

SCHEDULES

SCHEDULE 7

MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

ABSTRACTION AND IMPOUNDING

Water Resources Act 1991 (c. 57)

- 1 The WRA is amended as follows.
- 2 In section 34 (regulations with respect to applications under Chapter 2 of Part 2)—
 - (a) in subsection (1), after “particulars,” there is inserted “be accompanied by such reports,”
 - (b) in subsection (2), at the end there is added “, and provision for making such applications available for public inspection.”
- 3 In section 40 (obligations to take river flow etc into account), in subsection (4)(b), for “neither discrete waters nor waters comprised in an order under section 33 above” there is substituted “not discrete waters”.
- 4 In section 51 (modification of licence on application of licence holder), after subsection (2) there is inserted—

“(2A) An application may not be made under subsection (2) above to convert an abstraction licence of one type into an abstraction licence of a different type.”
- 5 In section 57 (emergency variation of licences for spray irrigation purposes), in subsection (3), for “neither discrete waters nor inland waters comprised in an order under section 33 above” there is substituted “not discrete waters”.
- 6 In section 61 (compensation for licence modified on direction of Secretary of State), in subsection (1), for “55” there is substituted “56”.
- 7 In section 66 (inland waters owned or managed by British Waterways Board), subsection (2)(a) is omitted.
- 8 (1) Section 67 (ecclesiastical property) is amended as follows.
 - (2) In subsections (1) and (2), after “Where the relevant land belongs to a benefice” there is inserted “or (in the case of a licence under this Chapter to abstract water) where it is a benefice which has a right of access to the relevant land”.
 - (3) In subsection (8), in the definition of “the relevant land”, for paragraph (a) there is substituted—
 - “(a) the land to which an applicant for a licence to abstract water is required by section 35 above to have a right of access; or”.

- 9 In section 71 (modification of local enactments), in subsection (4), “33,” is omitted.
- 10 In section 125 (specific exemptions from water resources charges), subsection (2) is omitted.
- 11 In section 206 (making of false statements etc), in subsection (1), after “Act” there is inserted “or of section 3, 4 or 10 of the Water Act 2003”.
- 12 In section 217 (criminal liabilities of directors and other third parties), in subsection (1), after “this Act” there is inserted “or under section 4 of the Water Act 2003”.
- 13 In section 222 (Crown application), as substituted by paragraph 2(4) of Schedule 21 to the Environment Act 1995 (c. 25), after subsection (10) there is added—
- “(11) This section shall apply in relation to sections 3, 4 and 10 of the Water Act 2003 as it applies in relation to the provisions of this Act.”
- 14 For Schedule 6 (which relates to the making of orders providing for exemption from restrictions on abstraction) there is substituted—

“SCHEDULE 6

Sections 27A(4) and
39B(7)

ORDERS RELATING TO ABSTRACTION OF SMALL QUANTITIES
AND COMPULSORY REGISTRATION OF PROTECTED RIGHTS

Notice of draft order

- 1 (1) An application to the Secretary of State for an order under section 27A(1) or 39B(3) of this Act (an “order”) shall be accompanied by a draft of the proposed order.
- (2) Before submitting a draft order to the Secretary of State, the Agency shall publish a notice—
- (a) stating the general effect of the draft order;
 - (b) specifying the place where a copy of the draft order, and of any relevant map or plan, may be inspected by any person free of charge at all reasonable times during the period of twenty-eight days beginning with the date of first publication of the notice; and
 - (c) stating that any person may within that period, by notice to the Secretary of State, object to the making of the order.
- (3) A notice under this paragraph shall be published either—
- (a) at least once in each of two successive weeks, in one or more newspapers circulating in the area to which the draft order relates; or
 - (b) in any other manner which, in any particular case, may be certified by the Secretary of State to be expedient in that case.
- (4) Not later than the date on which the notice is first published in pursuance of sub-paragraph (2) above, the Agency shall serve a copy of the notice on—
- (a) every local authority (in its capacity as the local planning authority), joint planning board or National Park authority

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- whose area consists of, includes or is included in the area to which the draft order relates;
- (b) any relevant water undertaker;
 - (c) any internal drainage board—
 - (i) whose district consists of, includes or is included in the area to which the draft order relates;
 - (ii) from whose district water is discharged into any relevant source of supply; or
 - (iii) into whose district water is discharged from any relevant source of supply;
 - (d) any navigation authority, harbour authority or conservancy authority having functions in relation to—
 - (i) any relevant source of supply; or
 - (ii) any related inland waters;
 - (e) if a relevant source of supply or related inland waters are tidal waters in relation to which there is no such navigation authority, harbour authority or conservancy authority, the Secretary of State for Transport;
 - (f) any person authorised by a licence under Part 1 of the Electricity Act 1989 to generate electricity who is (in that capacity) the holder of a licence to abstract water under Chapter 2 of Part 2 of this Act from—
 - (i) any relevant source of supply; or
 - (ii) any related inland waters;
 - (g) English Nature, if the area to which the order relates is or includes England, or part of it;
 - (h) the Countryside Council for Wales, if the area to which the order relates is or includes Wales, or part of it; and
 - (i) the Broads Authority (established under the Norfolk and Suffolk Broads Act 1988), if the area to which the order relates is or includes the Broads (as defined in that Act), or part of it.
- (5) Where an application for an order is made, the Agency shall also publish a notice in the London Gazette—
- (a) stating that the draft order has been submitted to the Secretary of State;
 - (b) naming the areas of each of the authorities or boards in respect of which a copy of the notice is required to be served under sub-paragraph (4)(a) above;
 - (c) specifying a place where a copy of the draft order and of any relevant map or plan may be inspected; and
 - (d) where the notice required by sub-paragraph (2) above is published in a newspaper, giving the name of the newspaper and the date of an issue containing the notice.
- (6) In this paragraph—
- (a) where a draft order makes provision generally (rather than for a specified geographical area), references to the area to which the order relates are to the whole area (whether England, Wales or both of them) in relation to which the order is applied;

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- (b) references to a National Park authority are to a National Park authority established under Part 3 of the 1995 Act;
- (c) a “relevant source of supply”, in relation to a draft order, means—
 - (i) if the draft order relates only to particular sources of supply (or a class of them) in an area, any of those sources of supply (or any source of supply in that class) in that area;
 - (ii) otherwise, any source of supply in the area to which the draft order relates;
- (d) a “relevant water undertaker”, in relation to a draft order, means a water undertaker which is the holder of a licence to abstract water under Chapter 2 of Part 2 of this Act from—
 - (i) a relevant source of supply; or
 - (ii) a source of supply which is related to a relevant source of supply;
- (e) for the purposes of paragraph (d) above, a source of supply (the “related source”) is related to a relevant source of supply if it appears to the Agency that, having regard to the extent to which the level or flow of water in the related source depends on the level or flow of the waters in the relevant source of supply, the ability of the water undertaker to abstract water from the related source in accordance with its licence may be substantially affected as a result of the draft order;
- (f) “related inland waters” are inland waters the level or flow of which may, in the Agency’s opinion, be affected by changes in the level or flow of the waters in a relevant source of supply.

Duty to provide copy of draft order

- 2 Where an application for an order is made, the Agency shall, at the request of any person, furnish him with a copy of the draft order on payment of such charge as the Agency thinks reasonable.

Making of order

- 3 (1) Where an application for an order is made, the Secretary of State may make the order either in the form of the draft or in that form as altered in such manner as he thinks fit.
- (2) Where the Secretary of State—
- (a) proposes to make any alteration of an order before making it; and
 - (b) considers that any persons are likely to be adversely affected by it,
- the Agency shall give and publish such additional notices, in such manner, as the Secretary of State may require.
- (3) Sub-paragraph (4) below shall apply if before the end of—
- (a) the period of twenty-eight days referred to in sub-paragraph (2) (b) of paragraph 1 above;

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- (b) the period of twenty-five days from the publication in the London Gazette of the notice under sub-paragraph (5) of that paragraph; or
 - (c) any period specified in notices under sub-paragraph (2) above, notice of an objection is received by the Secretary of State from any person on whom a notice is required by this Schedule to be served, from any other person appearing to the Secretary of State to be affected by the order (either as prepared in draft or as proposed to be altered) or, in a case where the Secretary of State directed the Agency to apply for the order, from the Agency.
- (4) Where this sub-paragraph applies and the objection in question is not withdrawn, the Secretary of State, before making the order, may take such steps as he sees fit and, in particular, may—
- (a) cause a local inquiry to be held; or
 - (b) afford to the objector and to the Agency an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (5) Where—
- (a) the order (whether as prepared in draft or as proposed to be altered) relates to any tidal water situated in Wales (or in an area of the sea adjoining either the coast of Wales or an area of sea forming part of Wales); and
 - (b) no navigation authority, harbour authority or conservancy authority has functions in relation to that tidal water,
- the Secretary of State shall not make the order except with the approval of the Secretary of State for Transport.

Notice and inspection of final order

- 4 (1) Where an order is made under section 27A(1) or 39B(3) of this Act, whether in the form of the draft proposed by the Agency or with alterations, the Secretary of State shall give notice to the Agency—
- (a) stating that the order has been made, either without alteration or with alterations specified in the notice; and
 - (b) specifying the date (not being earlier than twenty-eight days after the date of the notice under this paragraph) on which the order shall have effect;
- and the Agency shall forthwith publish the notice.
- (2) The Agency shall keep a copy of every order made under section 27A(1) or 39B(3) of this Act available at its offices for inspection by the public, free of charge, at all reasonable times.”

Environment Act 1995 (c. 25)

- 15 (1) The Environment Act 1995 is amended as follows.
- (2) In section 6 (general provisions with respect to water), after subsection (3) there is inserted—

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“(3A) Subsection (3) above shall apply to—

- (a) sections 3 and 4 of the Water Act 2003; and
- (b) such of the related water resources provisions as apply in relation to those sections by virtue of section 33(2) of the Water Act 2003, as it applies to the provisions referred to in that subsection.”

(3) In Schedule 22 (amendment of enactments), paragraph 181 is omitted.