b) by, or on behalf of, a navigation authority, a harbour authority or a conservancy authority in connection with its functions, or by any other person, with the prior written consent of the appropriate agency given in accordance with paragraph (2) (but see paragraphs (3) to (5)).

(2) The appropriate agency may not give consent under paragraph (1)(b) unless it is satisfied that the works are necessary 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) Where an authority or person does not seek the appropriate agency's consent before carrying out impounding works, the authority or person must give notice to the appropriate agency of—

- (a) the fact that the impounding works have been carried out, and
- (b) the reason that the authority or the person considered that—
 - (i) an emergency had arisen, and
 - (ii) the works were necessary to prevent an immediate 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 impounding works started.

(5) On receipt of a notice under paragraph (3), the appropriate agency may either—

- (a) give written consent retrospectively for the impounding works carried out, or
- (b) give notice to the authority or person that—
 - (i) in the appropriate agency's opinion an emergency has not arisen, or
 - (ii) that the works are not, or are no longer, necessary to prevent an immediate risk identified in paragraph (2).

(6) If the appropriate agency gives notice under paragraph (5)(b), the restriction on impounding works applies to the impounding works from the time when the notice is served.

Construction or alteration of impounding works by internal drainage boards

11. The restriction on impounding works does not apply to the construction or alteration of impounding works within the district of an internal drainage board⁽²⁾ if—

- (a) the works are constructed or altered by, or on behalf of, that board in connection with its functions, and
- (b) construction or alteration is commenced after the coming into force of these Regulations.

Construction or alteration of impounding works in a managed wetland system

12. The restriction on impounding works does not apply to the construction or alteration of impounding works in a managed wetland system if—

- (a) the sole purpose of the works is the management, operation or maintenance of water levels or flows in that managed wetland system, and
- (b) construction or alteration is commenced after the coming into force of these Regulations.

(2) Schemes were made under sections 3(1)(a) and 4(3) of the Land Drainage Act 1991 (c. 59) by the Natural Resources Body for Wales and the Environment Agency making provision for the abolition of certain internal drainage boards, the creation of new internal drainage boards and provision that the Natural Resources Body for Wales shall be the drainage board in respect of those new districts. These schemes were confirmed by the Secretary of State and the Welsh Ministers under S.I. 2015/923 and by the Welsh Ministers under S.I. 2015/872 (W. 65).