
EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations contain transitional provisions relating to the licensing of water abstraction by certain categories of persons, in the light of amendments made by the Water Act 2003 (c. 37) to the Water Resources Act 1991 (c. 57) (“the 1991 Act”). Those amendments, which come into force on the same date as these Regulations, limit or remove certain exemptions from the restriction on abstracting water in the 1991 Act.

Part 2 of, and the Schedule to, these Regulations set out the procedural requirements for making and determining certain licence applications and appeals. Regulation 3 provides that these requirements only apply to applicants who, in the seven years before the coming into force of these Regulations, carried out an abstraction to which the restriction on abstraction did not apply, or that person’s successor in title. Regulation 4 provides that applications from persons other than the Environment Agency or the Natural Resources Body for Wales (each of which are an “appropriate agency”) must be made in accordance with the Schedule to these Regulations, instead of the provisions in Part 2 of the Water Resources (Abstraction and Impounding) Regulations 2006 (S.I. 2006/641) (“the 2006 Regulations”). Part 3 of the 2006 Regulations continues to apply to licence applications from an appropriate agency, but subject to a modification that the notice of the application does not have to specify the amount of water to be abstracted (regulation 5).

Regulation 6 permits a person to continue the abstraction during the two year application process and until their application for a licence is determined.

Regulation 7 makes provision for completion of the register required by section 189 of the 1991 Act, in respect of licence applications covered by these Regulations.

Part 3 provides for the payment of compensation to certain persons whose application for a licence is refused or granted but in respect of an abstraction of more limited extent than previously abstracted. Regulation 9 sets out the circumstances in which compensation is payable, including describing the circumstances which do not qualify as an abstraction of more limited extent. Regulation 10 provides that applications for compensation must be made to the relevant appropriate agency within six years of the determination of an appeal under section 44 of the 1991 Act. Regulation 11 provides that any question of disputed compensation is to be determined by the Upper Tribunal.

A Regulatory Impact Assessment (“RIA”) was produced in connection with the Water Act 2003. This RIA set out the impacts of removing exemptions from the restriction on abstraction to which these Regulations relate. A further impact assessment was produced in respect of new authorisations for water abstraction in October 2017. Copies of the RIA and the impact assessment can be obtained from the Water Resources Management Team, the Department for Environment, Food and Rural Affairs, Area 3D, Nobel House, 17 Smith Square, London SW1P 3JR and from the Water Branch, the Welsh Government, Cathays Park, Cardiff, CF10 3NQ. Both are published alongside the Explanatory Memorandum on www.legislation.gov.uk.