



# Flood and Water Management Act 2010

## 2010 CHAPTER 29

### PART 2

#### MISCELLANEOUS

#### 36 Water use: temporary bans

For section 76 of the Water Industry Act 1991 (temporary hosepipe bans) substitute—

**“76 Temporary bans on use**

- (1) A water undertaker may prohibit one or more specified uses of water supplied by it if it thinks that it is experiencing, or may experience, a serious shortage of water for distribution.
- (2) Only the following uses of water may be prohibited—
  - (a) watering a garden using a hosepipe;
  - (b) cleaning a private motor-vehicle using a hosepipe;
  - (c) watering plants on domestic or other non-commercial premises using a hosepipe;
  - (d) cleaning a private leisure boat using a hosepipe;
  - (e) filling or maintaining a domestic swimming or paddling pool;
  - (f) drawing water, using a hosepipe, for domestic recreational use;
  - (g) filling or maintaining a domestic pond using a hosepipe;
  - (h) filling or maintaining an ornamental fountain;
  - (i) cleaning walls, or windows, of domestic premises using a hosepipe;
  - (j) cleaning paths or patios using a hosepipe;
  - (k) cleaning other artificial outdoor surfaces using a hosepipe.
- (3) The Minister may by order—
  - (a) add a non-domestic purpose to the list in subsection (2);
  - (b) remove a purpose from the list in subsection (2).

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*Changes to legislation: There are currently no known outstanding effects for the Flood and Water Management Act 2010, Section 36. (See end of Document for details)*

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- (4) A prohibition must specify—
  - (a) the date from which it applies, and
  - (b) the area to which it applies (which may be all or part of the undertaker's area).
- (5) A person who contravenes a prohibition—
  - (a) is guilty of an offence, and
  - (b) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) A water undertaker which issues a prohibition must make arrangements for a reasonable reduction of charges which are made in respect of prohibited uses (including arrangements for repayment or credit where charges are paid in advance).
- (7) A water undertaker may vary or revoke a prohibition.

#### **76A Temporary bans: supplemental**

- (1) A prohibition may—
  - (a) apply to one or more specified uses of water generally or only in specified cases or circumstances (which may be specified by reference to classes of user, timing or in any other way);
  - (b) be subject to exceptions (which may be absolute or conditional, and may be specified by reference to classes of user, timing or in any other way).
- (2) The Minister may by order—
  - (a) provide for exceptions to a category of use in section 76(2) (whether or not added under section 76(3));
  - (b) provide that a specified activity, or an activity undertaken in specified circumstances, is to be or not to be treated as falling within a category of use in section 76(2) (whether or not added under section 76(3));
  - (c) define a word or phrase used in section 76(2) (whether or not added under section 76(3)).
- (3) In particular, an order may—
  - (a) restrict a category of use by reference to how water is drawn;
  - (b) frame an exception by reference to ownership of land by a specified person or class of person;
  - (c) provide for a process that involves the use of a hosepipe at any point to be included in the meaning of “using a hosepipe”;
  - (d) provide for a reference to a thing to include a reference to something that is or may be used in connection with it (such as, for example, for a reference to a vehicle to include a reference to a trailer).
- (4) In this section and section 76 “the Minister” means—
  - (a) the Secretary of State in relation to prohibitions which may be issued by water undertakers whose areas are wholly or mainly in England, and
  - (b) the Welsh Ministers in relation to prohibitions which may be issued by water undertakers whose areas are wholly or mainly in Wales.

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- (5) Subject to provision under subsection (2), a reference to a hosepipe in section 76 includes a reference to anything designed, adapted or used to serve the same purpose as a hosepipe.

#### **76B Temporary bans: procedure**

- (1) A prohibition takes effect only if this section is complied with.
- (2) Before the period for which a prohibition is to apply the water undertaker must give notice of the prohibition and its terms—
- (a) in at least two newspapers circulating in the area to which it is to apply, and
  - (b) on the water undertaker's internet website.
- (3) The notice must give details of how to make representations about the proposed prohibition.
- (4) The variation of a prohibition is to be treated as a prohibition for the purposes of this section.
- (5) A water undertaker must give notice of a revocation of a prohibition—
- (a) in at least two newspapers circulating in the area to which it is to apply, and
  - (b) on the water undertaker's internet website.
- (6) The revocation may not take effect until at least one notice under subsection (5) has been given.

#### **76C Orders under sections 76 and 76A**

- (1) Section 213 applies to orders under section 76(3) or 76A(2) as it applies to regulations.
- (2) But—
- (a) an order made by the Secretary of State under section 76(3) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament,
  - (b) an order made by the Welsh Ministers under section 76(3) may not be made unless a draft has been laid before and approved by resolution of the National Assembly for Wales, and
  - (c) an order made by the Welsh Ministers under section 76A(2) shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.”

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#### **Commencement Information**

- I1** S. 36 in force at 1.9.2010 for specified purposes by [S.I. 2010/2169](#), [art. 3\(3\)](#) (with [art. 5](#))
- I2** S. 36 in force at 1.10.2010 in so far as not already in force by [S.I. 2010/2169](#), [art. 4](#), [Sch.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Flood and Water Management Act 2010, Section 36.