



Water Resources Act 1991

1991 CHAPTER 57

PART VII

LAND AND WORKS POWERS

CHAPTER I

POWERS OF THE ^[F1]APPROPRIATE AGENCY]

^[F1]Restoration and improvement works for controlled waters

^[F1]161ZA Other works and operations in respect of harm to controlled waters

- (1) This section applies where it appears to the ^[F2]appropriate agency] that any controlled waters are being or have been harmed, or are likely to be harmed, by any event, process or other source of potential harm (and it is immaterial whether the source of potential harm has been identified).
- (2) In this section “harm” means any adverse impact on the condition of any hydromorphological quality element affecting the controlled waters that would be likely to prevent the achievement of the environmental objectives applicable to the controlled waters (whether by itself or in combination with other factors), other than an adverse impact caused by the entry into or presence in those waters of any poisonous, noxious or polluting matter or waste matter.
- ^{F3}(3)
- (4) The ^[F2]appropriate agency] shall be entitled to carry out works and operations for any of the following purposes (so far as it is reasonably practicable to achieve them)—
 - (a) removing the source of potential harm;
 - (b) preventing any harm or further harm being caused to the controlled waters;
 - (c) in a case where the controlled waters are being or have been harmed—
 - (i) remedying or mitigating the effects of the harm;

Changes to legislation: There are currently no known outstanding effects for the Water Resources Act 1991, Section 161ZA. (See end of Document for details)

- (ii) restoring the waters, including any flora and fauna dependent on the aquatic environment of the waters, to their state immediately before any harm was caused.
- (5) The [F²appropriate agency] shall be entitled to carry out investigations for the purpose of establishing any of the following—
- (a) the source of any harm or potential harm to the controlled waters;
 - (b) the nature and effects of any harm caused or likely to be caused to those waters; and
 - (c) the identity of any responsible persons.
- (6) Without prejudice to the power of the [F²appropriate agency] to carry out those investigations, the powers conferred by subsection (4) shall only be exercisable in a case where—
- (a) the [F²appropriate agency] considers it necessary to carry out forthwith any works or operations falling within that subsection; or
 - (b) it appears to the [F²appropriate agency] , after reasonable enquiry, that no responsible person can be found on whom to serve a works notice.
- (7) In this section “responsible person” means a person who has caused or knowingly permitted—
- (a) any harm to be caused to the controlled waters; or
 - (b) a source of potential harm to exist that is likely, in the opinion of the [F²appropriate agency], to cause harm to the controlled waters.]

Textual Amendments

- F1** Ss. 161-161AB substituted for s. 161 (22.12.2009) by [Water Resources Act 1991 \(Amendment\) \(England and Wales\) Regulations 2009 \(S.I. 2009/3104\)](#), regs. 1(c), **5** (with reg. 7)
- F2** Words in ss. 159-161B substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(S.I. 2013/755\)](#), art. 1(2), **Sch. 2 para. 283** (with Sch. 7)
- F3** S. 161ZA(3) omitted (31.12.2020) by virtue of [The Floods and Water \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/558\)](#), regs. 1(1), **4(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C1** Ss. 161-161D modified by S.I. 2010/675, Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by [The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\)](#), reg. 1(b), **Sch. 1**)
- C2** Ss. 161-161D modified (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), reg. 1(1), Sch. 23 Pt. 7 paras. 1(3), **2** (with regs. 1(3), 77-79, Sch. 4)

Changes to legislation:

There are currently no known outstanding effects for the Water Resources Act 1991, Section 161ZA.