

Principal statutes and statutory instruments

Water Resources Act 1991, s.21 and s.22	Provides for the Environment Agency to issue draft statements recommending the minimum acceptable flows to be maintained by specified means in rivers, groundwater and other controlled inland waters. The SoS must consider the statement and may recommend changes or may approve the statement, in which case it comes into force.
Water Resources Act 1991, s.24, s.24A, s.29 and s.32	Prohibits persons from abstraction or causing or permitting any person to abstract water from any supply source without a licence from the Environment Agency or in breach of conditions of such a licence. Under s.24A (inserted by the Water Act 2003) licences may be full licences where abstraction >28 days; water transfer to another supply source or for dewatering where abstraction >28 days; or a temporary licence for abstraction <28 days. Construction of boreholes or associated abstraction equipment intended for use of groundwater supply sources is prohibited unless a licence is in place or s.30 applies. S.29 provides for persons to abstract water for land drainage purposes, dewatering of excavations etc which will now also require a transfer licence (inserted by the Water Act 2003). S.32 allows for abstractions for fire-fighting or training of fire-fighters, use on a vessel, and for testing well supplies with the consent of the Agency.
Water Resources Act 1991, s.25 and s.25A	Prohibits persons from impounding or causing or permitting any person to impound any inland water without a licence from the Environment Agency or in breach of conditions of such a licence. The Agency may serve an enforcement notice for breaches of s.24.
Water Resources Act 1991, s.27, s.27A and s.28	Establishes right for a person to abstract from inland waters small quantities not exceeding 20m ³ in total or for a landowner of contiguous land to abstract 20m ³ in any 24 hour period for domestic purposes or irrigation with permission of the Agency but without a requirement to hold a full licence. Individuals may abstract groundwater for their own supply for domestic purposes up to a limit of 20m ³ in any 24 hour period. The Agency may curtail such rights in specified circumstances by service of a notice against which the person has a right of appeal to the Courts within 28 days. Under s.27A (inserted by the Water Act 2003), the SoS may vary the 20m ³ limit by order for any area, class of waters etc.
Water Resources Act 1991, s.30 and s.31	Provides for alteration or construction of boreholes for the purposes of dewatering without a licence providing notice is given to the Agency. The Agency may serve notice requiring measures to be taken to conserve water resources in dewatering. There are rights of appeal to the SoS.
Water Resources Act 1991, s.34, s.35, s.37	Sets out procedures for applying for abstraction or impounding licences (s.34) and advertisement of applications (s.37). Under s.35, a person must be entitled to make an application.
Water Resources Act 1991, s.36	The power of the Agency to issue combined abstraction and impounding licences was repealed by the Water Act 2003.
Water Resources Act 1991, s.38 to s.50	Details procedure to be followed by the Agency and the SoS in relation to determining licences and appeals against licence decisions and to succession of licences. S.48A provides for civil remedies under the Tort of breach of statutory duties where abstraction causes loss or damage to another person.
Water Resources Act 1991, s.51 to s.54	Provides for surrender if a licence or modification of licence conditions (s.51). S.52 allows for the Agency or SoS to revoke or modify licences.
Water Resources Act 1991, s.55 and s.56	Provides for person who owns fishing rights on a controlled water where no minimum flow has been set to apply for a licence to abstract to be revoked or varied.
Water Resources Act 1991, s.57	Allows the Agency to vary spray irrigation abstractions during periods of drought by service of notices.
Water Environment (Water Framework Directive) (England and Wales) Regulations 2003	Make provision for river basin districts under the Water Framework Directive. The Regulations require a new strategic planning process to be established for the purposes of managing, protecting and improving the quality of water resources. That process applies to river basin districts identified by regulation 4. The Agency is required to carry out detailed monitoring and analysis in relation to each river basin district (regulations 5 and 9), and the appropriate authority must ensure that appropriate economic analysis is also carried out (regulation 6). Certain waters used for the abstraction of drinking water must be identified (regulation 7) and a register must be established of those waters and certain other protected areas (regulation 8). This analytical and preparatory work must then inform the preparation by the Agency of proposals for environmental objectives and programmes of measures in relation to each river basin district (regulation 10) which are brought together in the preparation of a river basin management plan for each river basin district (regulations 11 to 15).

Criminal penalties and remedies

Water Resources Act 1991	Principle offences under the pollution provisions of the Act are liable to the following penalties: Breaches of s.24 and s.25 in relation of obtaining abstraction or impounding licenses or on notifying works to boreholes used for dewatering are all liable to a maximum fine on summary conviction of £20,000 or for conviction on indictment an unlimited fine. Failing to comply with an enforcement notice under s.25A is liable to a £20,000 fine on summary conviction and unlimited fine following conviction on indictment. Under s.217, criminal liability in respect of a body corporate is extended to include personal liability for any director, manager, secretary or other similar officer or any person who was purporting to act in any such capacity.
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