

Environment & Heritage Service

THE WATER ABSTRACTION & IMPOUNDMENT (LICENSING) REGULATIONS (Northern Ireland) 2006

Guidance for operators of abstractions & impoundments



Environment &
Heritage Service
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The Water Abstraction & Impoundment (Licensing) Regulations (Northern Ireland) 2006 were made on 27th November 2006 and will come into operation on 1st February 2007. The introduction of this legislation will fulfil Northern Ireland's obligation to the European Commission under the Habitats and Water Framework Directives and will establish a water resource management, assessment and licensing regime.

These Regulations aim to provide a single and consistent environmental risk based approach that covers all abstractions and impoundment operations. These powers will help protect our water environment including protected species and dependent ecosystems and will help deliver efficient and sustainable water usage in Northern Ireland.



SCOPE OF THE REGULATIONS

Water is essential for natural life. As well as the water we all drink and use in our homes, it is used in industrial, agricultural and manufacturing activities. Water in rivers and wetlands is also needed for all plant and animal life and is an essential characteristic of our landscape.

In addition to protecting and improving the quality of our water there is a need to manage the use of surface, coastal, transitional and groundwater, in an attempt to prevent adverse impacts on our aquatic environment. There is a danger that over abstraction of a water body may lead to shortages of supply, increasing pollution through reduced dilution and possible damage to habitats dependent on that water body.



The effects of surface water impoundments, will vary, depending on size, design and operation. They may lead to changes in river morphology and river beds, impact on the movement of migratory fish and adversely effect environmentally sensitive locations.

The new Regulations will therefore introduce important controls over the abstraction and impoundment of water, in order to protect our sensitive water environment.

LEGISLATIVE DRIVERS

HABITATS DIRECTIVE

The Habitats Directive requires member states to have a formal/legal method of assessing the potential impact of abstraction/impoundments on protected and sensitive sites (e.g. a wetland). A protected site is defined as one which has a European designation, for example, a Special Area of Conservation or a Special Protection Area. If any activity may have a significant impact on a protected site, it will be subject to further assessment and consent controls. At present the absence of such controls in Northern Ireland means that there is no way of identifying the cumulative effects of abstraction/impoundments on protected sites.

WATER FRAMEWORK DIRECTIVE

Article 11 of the Water Framework Directive requires that the programme of measures established by river basin plans should include controls over abstractions and impoundments. While the programme of measures does not have to be established until 2009, or become operational until 2012, the introduction of the scheme now will provide valuable information for the river basin planning process and enable Businesses and the Department to plan ahead to meet the required Water Framework Directive standards.

EIA REGULATIONS (NI) 2005

Agricultural water management projects, such as spray irrigation, which involve the impoundment, abstraction and/or diversion of water from surface or underground sources of volumes greater than 200m³/day, may also be required to submit an environmental statement to the Department under the **Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005 (as amended the Water Resources (Environmental Impact Assessment) (Amendment) Regulations (Northern Ireland) 2006)**.

Following a determination made under this legislation, an abstraction/impoundment licence may be required.



What is an ABSTRACTION?

An abstraction is the removal or diversion of water from the natural environment (e.g. from a river, lough, wetland, spring, groundwater, an estuary or from the sea). This could be carried out by mechanical means such as a pump, through a pipe, by an intake or other engineering structures in a watercourse, or by any other type of works such as a borehole or well. This applies equally whether the water is permanently removed or if it is diverted temporarily from one part of the water environment to another.

A poorly managed abstraction may:

- Reduce water flow and availability
- Increase the risk of pollution
- Cause environmental or ecological damage

What is an IMPOUNDMENT?

An impoundment is any dam, weir or other structure which can raise the water level above its natural level. Impoundments may be constructed on a river to create a new reservoir or for flood storage, to maintain or raise water levels within a wetland, to raise the water level of a natural lough, or even to raise levels in estuaries and coastal waters.

A poorly managed impoundment may:

- Impede migratory fish
- Deflect flow which may result in river bed or bank erosion
- Cause a build up of sediment leading to changes in the river bed habitat

WHO WILL BE AFFECTED?

The new regulations come into operation on 1st February 2007. Under the regulations both existing and new abstractions/impoundments of water will have to be authorised. From the 1st February 2007, it will be unlawful to abstract or impound water, unless authorised under the Regulations.

Existing: Abstractions or impoundments which have been operational between 1st August 2006 and 1st February 2007. Seasonal abstractions such as spray irrigation shall be considered existing if they have taken place during the period 1st May 2006 to 1st February 2007.

New: Abstractions or impoundments which will become operational after 1st February 2007.

WHO WILL THEY APPLY TO?

- Anyone who owns, operates, maintains or plans to construct an **impoundment** which creates a height differential of more than 1m between upstream and downstream water surfaces.
- Anyone who **abstracts** from; surface waters (e.g. rivers, lakes and wetlands), coastal waters within 3 nautical miles of land, transitional waters (e.g. estuaries) or water in underground strata (e.g. wells, boreholes and springs).

WHO IS EXEMPT?

Certain persons or bodies may be exempt from such regulations, e.g. the emergency fire services. Further information on exemptions may be obtained from EHS.

SECTORS LIKELY TO BE AFFECTED

CONSUMPTIVE SECTORS:

- Public Water Supply
- Commercial/Industrial
- Agriculture
- Plant Nurseries
- Food & Drink Industries
- Local Councils
- Health Trusts
- Hospitals
- Schools
- Amenity, Leisure & Recreation

Consumptive is defined as water which is abstracted from a watercourse or underground stratum and then used to form part of the final product.



NON-CONSUMPTIVE SECTORS:

- Fish Farms
- Hatcheries
- Put & Take Fisheries
- Hydropower
- Electricity Companies

Non-Consumptive is defined as the abstraction of water from a watercourse or underground stratum to be used in a process but returned back to the natural environment.

CONSUMPTIVE AND/OR NON-CONSUMPTIVE:

- Quarrying
- Block & concrete manufacturers
- Food/drinks companies
- Mineral Washing
- Other Industry



AUTHORISATION PROCESS

There are two levels of authorisation:

- Permitted Controlled Activities (PCA)*
(these will apply to small scale activities which present a minimal risk)
- Licences
(these will apply to activities which are likely to pose a greater risk)

When applications are received by the Department, the type of authorisation granted will be determined by the scale of the abstraction and the potential environmental impact of the activity. The key determinant will be the volume of water abstracted; as below:

| | | |
|--|---|--|
| < 10m ³ per day | = | authorisation is granted subject to activities complying with PCA* conditions, no contact with the Department is required. |
| 10m ³ - 20m ³ per day | = | authorisation is granted subject to notification to the Department, and compliance with the PCA* conditions. |
| 20m ³ - 100m ³ per day | = | authorisation is granted subject to submission of an application and the issue of a formal "simple" licence which may have conditions. |
| > 100m ³ per day | = | authorisation is granted subject to submission of an application and issue of a formal "complex" licence which may have conditions. |

Authorisation for impoundments will be determined as follows:

- If an impoundment is not associated with an abstraction, does not control the water level upstream and does not create a height differential between the upstream and downstream water surfaces of more than 1 metre, then authorisation is granted as a PCA, and no contact with the Department is required.
- In all other circumstances authorisation through formal licence is required for impoundments of water. The Department will consult with other agencies who have responsibility for fisheries legislation and the Habitats Regulations in N. Ireland.

NB

Other criteria may be used in the determination of authorisation. For example, the percentage of water returned to the natural environment, the scale of the impoundment project or the environmental sensitivity of the location impacted.

NB

Licences issued for both abstractions and impoundments may be reviewed, modified or revoked at the request of the licence holder or if the Department considers it is necessary to prevent significant or serious damage to the natural environment. There will be rights of appeal against any decision of the Department.

* PERMITTED CONTROLLED ACTIVITIES (PCA)

Summary of the conditions which apply to low risk activities:

- A means of demonstrating the volume abstracted
- Water leakage kept to a minimum
- No contamination or pollution (e.g. drilling fluids)
- Other water uses such as hydraulic tests on aquifers

THE APPLICATION PROCESS

APPLYING FOR AN APPLICATION PACK:

An application form/s and guidance can be requested using any of the contact methods stated on the back of this leaflet. Alternatively you may download it from our website:

<http://www.ehsni.gov.uk/environment/waterManage/resources/abstraction.shtml>

COMPLETING THE APPLICATION FORM:

For ease of completion we have devised two application forms. The **standard** application form must be completed when there are only 1 or 2 abstraction activities. The **comprehensive** form must be completed when there are more than 2 abstractions, when water is diverted, impounded and/or when water is returned to the natural environment. Please send completed forms to the address provided on back page. On both standard and comprehensive application forms you will be asked to indicate whether or not the activity is new or existing (see Page 7).

Failure to provide the necessary information may cause delays in determining your application.

You must allow adequate time for the application to be determined. In the case of applications for new activities it will take 4 months from the date of receipt of a completed application.

ADVERTISING:

The Department may require an application for a new abstraction and/or impoundment to be advertised if it considers that the activity will have a significant adverse impact on the water environment. If advertisement is required, this must be done within 28 days beginning with the date on which the notice was served.

APPEAL PROCESS:

If the application is refused or is granted subject to conditions, the applicant may appeal to the Appeals Commission within 28 days from the date on which notice of the decision is given to the applicant.

Appeals should be addressed to:

The Water Appeals Commission
3rd Floor, Park House
87-91 Great Victoria Street
Belfast BT2 7AG

Tel. 028 9024 4710

Website: www.pacni.gov.uk

FEES/CHARGES:

The Department plan to consult later in 2007 on proposals to introduce a scheme of fees and charges based on "cost recovery". It is likely that there will be an application fee and annual maintenance charge for licenses.

During the transitional period (1st February 2007 to 31st January 2008) there will be no application fee or annual maintenance charge for applications for "existing" and "new" (see page 7) activities.

Applications for "new activities", in this period, however, may be required, by the Department, to advertise the application in the press.

It is anticipated that there will be no charges associated with "notification" (see page 10) of activities to the Department.

THE DATA PROTECTION ACT 1998

The information provided by you will be processed by EHS to deal with your application, to monitor compliance with the licence/registration conditions, to process renewals, and for maintaining the relevant public register(s).

We may also process and/or disclose it in connection with the following:

- Offering/providing you with our literature/services relating to environmental matters
- Consultation with the public, public bodies and other organisations, (e.g. Health and Safety Executive, Local Authorities, Emergency Services) on environmental issues.
- Carrying out statistical analysis, research and development on environmental issues
- Providing public register information for enquiry
- Investigating possible breaches of environmental law and taking any resulting action
- Preventing breaches of environmental law
- Assessing customer service satisfaction and improving our service; and
- Responding to requests for information under the Freedom for Information Act 2000 and the Environmental Information Regulations 2004, where the Data Protection Act allows

We may pass the information on to our agents/representatives to do these changes on our behalf.

FOR FURTHER INFORMATION, ADVISE OR AN APPLICATION FORM PLEASE CONTACT:

Abstraction & Impoundment Licensing Team
Environment & Heritage Service
17 Antrim Road
Lisburn
BT28 3AL

Tel: 028 9263 3482

Fax: 028 9267 6054

Website: www.ehsni.gov.uk

Email: AIL.Team@doeni.gov.uk

Application packs and further information can also be obtained from the EHS website:

http://www.ehsni.gov.uk/water/water_resources.htm



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www.ehsni.gov.uk

Our aim is to protect, conserve and promote the natural and built environment for the benefit of present and future generations.

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EHS Incident Hotline - **0800 80 70 60**

ISBN No. 978-1-905127-51-1

Printed on 100% post consumer waste



An Agency within the Department of the
Environment
www.doeni.gov.uk



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