



Department  
for Environment  
Food & Rural Affairs

# Changes to the regulatory framework for abstraction and impounding licensing in England

Moving into the Environmental Permitting Regulations  
regime

Consultation Document

September 2021

We are the Department for Environment, Food and Rural Affairs. We're responsible for improving and protecting the environment, growing the green economy, sustaining thriving rural communities and supporting our world-class food, farming and fishing industries.

We work closely with our 33 agencies and arm's length bodies on our ambition to make our air purer, our water cleaner, our land greener and our food more sustainable. Our mission is to restore and enhance the environment for the next generation, and to leave the environment in a better state than we found it.



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# Executive summary

We are moving the regulation of abstraction and impounding licensing into the Environmental Permitting (England and Wales) Regulations 2016<sup>1</sup> (the **Environmental Permitting Regulations**) in 2023. This consultation covers all abstraction and impounding licences regulated by the Environment Agency.

The Government's 2017 Water Abstraction Plan<sup>2</sup> sets out how the Government will reform water abstraction management over the coming years and how this will protect the environment and improve access to water. The abstraction plan contributes to delivery of the Government's 25 Year Environment Plan<sup>3</sup> long-term goal of 'clean and plentiful water'. There are three main elements to the abstraction plan – addressing unsustainable abstraction; building a stronger catchment focus; and modernising the abstraction service to support reform.

The move into the Environmental Permitting Regulations is part of the drive to modernise abstraction and impounding management and to streamline the overall environmental regulatory framework. The move allows for further rationalisation and unification of regulations so that the majority of environmental permissions will fit under one legal framework. This is especially advantageous to the growing number of customers who hold more than one legal permission with the Environment Agency and conduct multiple activities on the same site.

The aims of integrating the regulation of abstraction and impounding licensing into the Environmental Permitting Regulations are:

- A streamlined regulatory landscape
- Proportionate, risk-based regulation
- Dynamic water management
- Permit consolidation across environmental regimes
- A future digital service where customers can manage all their Environmental Permitting Regulations permits in one place

This consultation seeks your views on our proposals for amending the Environmental Permitting Regulations to include abstraction and impounding licensing and subsequent

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2016/1154/contents/made>

<sup>2</sup> [Water abstraction plan 2017 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

<sup>3</sup> [25 Year Environment Plan - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

amendment to existing water resources legislation, including the Water Resources Act 1991 and the Water Act 2003.

We are proposing to adopt the provisions of the Environmental Permitting Regulations as far as possible for abstraction and impounding activities. However, some of the fundamental principles that protect abstractors, and the environment are specific to water resources legislation and are not found in the existing Environmental Permitting Regulations. As such, we are proposing to move parts of the existing legislation over into the Environmental Permitting Regulations to keep those provisions which are essential to water resource management.

We are seeking views on our proposals in the following areas:

### **Existing abstraction and impounding licences**

This section seeks views on our proposals for existing abstraction and impounding licences, and Groundwater Investigation Consents, transitioning into the Environmental Permitting Regulations; licences with a time limit; and previously exempt abstractions (New Authorisations). We are proposing that on the move into the Environmental Permitting Regulations there will be no change to existing licences' rights, entitlements or conditions. Abstractors who hold a time limited licence which expires after the move to the Environmental Permitting Regulations is implemented will need to apply for a permit upon expiry of the time limit, which will have different rights and conditions.

### **New permits in the Environmental Permitting Regulations**

This section seeks views on our proposals for how new permits are administered under the Environmental Permitting Regulations. New applicants who are issued with a permit after the move to the Environmental Permitting Regulations will have different rights and conditions.

Proposals include the addition of new water abstraction and impounding activities, such as a new groundwater investigation abstraction activity, within the Environmental Permitting Regulations. Other proposals include adopting the content and form of a permit to ensure there is a consistent approach to permitting across regimes, this includes no compensation rights or time limits and introducing the management condition on new permits. We propose to align with many of the existing Environmental Permitting Regulations processes including vesting, appeals, enforcement and compliance.

### **Next steps**

Following the closure of this 12-week public consultation, we will analyse responses and publish a Government response. The proposals in this consultation require changes to the Environmental Permitting Regulations and to current abstraction and impounding licensing legislation for which we will require Parliamentary approval. We intend to lay secondary legislation in Parliament in 2022 for implementation in 2023. We will engage stakeholders and abstractors throughout the process.

# Introduction

We are moving the regulation of abstraction and impounding licensing into the Environmental Permitting (England and Wales) Regulations 2016<sup>4</sup> (the **Environmental Permitting Regulations**) in 2023. This consultation seeks your views on our proposals for amending the Environmental Permitting Regulations to include abstraction and impounding licensing and subsequent amendment to existing water resources legislation, including the Water Resources Act 1991 and the Water Act 2003.

## What are we proposing?

This consultation only affects abstraction and impounding licences regulated by the Environment Agency. We are proposing to adopt the provisions of the Environmental Permitting Regulations as far as possible for abstraction and impounding activities. However, some of the fundamental principles that protect abstractors, and the environment are specific to water resources legislation and are not found in the existing Environmental Permitting Regulations. As such, we are proposing to move parts of the existing legislation over into the Environmental Permitting Regulations to keep those provisions which are essential to water resource management.

We are proposing that on the move into the Environmental Permitting Regulations there will be no change to existing licences' rights, entitlements or conditions. New applicants, or applicants who vary or transfer a transitional permit, and who are issued with a new permit after the move to the Environmental Permitting Regulations, will have different rights and Environmental Permitting Regulations conditions. Abstractors who hold a time limited licence which expires after the move to the Environmental Permitting Regulations is implemented will need to apply for a permit upon expiry of the time limit, which will have different rights and Environmental Permitting Regulations conditions.

## Why do we need to do this?

The Government's 2017 Water Abstraction Plan<sup>5</sup> sets out how the Government will reform water abstraction management over the coming years and how this will protect the environment and improve access to water. The abstraction plan contributes to delivery of the Government's 25 Year Environment Plan<sup>6</sup> long-term goal of 'clean and plentiful water'.

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<sup>4</sup> <http://www.legislation.gov.uk/ukxi/2016/1154/contents/made>

<sup>5</sup> [Water abstraction plan 2017 - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/614222/water-abstraction-plan-2017.pdf)

<sup>6</sup> [25 Year Environment Plan - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/614222/water-abstraction-plan-2017.pdf)

There are three main elements to the abstraction plan – addressing unsustainable abstraction; building a stronger catchment focus; and modernising the abstraction service to support reform.

The move into the Environmental Permitting Regulations is part of the drive to modernise abstraction and impounding management and to streamline the overall environmental regulatory framework. Historically, environmental licensing regulations have developed independently of each other. This means that they have taken different approaches that reflect either the type of activity being regulated or the approach to regulation at the time they were developed. This has led to a variety of approaches to controlling different types of regulated activity, even where they take place on the same site. This evolutionary approach has led to duplication and complexity that can be a burden for users.

The move into the Environmental Permitting Regulations allows for further rationalisation and unification of regulations so that the majority of environmental permissions will fit under one legal framework. This is especially advantageous to the growing number of customers who hold more than one legal permission with the Environment Agency and conduct multiple activities on the same site.

## Who will be affected by the proposals?

These proposals will affect current water abstraction or impounding licence holders; groundwater investigation consent holders; and future applicants once we have moved regulation into the Environmental Permitting Regulations. Sectors affected include the water industry; agriculture; electricity supply (power) industry; industry/ commercial, amenity, and environmental sectors. The move into the Environmental Permitting Regulations will amend the English abstraction and impounding licensing regime only, and the changes will affect all licences which are regulated by the Environment Agency.

## Current abstraction and impounding legal framework

Abstraction and impounding licensing is regulated through the Water Resources Act 1991<sup>7</sup> (WRA 1991) and supporting regulations, including the Water Resources (Abstraction and Impounding) Regulations 2006<sup>8</sup>. The WRA 1991 was amended significantly by the Water Act 2003<sup>9</sup> (WA 2003). Under this legislation any person who abstracts more than 20m<sup>3</sup> of water per day from a 'source of supply' (which includes groundwater and surface water) or

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<sup>7</sup> <http://www.legislation.gov.uk/ukpga/1991/57/contents>

<sup>8</sup> <https://www.legislation.gov.uk/uksi/2006/641/contents/made>

<sup>9</sup> <http://www.legislation.gov.uk/ukpga/2003/37/contents>

impounds water may need a licence. From the 1 January 2018 new regulations came into effect which mean most previously exempt activities now require an abstraction licence; some exemptions still apply<sup>10</sup>. The Environment Agency is the regulator in England.

The current legislative system under the WRA 1991 is based on licences, granted by the Environment Agency or predecessor organisations, to abstract specific volumes of water over particular periods, subject to conditions such as taking water when certain flows or levels in rivers are met.

The Water Act 2014 (WA 2014) introduced powers to make regulations to move the current licensing regime into the Environmental Permitting Regulations with the intention of reducing regulatory burdens. We are seeking to move the regulation of abstraction and impounding licensing into the Environmental Permitting Regulations<sup>11</sup> to deliver a single legal framework for water abstraction and impounding alongside the other regimes that are already within the scope of the Environmental Permitting Regulations<sup>12</sup>.

This consultation focuses primarily on the provisions from Part II, Chapter II of the WRA 1991<sup>13</sup> (as amended by the WA 2003) and those provisions of the WA 2003 related to abstraction and impounding licensing. The Environmental Permitting Regulations provisions will be adopted, where practicable, for abstraction and impounding licensing to maintain consistency with other regimes. In each case, we propose to either:

- move provisions into the Environmental Permitting Regulations and repeal them in the current legislation; or
- adopt the corresponding provision in the Environmental Permitting Regulations and repeal it in the current legislation

Provisions that sit outside of Part II, Chapter II of the WRA 1991 and other related legislation will also be transferred into the Environmental Permitting Regulations or repealed.

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<sup>10</sup> <https://www.gov.uk/guidance/water-management-abstract-or-impound-water#abstractions-that-do-not-need-a-licence>

<sup>11</sup> <http://www.legislation.gov.uk/uksi/2016/1154/contents>

<sup>12</sup> The regulations cover: water discharge activities; groundwater activities; radioactive substances activities; waste operations; mining waste operations; installations; flood risk activities; medium combustion plant and specified generators. They also include provision for transposition of a number of European Directives.

<sup>13</sup> <http://www.legislation.gov.uk/ukpga/1991/57/contents>



Water resources management functions, charging, drought orders and drought permits will continue to be governed by the provisions of the WRA 1991 and the WA 2003.

## Environmental Permitting Regulations legal framework

Prior to the Environmental Permitting Regulations coming into force in 2008, environmental permitting and compliance systems were largely developed in isolation from each other; this led to divergent approaches to similar environmental permitting aspects and outcomes. The overall regulatory system was therefore sometimes contradictory for industry and regulators. To address this, government introduced a common platform - the Environmental Permitting Regulations - which integrates permitting and compliance systems. The Environmental Permitting Regulations came into force in 2008 and was amended in 2016.

The Environmental Permitting Regulations are secondary legislation (a statutory instrument) made in accordance with various enabling powers including the Pollution Prevention and Control Act 1999, the Water Act 2014 and section 62 of the Regulatory Enforcement and Sanctions Act 2008. The regulations in the Environmental Permitting Regulations are common to all regimes and they provide the framework for all aspects necessary to regulate an activity.

The Environmental Permitting Regime is made up of the **Environmental Permitting Regulations**, **Core Guidance** and **Schedules to the Environmental Permitting Regulations**. The 'Environmental Permitting Guidance - Core Guidance<sup>14</sup>' explains the main provisions and concepts in the Environmental Permitting Regulations and gives guidance as to what is covered and how it will work in practice. The **Core Guidance** covers:

- the regulated facilities that need environmental permits or need to be registered as exempt
- the process for registering exempt regulated facilities
- how to apply for a permit and how permit applications are determined
- requirements that environmental permits contain conditions to protect the environment as required by directives and, where applicable, national policy
- how environmental permits can be changed and ultimately be surrendered
- explanation of a simplified permitting system called 'standard rules'
- explanation of compliance obligations backed up by enforcement powers and offences

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<sup>14</sup> <https://www.gov.uk/government/publications/environmental-permitting-guidance-core-guidance--2>

- explanation of provisions for public participation in the permitting process
- explanation of the powers and functions of regulators, the Secretary of State and the Welsh Ministers
- explanation of provisions for appeals against permitting decisions

The **schedules** to the Environmental Permitting Regulations identify particular requirements which must be delivered through the permitting system. Each regulated facility covered by the Environmental Permitting Regulations has a specific schedule that sets out the environmental requirements to be complied with specific to that operation. It also features the criteria of those operations that are excluded from regulation and therefore do not require a permit. We propose to create two new specific schedules for abstraction and impounding.

## Benefits of moving abstraction and impounding into the Environmental Permitting Regulations

The move into the Environmental Permitting Regulations is part of a drive to modernise abstraction and impounding management and to streamline the overall environmental regulatory framework.

The aims of integrating the regulation of abstraction and impounding licensing into the Environmental Permitting Regulations are:

- A streamlined regulatory landscape
- Proportionate, risk-based regulation
- Dynamic water management
- Permit consolidation across environmental regimes
- A future digital service where customers can manage all their Environmental Permitting Regulations permits in one place.

The move into the Environmental Permitting Regulations will bring abstraction and impounding into a **streamlined regulatory landscape** with consistent terms, language, rules and processes; which in turn will aid learning and make improvements across all regimes under the Environmental Permitting Regulations. For example, where an initiative is used in one regime that could be applied in another regime such as civil sanctions.

The Environmental Permitting Regulations provide a flexible framework based around **proportionate, risk-based regulation**, which can be tailored to meet the requirements of a particular activity. The Environmental Permitting Regulations set out the fundamental principles, with supporting guidance to describe the way in which permitting, and compliance will be carried out. This allows a more agile and flexible regulatory response to a changing environment or changing permit holder requirements.

This move to the Environmental Permitting Regulations will enable the Environment Agency to carry out **dynamic water management** in response to a changing environment;

adapting to climate change, making the best use of the available water for abstraction and continuing to protect, enhance and restore the environment.

Some operators hold more than one permit or legal permission with the Environment Agency and conduct multiple activities on the same site. It is a future ambition to enable **permit consolidation across environmental regimes** so that an operator has the opportunity to opt for one permit for all their operations on one 'site'.

The Environment Agency is modernising the abstraction licensing service by moving away from the outdated paper-based system to a digital one. The move to a digital system will create a service that can be more flexible, better able to meet the needs of customers, improve access to water and better protect the environment. This work is planned, or underway across other regimes under the Environmental Permitting Regulations and will provide a future digital service where customers will be able to manage all their Environmental Permitting Regulations permits in one place. It will also enable improved storage of permit and compliance data and information allowing smarter use of information across regulatory regimes and avoiding the need to resubmit the same information several times.

## Summary statement of impacts

The measures we are proposing seek to strengthen and modernise the regulation of abstraction and impounding activities. A single legal framework for water abstraction and impounding activities under the Environmental Permitting Regulations will enable permit consolidation across the environmental regime so that an operator has the opportunity to opt for one permit for all their operations on one 'site'. This is beneficial to abstractors by reducing the administrative burden for those who hold more than one legal permission with the Environment Agency and conduct multiple activities on the same site.

Although there will be benefits associated with the proposed measures, there will be some net costs for business. Expected costs are modest; the main impact to business will be the costs of meeting the new requirements under the Environmental Permitting Regulations when applying for a permit – either as a new abstractor or after making a change to a transitional permit. All businesses will also have some familiarisation costs with the new permitting regime.

The estimated transitional costs to business of the proposals (mostly associated with familiarisation with the new regime) is £0.3m. Estimated annual net cost to business is £0.2m; well below the financial threshold for a full impact assessment set by Government. These estimates are totals for all affected abstraction and impounding licences.

## About this consultation

This consultation seeks your views on the proposals for amending the Environmental Permitting Regulations to include abstraction and impounding licensing and subsequent amendment to existing water resources legislation, including the Water Resources Act 1991 and Water Act 2003.

There are three parts<sup>15</sup> to this consultation package: (these are all available under 'Related' on the consultation overview page on the Defra consultation hub)

- The **Consultation Document** (this document) - setting out proposals for moving the regulation of abstraction and impounding licensing into the Environmental Permitting Regulations regime. Consultation questions are included where there is the opportunity for you to shape the proposed approach.
- **Supplementary Document** – providing additional detail and technical information on how we propose to move abstraction and impounding licensing into the Environmental Permitting Regulations. This document is not essential to your consultation response but provides more technical/ in-depth explanation and detail if required.
- **Technical annexes** – the Environment Agency administers the permitting regime for Environmental Permitting Regulations activities and has produced technical guidance on the basis of its expertise to provide further information about some of the proposals set out in the consultation documents:
  - Technical Annex: Operator. Proposed guidance on sufficient control for abstraction and impounding activities.
  - Technical Annex: Management Systems. Proposed guidance on what a management system would contain for abstraction and impounding activities.
  - Technical Annex: Site. Proposed guidance on defining site for abstraction and impounding activities.
  - Technical Annex: Permit Review. Proposed guidance on how the permit review process will work for abstraction and impounding activities.

## Geographical extent

This consultation covers all abstraction and impounding licences regulated by the Environment Agency. The cross-boundary nature of some water resources means these are shared with Wales and Scotland.

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<sup>15</sup> <https://consult.defra.gov.uk/water/abstraction-impounding-epr-consultation>

Under current abstraction and impounding legislation, the Environment Agency is responsible for granting abstraction and impounding licences in England and Natural Resources Wales is responsible for granting licences in Wales. The Scottish Environment Protection Agency is the main environmental regulatory authority in Scotland where the legislation relating to abstraction and impounding is separate to England and Wales.

If an abstractor wishes to abstract from points in more than one country, they require permission from more than one regulator. For example, if a person wants to abstract from points in both England and Wales, they would require a separate licence from both the Environment Agency and Natural Resources Wales. Similarly, if works to an impounding structure were in more than one country then permission from more than one regulator may be required. The move of abstraction and impounding legislation into the Environmental Permitting Regulations will not change this position.

Where we share cross-boundary catchments with Wales, the Environment Agency have working together agreements in place with Natural Resources Wales setting out how they will work together to manage water resources within these catchments. There are a number of cross-boundary abstraction and impounding licences which were delegated to the Environment Agency following the creation of Natural Resources Wales in April 2013. These licences have abstraction points in both England and Wales or reaches of a river that cross the boundary. The licences that are regulated by the Environment Agency will be affected by the proposals in this document.

The majority of the cross-boundary catchments between England and Scotland have until recently been exempt areas where no abstraction licence is required. We are working with the Scottish Environment Protection Agency on how we manage water resources within these cross-boundary catchments. The proposals in this consultation will affect all abstractions and impoundings regulated by the Environment Agency.

## **Stakeholder engagement**

Since July 2019 the Environment Agency has actively engaged with representative stakeholders affected by these proposals. Feedback from this engagement has helped shape the proposals. Engagement has been through regular meetings with the Environment Agency's External Advisory Group (EAG), which includes representatives from the farming unions, water industry, industry and commerce, energy sector, regulators and government.

## **Related consultations and other legislative changes**

There are other consultations and legislative changes that are ongoing or have concluded that will have a bearing on this consultation.

## **Water Resources Charges**

In 2018 the Environment Agency made significant changes to charges for all regimes under the Environmental Permitting Regulations. These changes introduced a common regulatory and charging framework as part of the commitment to aim to reach full cost recovery for all existing and new regulatory regimes. The Environment Agency is currently consulting on water resources charge proposals it intends to introduce from April 2022 (**Environment Agency water resources charge proposals from April 2022** <https://www.gov.uk/government/consultations/water-resources-charge-proposals-from-april-2022>) based on the charging regime under current legislation. Whilst the Environment Agency cannot consult on the charging implications of the transition into the Environmental Permitting Regulations, it has looked ahead to align the proposals and approaches in the consultation on charges as far as is possible.

In this consultation we are consulting on policy proposals relating to the transition of the abstraction and licensing regime into the Environmental Permitting Regulations and not on related charges. Any changes to charges required by the move to the Environmental Permitting Regulations will be subject to a further consultation.

## **Amendments to the Environmental Permitting Regulations - Groundwater activities and related surface water discharge activities**

Groundwater activities are regulated through the Environmental Permitting Regulations 2016. The Environmental Permitting Regulations provide for ongoing supervision and controls by the Environment Agency as regulators of activities which could adversely impact upon groundwater quality. In the face of growing pressures from climate change and population growth, it is important that we optimise the regulatory tools available for managing and protecting groundwater quality. This will bring about benefits for groundwater quality and will also help to ensure that Government resources are being used most effectively to tackle the highest priority issues.

A number of amendments have been proposed to the Environmental Permitting Regulations to improve the way in which groundwater activities, and some related surface water discharge activities, are regulated.

These proposals are due to be consulted on in a separate consultation in September 2021.

## **Environment Bill**

Our water is now better managed than ever before, improving our ability to respond to floods and drought. The Environment Bill will build on this and further help us to ensure that we have clean and plentiful water resources, which are better managed in our changing climate. It will help us ensure water is taken from the environment in a sustainable way, to prevent environmental damage and protect our precious rivers and streams.

Through the Environment Bill we are taking steps to further minimise the risk that water abstraction may damage the environment from which it is taken. These measures will enable the revocation or variation of permanent abstraction licences, many dating back to the 1960s, without liability for compensation where the change is necessary to protect the environment or where the licence is consistently under-used. These measures complement non-legislative action planned or already underway, such as through our 2017 Water Abstraction Plan.

The measures will come into effect on 1 January 2028, and will enable the Environment Agency to:

- 1) vary or revoke abstraction licences without being liable to pay compensation to the licence holder if: the Secretary of State is satisfied the revocation or variation is necessary to protect the water environment from damage; and/or
- 2) vary abstraction licences without being liable to pay compensation to the licence holder if the licence holder is abstracting at least 25% less water than their licensed volume for each year over a 12-year period.

## Responding to the consultation

This public consultation will run for twelve weeks from 29 September to 22 December 2021. It is open to anyone with an interest in providing comments.

Please respond to this consultation using the Citizen Space consultation hub at Defra:

<https://consult.defra.gov.uk/>

The Citizen Space consultation hub is the preferred method of response. If you are unable to respond using this system, you can send your response by email or post clearly marked:

‘Changes to the regulatory framework for abstraction and impounding licensing in England’

to:

water.abstraction@defra.gov.uk

Consultation Coordinator  
Second floor  
Foss House  
Kings Pool  
1 to 2 Peasholme Green  
York  
YO1 7PX

Please note, any responses sent by post must have arrived at the above address by the closing date of the consultation (22 December 2021) to be counted. Unfortunately, any



responses received after this date will not be analysed. To ensure your response is included in the analysis, please consider responding online via Citizen Space.

The government will aim to publish a summary of responses within 12 weeks of the consultation ending.

## Confidentiality and data protection

A summary of responses to this consultation will be published on the Government website at: [www.gov.uk/defra](http://www.gov.uk/defra). An annex to the consultation summary will list all organisations that responded but will not include personal names, addresses or other contact details.

Defra may publish the content of your response to this consultation to make it available to the public without your personal name and private contact details (e.g. home address, email address, etc).

If you click on 'Yes' in response to the question asking if you would like anything in your response to be kept confidential, you are asked to state clearly what information you would like to be kept as confidential and explain your reasons for confidentiality. The reason for this is that information in responses to this consultation may be subject to release to the public or other parties in accordance with the access to information law (these are primarily the Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 2018 (DPA)). We have obligations, mainly under the EIRs, FOIA and DPA, to disclose information to particular recipients or to the public in certain circumstances. In view of this, your explanation of your reasons for requesting confidentiality for all or part of your response would help us balance these obligations for disclosure against any obligation of confidentiality. If we receive a request for the information that you have provided in your response to this consultation, we will take full account of your reasons for requesting confidentiality of your response, but we cannot guarantee that confidentiality can be maintained in all circumstances.

If you click on 'No' in response to the question asking if you would like anything in your response to be kept confidential, we will be able to release the content of your response to the public, but we won't make your personal name and private contact details publicly available.

There may be occasions when Defra will share the information you provide in response to the consultation, including any personal data with external analysts. This is for the purposes of consultation response analysis and provision of a report of the summary of responses only.

The Environment Agency will provide expert, technical assistance when Defra prepares the response to this consultation.

This consultation is being conducted in line with the Cabinet Office "Consultation Principles" and be found at: <https://www.gov.uk/government/publications/consultation-principles-guidance>.



Please find our latest privacy notice uploaded as a related document alongside our consultation document.

If you have any comments or complaints about the consultation process, please address them to:

Changes to the regulatory framework for abstraction and impounding licensing in England

Consultation Coordinator, Defra

2nd Floor, Foss House, Kings Pool,

1-2 Peasholme Green, York, YO1 7PX

Or email: [consultation.coordinator@defra.gov.uk](mailto:consultation.coordinator@defra.gov.uk)

**Would you like your response to be confidential?**

Yes

No

If you answered Yes to this question, please give your reason.

## Next steps

The proposals in this consultation require changes to the Environmental Permitting Regulations and to current abstraction and impounding licensing legislation for which we will require Parliamentary approval. The planned timescales following close of the consultation up to the point of transitioning the regulation of abstraction and impounding licensing into the Environmental Permitting Regulations in 2023 is set out below:

- September to December 2021 – public consultation on the proposals
- March 2022 – publish government response
- 2022 – Statutory Instrument laid in Parliament
- 2023 – Implementation - abstraction and impounding licensing will be administered under the Environmental Permitting Regulations
- During 2022 and 2023 – development of implementation guidance, forms, templates, and development of digital services
- Throughout the process we will engage with stakeholders and abstractors

# Consultation – proposals and questions

This section is supplemented by the **Supplementary Document**<sup>16</sup>, which provides additional detail and technical information on how we propose to move abstraction and impounding licensing into the Environmental Permitting Regulations. The Supplementary Document is not essential to your consultation response but provides more technical/ in-depth explanation and detail if required.

## Proposed approach to moving abstraction and impounding licensing into the Environmental Permitting Regulations

Within this section of the consultation are our proposals for how abstraction and impounding might adopt or adapt to fit into the Environmental Permitting Regulations. There are also proposals for how the relevant parts of the existing abstraction and impounding legislation could, where appropriate, move into the Environmental Permitting Regulations.

We propose to adopt the provisions of the Environmental Permitting Regulations as far as possible for abstraction and impounding activities. However, some of the fundamental principles that protect abstractors and the environment are specific to water resources legislation and are not found in the existing Environmental Permitting Regulations. As such, we propose to move parts of the existing legislation over into the Environmental Permitting Regulations to keep those provisions which are essential to water resource management.

Consultation questions are included where there is the opportunity for you to shape the proposed approach.

A **Glossary** is provided at the end of this document which explains some of the key terms used from within both the existing abstraction and impounding legislation and from the Environmental Permitting Regulations regime. This glossary covers terms in both this (the main consultation) document, and the **Supplementary Document**.

### List of proposals:

#### Proposals relating exclusively to existing abstraction and impounding licences:

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<sup>16</sup> [https://consult.defra.gov.uk/water/abstraction-impounding-epr-consultation/supporting\\_documents/Supplementary%20Document%20%20AI%20move%20into%20the%20EPR.pdf](https://consult.defra.gov.uk/water/abstraction-impounding-epr-consultation/supporting_documents/Supplementary%20Document%20%20AI%20move%20into%20the%20EPR.pdf)

1. Existing abstraction and impounding licences transitioning into the Environmental Permitting Regulations
2. Groundwater investigation consents transitioning into the Environmental Permitting Regulations
3. Transitional abstraction permits with a time limit
4. Previously exempt abstractions

#### **Proposals for new permits in the Environmental Permitting Regulations:**

5. Abstraction and impounding activities under the Environmental Permitting Regulations
6. Operator and permit holder
7. Content and form of a permit
8. Site and source of supply
9. Variations, transfers, revocations and surrenders
10. Appeals
11. Permit review process
12. Enforcement and suspension
13. Offences and penalties
14. Public register
15. Advertising and public participation
16. Vesting and Bankruptcy
17. Climate change adaptation
18. Protected rights, derogation and lawful use
19. Applying for a permit
20. Permit applications by the Environment Agency
21. Canal & River Trust Provisions
22. Civil Remedies for loss or damage due to water abstraction
23. Fishing rights and Ecclesiastical property
24. Compensation
25. Discharge of functions
26. Civil liability and defences

## **Proposals for existing abstraction and impounding licences**

Refer to the [Supplementary Document](#) if additional information is required.

### **Proposal 1- Existing abstraction and impounding licences transitioning into the Environmental Permitting Regulations**

From the implementation date, we propose that the following will apply to existing abstraction and impounding licences that will transition into the Environmental Permitting Regulations:

- Existing abstraction and impounding licences will automatically and legally become environmental permits; referred to as ‘transitional permits’ in this document.
- Existing licences holders will automatically become ‘operators’ for the duration of the term of the transitional permit. If there is an ‘operator initiated variation’ or ‘regulator initiated variation’ made to a transitional permit, or when the transitional permit is transferred or the operator seeks to renew the transitional permit, the applicant must meet the definition of operator under the Environmental Permitting Regulations (see **proposal 6**).
- Existing conditions in the licence will remain the same; transitional permits will not require an Environmental Management System condition (see **proposal 7**) until and unless they are varied or transferred under the Environmental Permitting Regulations; or where the Environment Agency specifies one is required.
- The Environment Agency will not re-issue any documents as part of the move; the paper copy of a licence will continue to be the relevant legal document for a transitional permit.
- Changes to a transitional permit will only occur when there is an ‘operator initiated variation’ or ‘regulator initiated variation’ made to a transitional permit, or when the transitional permit is transferred or when the time limit on a transitional permit ends.
- Transitional permanent permits will retain the right to claim compensation for loss or damage as the result of a regulator initiated variation or revocation except where precluded by legislation.
- Time limited transitional permits will retain a right to compensation if the Environment Agency initiates a variation or revocation and the permit holder suffers loss or damage before expiry except where precluded by legislation. When the time limit expires, as long as a new application is submitted by the permit holder and the Environment Agency is content for abstraction to continue, the abstractor will be issued with a new permit which has no time limit, is reviewable and has no compensation rights.
- Transitional (in progress) applications which are in progress and have not been determined by the Environmental Permitting Regulations implementation date, will be determined under the Environmental Permitting Regulations.
- Transitional (in progress) appeals will be decided under the Environmental Permitting Regulations. Following a decision on an appeal of a transitional permit, the Environment Agency might be instructed to carry out a variation or issue a permit. This can only be issued as a full Environmental Permitting Regulations permit. The process is different for appeals for New Authorisations (see **proposal 4**).
- Transitional (in progress) appeal periods will align with the Environmental Permitting Regulations.
- Transitional (in progress) enforcement activities will continue under the Environmental Permitting Regulations.

**Q1. Do you agree with the transitional arrangement proposals for licences transitioning into the Environmental Permitting Regulations?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

**Q2. Do you agree with the proposed approach to transitional (in progress) appeals, transitional (in progress) appeal periods and in progress enforcement?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response to Q1-2 where applicable.

**Proposal 2 - Groundwater investigation consents transitioning into the Environmental Permitting Regulations**

It is proposed that Groundwater Investigation Consents that are live on the date of transition remain valid until they expire. After transition, it will no longer be possible to vary or extend a transitional Groundwater Investigation Consent. Groundwater Investigation Consents are becoming a new type of abstraction activity (see **proposal 5**). As with other in progress applications, discussed within **proposal 1**, we propose that applications for a Groundwater Investigation Consent not determined by the date of transition will be determined as a permit for a groundwater investigation abstraction activity.

**Q3. Do you agree with the proposed approach to groundwater investigation consents transitioning into the Environmental Permitting Regulations?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

**Proposal 3 – Transitional abstraction permits with a time limit**

It is proposed that before a transitional time limited permit expires, if the permit holder wants to continue abstracting, the permit holder will need to apply for a new permit to replace the expiring one. This is the same as under the current licensing system and is often referred to as a renewal.

We propose that current provisions for the management of transitional permits with a time limit will be retained in the Environmental Permitting Regulations, primarily this means:

- an abstractor can apply for a new permit to replace the expiring transitional permit providing the application is for a replacement on the same terms and three tests are satisfied; environmental sustainability, justification of need and efficient use,
- the Environment Agency will not need to consider the impact of derogating from a protected right,
- transitional permits may remain valid until the application is determined. This is currently known as limited extended validity (LEV), see **proposal 3** in the **Supplementary Document** for further detail,
- the new permit will take effect immediately after the expiry of the transitional permit.

The majority of the renewals of time limited previously exempt abstraction activities (New Authorisations) transitional permits will require a greater level of assessment as they were initially bought into regulation under less strict assessment criteria. This means that the normal presumption of renewal cannot be applied, and at renewal, these permits may be subject to more stringent conditions in order to meet statutory obligations.

Under the current licensing system, a renewal must be applied for by the existing licence holder. However, only an operator can be the holder of an Environmental Permitting Regulations permit and therefore when the renewal application is made the existing permit holder must be able to meet the definition of 'operator'. Failure to do so will likely result in the application to renew the permit being refused. There may be circumstances where the permit holder of a transitional time limited permit may not be the operator of the abstraction. If this is the case and the permit holder does not wish to put measures in place to meet the requirements of an operator under the Environmental Permitting Regulations then they will have to transfer the permit to someone that comes within the definition of an operator (such as the abstractor in a scenario where a third party is abstracting under the terms of their permit) as part of this process. See **proposal 6** on operator and permit holder for further information on what it means to be an operator.

The resulting new permit will be an Environmental Permitting Regulations permit and will no longer be considered as a transitional permit governed by the transitional provisions. As with all Environmental Permitting Regulations permits, the Environmental Permitting Regulations permit issued will have no right to claim compensation for later regulator initiated variations and the permit will be reviewable rather than having a time limit, see **proposal 11** on permit review process for further details.

**Q4. Do you agree with the proposed approach to transitional abstraction permits with a time limit?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

#### **Proposal 4 - Previously exempt abstractions (New Authorisations)**

From the 1 January 2018 new regulations came into effect which mean most previously exempt abstraction activities now require an abstraction licence. Applications for previously exempt activities under the Water Abstraction (Transitional Provisions) Regulations 2017 (the 2017 Regulations) will be determined as licences under the WRA 1991. If any appeals are outstanding upon the transition to the Environmental Permitting Regulations we propose that those appeals will be treated as if they were licences issued under the 2017 Regulations. A permit will be issued which has the same rights and entitlements that would have been the result if determined under the 2017 Regulations, including the right to compensation and a time limit. **Proposal 3** above explains what will happen to these permits once this time limit expires.

### **Proposals for new permits in the Environmental Permitting Regulations**

Refer to the [Supplementary Document](#) if additional information is required.

#### **Proposal 5 – Abstraction and impounding activities under the Environmental Permitting Regulations**

Anyone who abstracts more than 20 cubic metres of water per day from a source of supply requires an abstraction licence (with some exceptions<sup>17</sup>). An abstraction licence or groundwater investigation consent is also required from the Environment Agency to construct or extend a borehole, well or other work to abstract from groundwater; unless the abstraction is exempt from licensing.

A licence to impound is required to construct, alter or remove works that impound, obstruct or impede the flow in inland waters unless a statutory exception applies.

We propose that this is replicated in the Environmental Permitting Regulations and that the exceptions will be retained after abstraction and impounding has moved into the Environmental Permitting Regulations.

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<sup>17</sup> <https://www.gov.uk/guidance/water-management-abstract-or-impound-water>

In order to regulate abstraction and impounding activities within the Environmental Permitting Regulations, it is proposed that we add water abstraction and impounding activities, bringing across current definitions and requirements:

- a water abstraction activity,
- a water impounding activity.

We propose to further categorise abstraction into the following activities. These are based on the three current types of abstraction licence and groundwater investigation consents and will allow us to carry across existing provisions for each abstraction category into the Environmental Permitting Regulations:

- full abstraction activity,
- transfer abstraction activity,
- temporary abstraction activity,
- groundwater investigation abstraction activity.

We propose to include a new groundwater investigation abstraction activity within the Environmental Permitting Regulations to allow abstractions for the purpose of groundwater investigation to be permitted in circumstances where a permit has been obtained. This will replace the existing Groundwater Investigation Consent.

Currently there are certain activities in respect of which a Groundwater Investigation Consent is granted although strictly speaking they are not defined as such under the current definition in the legislation. We are therefore proposing to tweak the wording of the new groundwater investigation abstraction activity definition in the Environmental Permitting Regulations to ensure such activities come within the definition and so a permit would be required. This would include where there is a project which would require you to understand the impact on nearby wetlands. Wetlands which are not inland waters would not be captured by the current definition hence the need to add “underground strata” to the definition – this is because a change to/impact on groundwater will have a knock-on effect on some types of wetland. Please see **proposal 5** in the **Supplementary Document** for the proposed new wording.

Currently, an abstraction and an impounding activity cannot be authorised under the same licence. We propose that the regulator can consolidate environmental permits for a number of regulated facilities with a single permit covering the same facilities. This would enable an operator to include multiple regimes on one permit and may be of benefit to operators who hold multiple permits for a particular operation e.g. for a hydropower scheme that has abstraction, impounding and flood risk activity permits.

**Q5. Do you agree with the proposed water abstraction and water impounding activities?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable



**Q6. Do you agree with the proposal to introduce a groundwater investigation abstraction activity under the Environmental Permitting Regulations thereby requiring a permit for this activity rather than continuing with the current approach of issuing a consent?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

**Q7. Do you agree with the proposal to further categorise abstraction activities as set out above?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response to Q5-7 where applicable.

## **Proposal 6 – Operator and permit holder**

We propose to adopt the Environmental Permitting Regulations definition of operator for all new applications and variations to/transfers of transitional permits, with the exception of the Canal and River Trust (CRT). Only CRT will be able to apply for a permit for an abstraction activity on their waters, maintaining the current position. This is discussed further in **proposal 21**. The operator is the person who has control over the operation of the activity and the Environment Agency must not issue nor transfer an environmental permit where it considers that the operator cannot comply with the permit conditions. We do not propose to apply the operator competence test for water abstraction and water impounding activities in line with the current approach to stand-alone water discharge, groundwater and flood risk activities. Further information on what is required to come within the definition of an 'operator' for the Environmental Permitting Regulations can be found in the Environmental Permitting Regulations guidance<sup>18</sup>. The Environment Agency has provided additional guidance on the definition of an operator for water abstraction and impounding activities in the [Technical Annex: Operator](#), with this consultation.

Currently, abstraction can lawfully be undertaken by a person who is not the named licence holder as long as they have permission to do so by the licence holder. To allow for a smooth transition into the Environmental Permitting Regulations, it is proposed that an

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<sup>18</sup> Legal operator and competence requirements: environmental permits.

open ended transitional provision is adopted for transitional permits where licence holders automatically become permit holders (i.e. operators) without the need to change existing licences and without having to meet the legal definition of operator. If a transitional permit is in place, it will also be possible for someone other than the permit holder to continue to lawfully undertake abstraction in accordance with that permit with the permit holder's permission. The Environment Agency will continue to be able to take enforcement action against the abstractor and/or the permit holder. Transitional permits will only be able to be transferred subsequently to a person who would be the operator and so is in control of the activity. If a transitional permit has a time limit and expires, only an operator can be the holder of an Environmental Permitting Regulations permit and therefore when the renewal application is made the existing permit holder must be able to meet the definition of 'operator' (see **proposal 3**).

We know that there will continue to be circumstances where the operator does not undertake the abstraction or impounding activity themselves (such as a landowner who leases out farmland to a tenant). New applicants for a permit or applications for variations/transfers for transitional permits in the Environmental Permitting Regulations must be able to demonstrate to the Environment Agency that although the abstraction or impounding is carried out by a third party, the operator is the person in control. A tenancy agreement or other formal contract could demonstrate the control as long as it adequately describes the abstraction responsibilities. The Environment Agency will therefore, in guidance, provide operators with a set of criteria against which to demonstrate 'sufficient control' whilst still allowing a third party to carry out the activity.

**Q8. Do you agree with the proposal to maintain, for transitional permits only, the ability for a person who is not the permit holder to lawfully carry out an abstraction under a permit with the permit holder's permission?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

## **Proposal 7 – Content and Form of a Permit**

We propose to adopt the Environmental Permitting Regulations provisions on content and form of a permit to ensure there is a consistent approach to permitting across regimes. Under the Environmental Permitting Regulations, much like the current legislation, the legislation allows for the Environment Agency to include conditions on a permit which it deems to be appropriate. This will include the requirement for abstraction returns to be submitted (known as reporting).

Some activities do not require a permit because they are **excluded** from regulation. It is proposed to carry across the existing exemptions and low risk impoundings under current legislation into the Environmental Permitting Regulations as exclusions. These activities will not require regulation if the activity fits within the exclusion criteria.

In contrast to exclusions, '**exemptions**' under the Environmental Permitting Regulations require some form of regulation (albeit of a light touch nature). For example, a registration process may be required as part of the criteria to qualify as an exempt activity. But, provided all of the criteria can be met under the exemption, then no permit is required for the activity. At the present time there are no proposals to create any abstraction or impounding exemptions under the Environmental Permitting Regulations.

**Standard rules permits** allow for a generic pre-defined set of conditions. Those conditions are deemed to be environmentally acceptable with no further determination required. At present we have not identified any circumstances for which a set of pre-defined conditions would benefit a large number of abstraction and impounding operations. The provision to create standard rules permits will be available in the Environmental Permitting Regulations in future if deemed applicable.

We propose that the activities in **proposal 5** will require an environmental permit. All existing licences will become transitional permits containing the same provisions as originally issued, see **proposal 1** for more detail. All new applications will be issued under and in accordance with the Environmental Permitting Regulations and will be permits until and unless any standard rules for abstraction or impounding activities are introduced.

We also propose that the Environment Agency adopt the power which is already in the Environmental Permitting Regulations to impose permit conditions for works which require the consent of someone other than the operator, such as the requirement for offsite monitoring. This would be a new power for abstraction and impounding activities. There is nothing similar to this regulation within current water resources legislation. Currently the agreements for offsite works is left to the licence holder and the third party whose consent is required. This is a rarely used regulation and we would not expect this to change for abstraction and impounding activities. The Environment Agency would consider whether the proposal was in the public interest and all other viable alternatives before enforcing it.

In the Environmental Permitting Regulations the Environmental Management System (EMS) is a key concept and forms part of the permit as a general management condition. The permit condition will specify the requirement to have an EMS document detailing how the operator will manage their activity. The EMS is incorporated into the permit and referred to during any compliance checks. If the operator holds multiple permits, they can be covered under one EMS; however, it will require individual site specific detail.

The EMS ensures there is a level of operator competency surrounding the activity and that they have a suitable level of understanding about the risks and requirements of undertaking such an activity. The operator can develop and maintain their own management system or use an established environmental management system scheme.

All new permits issued under the Environmental Permitting Regulations will require an EMS. Further information on the requirement for an EMS can be found in the Environmental Permitting Regulations guidance<sup>19</sup> and the Environment Agency's [Technical Annex: Management systems](#), with this consultation. Transitional permits will not require an EMS until they are varied or transferred under the Environmental Permitting Regulations, or where the Environment Agency specifies that an EMS is required.

We propose that new permits will not have a time limit; they will be reviewable (see **proposal 11**) and will have no compensation rights.

**Q9. Do you agree with our proposal to adopt the Environmental Permitting Regulations provision relating to offsite permit conditions for abstraction and impounding applications?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

**Q10. Do you agree with the proposal to adopt the Environmental Permitting Regulations permit types, exclusions and exemptions for abstraction and impounding?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

**Q11. Are there any abstraction or impounding situations that you think could satisfy the standard rules permit format?**

**Q12. Do you agree with the proposal to include an EMS requirement in all new Environmental Permitting Regulations permits for a water abstraction or water impounding activity?**

- Agree
- Disagree

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<sup>19</sup> <https://www.gov.uk/government/publications/environmental-permitting-guidance-core-guidance--2>

- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response to Q9-12 where applicable.

## **Proposal 8 – Site and source of supply**

In the Environmental Permitting Regulations, permits are required to include a map, plan or other description of the 'site' showing the geographical extent of the site of the regulated facility. There is no legal definition of 'site' within the Environmental Permitting Regulations; the Environmental Permitting Guidance – Core Guidance<sup>20</sup> document explains that the regulator should consider the following factors in determining whether the facilities are operated on the same site: proximity, coherence of a site and management systems.

The Environment Agency will determine the extent of a site for an abstraction activity or impounding activity on a permit on a case by case basis within a set of principles created within its guidance. More information is available in the Environment Agency's [Technical Annex: Site](#), with this consultation.

We propose to amend the current position to allow abstraction from more than one source of supply on a permit. As an example, a farm with a borehole abstraction point and watercourse abstraction point could have both points on one permit.

We propose that a single permit can be issued in respect of more than one regulated facility, as is the case for the other regimes under the Environmental Permitting Regulations, so that an operator can have one permit issued in respect of all their activities on the same site. This means that water abstraction activities and water impounding activities can be on the same permit, one or more water abstraction activities can be on the same permit and water abstraction activities and water impounding activities can be combined with other activities (such as an installation or water discharge), as long as they are carried out on at the same site by the same operator.

**Q13. Do you agree with the proposal to set out the principles to help determine the extent of a site within guidance?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

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<sup>20</sup> <https://www.gov.uk/government/publications/environmental-permitting-guidance-core-guidance--2>

**Q14. What do you think that the principles should be to help determine the extent of a site within guidance?**

**Q15. Do you agree with the proposal to allow abstraction from more than one source of supply on a single permit?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

**Q16. Are there any circumstances where you think that abstraction activities for the same operation or site, but from different sources of supply, should not be on the same permit?**

Please provide the reason for your response to Q13-16 where applicable.

## **Proposal 9 – Variations, transfers, revocations and surrenders**

We propose to adopt the Environmental Permitting Regulations provisions for undertaking variations, transfers, revocations and surrenders to permits to ensure there is a consistent approach across all regimes.

There are some specific aspects of the abstraction and impounding regime not within the Environmental Permitting Regulations, such as the requirement for the Environment Agency to consider the applicant's reasonable requirements, consideration of protected rights, lawful uses and river flows when making a decision in respect of a proposed new or varied abstraction or impounding activity. These provisions will be moved across into the Environmental Permitting Regulations for abstraction and impounding activities.

### **Surrenders**

Under the current legislation, a licence holder can apply to revoke (surrender) an abstraction licence. The Environment Agency grants this unconditionally and from the date the application is received. A licence holder can also apply to revoke (surrender) an impounding licence, however the legislation allows the Environment Agency to require conditions to be met before the revocation takes effect such as requiring the removal of all or part of the impounding works.

In the Environmental Permitting Regulations there are two ways an operator can wholly or partly surrender their permit or activities. Regulation 24 provides for a simple notification process which tends to be for the lower risk facilities. The operator notifies the Environment Agency of their intention to surrender and no less than 20 working days later it takes effect. Under Regulation 25 applications are required which require some level of technical determination before the surrender can take place. This is to ensure that any necessary works are completed and the environment is protected. We propose to adopt Regulation 25 for both abstraction and impounding activities as we want the Environment Agency to be able to have technical input and ensure that the operator has taken the necessary measures to return the site to a satisfactory state. For many abstractions there may be no/minimal measures that the operator needs to take to return the site to a satisfactory state and the application for surrender will be treated essentially as if it was a notification.

## Variations

Under the current legislation a licence can be varied by the licence holder or the Environment Agency. Environmental Permitting Regulations also cover variations requested by the operator (an operator initiated variation) and those undertaken by the Environment Agency (a regulator initiated variation). Permits may also be varied as a consequence of a transfer, part transfer, part revocation or part surrender.

In **proposal 11** we have described how we propose to carry out permit reviews when we move to the Environmental Permitting Regulations. If a variation is required following a permit review the mechanism will be a regulator initiated variation.

We propose to adopt the Environmental Permitting Regulations provisions for undertaking variations to permits to ensure there is a consistent approach across all regimes.

There is a specific provision in the water resource legislation relating to abstraction licences that does not allow the licence holder to vary the type of abstraction licence e.g. to change it from a transfer licence to a full licence. We propose therefore to include a similar rule in the Environmental Permitting Regulations so that a permit cannot be varied to change the abstraction activity prescribed by it. This is to ensure that there is an adequate process for determining protected rights.

There are some procedural differences between the current legislation and the Environmental Permitting Regulations. The current process under the Environmental Permitting Regulations is different in terms of when notice of a proposed regulator initiated variation is (i) served on the operator and (ii) brought to the attention of third parties. Under current legislation there is a requirement to serve notice to all licence holders of the proposed variation and to either a navigation authority, harbour authority or conservancy authority where the variation proposed could affect an inland water under their authority. Under Environmental Permitting Regulations we are required to both notify the operator and to take appropriate steps to inform a person who will be affected by, is likely to be affected by, or has an interest in a proposed regulator initiated variation, where the

variation falls within the scope of public participation. **Proposal 15** sets out our approach to advertising and public participation.

Under the current legislation, the licence holder can object to the variation (be it on either technical grounds or compensation grounds). The objection would then be referred to the Secretary of State. Under the Environmental Permitting Regulations, where a notice is served on the operator, the operator would be entitled to submit an objection that would require consideration during the determination of the variation. However, the matter would only be referred to the Secretary of State (and delegated to the Planning Inspectorate) where the operator subsequently appealed against the varied permit. Ultimately, the outcome is similar in that a final decision is made as to whether the variation would stand or not and as to whether, where it applies, compensation could be payable. For those permits where compensation will still apply, we propose that the current position around allowing for a claim for compensation to be made up to 6 years after the varied permit has been issued should still apply under the move to the Environmental Permitting Regulations.

The timescale for an operator to appeal against either an Environment Agency initiated variation or operator initiated variation will increase from 28 days to 2 or 6 months respectively under the Environmental Permitting Regulations.

Under the Environmental Permitting Regulations, a variation cannot reduce the area covered by an environmental permit for most regulated facilities; there are a few exceptions. We propose as follows:

(a) For water abstraction activities a part surrender will need to be applied for if an operator wants to reduce the extent of the site under their permit. This will enable the Environment Agency to ensure that that part of the site within the permit is returned to a satisfactory state such as when dealing with the removal of (an) abstraction borehole (s) from an abstraction permit.

(b) We propose to include water impounding activities as one of the exceptions to the requirement that a variation cannot allow a reduction in the extent of the 'site' covered by the environmental permit. This is because in the Environmental Permitting Regulations the only mechanism to change permit conditions is through a variation; either operator or regulator led. We propose that the operator would need first to apply for a variation to obtain the relevant conditions to alter/remove the impoundment (i.e. conditions to ensure that the site is returned to a satisfactory state) and then applies for the subsequent surrender. This way the Environment Agency retains control over how an impoundment is removed.

## **Revocations**

Currently the Environment Agency can make proposals to cancel (revoke) a licence. If the Environment Agency proposes to revoke or vary a licence, the licence holder will be notified, including the reasons why and when this will happen. The licence holder is allowed a period of 28 days to challenge the proposals. The proposed licence revocation



is also advertised to allow for the public to provide comments. There are similar provisions under the Environmental Permitting Regulations. The Environment Agency can make proposals to revoke a permit, this includes wholly or partially (which is new for abstraction and impounding). If the Environment Agency does propose to revoke all or part of a permit, the operator will be notified, including the reasons why, to what extent and when this will happen. The operator may also be asked to carry out certain steps to make sure the environment has been protected and the chance of future harm is minimised. The use of the revocation notice to set out steps to be taken for the operator would be new for abstraction and impounding activities, although the same effect can currently be achieved through varying an impounding licence or the Environment Agency issuing a letter then revoking it. Where the proposal is to revoke part of a permit this is usually associated with the removal of one of multiple activities or to reduce the extent of the site.

Moving to the Environmental Permitting Regulations will alter the point at which third party representations can be made. For Environmental Permitting Regulations this is done only if there is an appeal, whereas under the current legislation it is done for all revocations and variations at the point the notice is served on the licence holder. However, in either case, representations are only considered in the event of an objection/appeal and only by the Secretary of State. Adopting the Environmental Permitting Regulations process means the EA only invites representations if there is an appeal, thereby reducing unnecessary representations if no appeal is made.

## **Transfers**

The current legislation allows for the holder of a full or transfer abstraction licence to serve notice on the Environment Agency to divide some or all of their licence between two or more new licence holders subject to certain constraints. The apportionment of an abstraction licence involves the issuing of new licences and the revocation of the original 'old licence'. The protected rights status of the old licence is preserved by the new licences granted under the apportionment as though they had been in effect from the issue of the old licence. The Environmental Permitting Regulations follow a similar approach and allow the transfer of an environmental permit or any part of an environmental permit to a proposed transferee. With the exception of a stand-alone water discharge activity, groundwater activity or flood risk activity, for which transfer by notification is possible, the Environmental Permitting Regulations allow for a permit to be transferred upon the joint application by the permit holder and the new operator.

It is proposed that under the Environmental Permitting Regulations the transfer of a permit is to be actioned upon receipt of a joint application from the current operator and the proposed transferee(s), and not a joint notice. This is to enable the Environment Agency to scrutinise applications and take steps to protect the environment where necessary. The new process will be broadly similar to the existing one and the Environment Agency are considering having a deemed acceptance policy as a way to maintain the current low level of licence holder burden. To align with the transfer provisions for the other Environmental Permitting Regulations regimes the permit transfer will also take effect from the date specified on the application and not the date upon which the Environment Agency amends the permit. Transferee(s) will be required to declare that the rights of access criteria can be

met and will be issued with an Environmental Permitting Regulations permit. The resulting permit (s) shall have the same overall effect as the old permit.

### **Emergency variation of licences for spray irrigation**

The Environment Agency can vary an abstraction licence to restrict abstraction for spray irrigation at times of exceptional shortage of rain (or other emergency) to protect our rivers and groundwater under a section 57 notice. We propose that in the Environmental Permitting Regulations this will be known as a notice for the emergency variation of a permit for spray irrigation purposes. There is nothing equivalent within the Environmental Permitting Regulations that can restrict a particular subset of abstractors in response to a natural event. Therefore, we propose to carry across these provisions into the Environmental Permitting Regulations.

Regulation 37 suspension notices (see **Proposal 12** in the **Supplementary Document**) under Environmental Permitting Regulations apply where it is considered appropriate to suspend an activity authorised under a permit, to protect the environment, human health or both. In a drought incident, there may be good reason to serve both notices (the emergency variation of a permit for spray irrigation purposes (currently a section 57 notice under existing legislation) and regulation 37 notice).

**Q17. Do you agree with the proposal to adopt the Environmental Permitting Regulations provisions for the transfer (or partial transfer) of a permit for water abstraction or water impounding activity to be actioned upon the receipt of a joint application?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

### **Proposal 10 – Appeals**

Abstraction and impounding legislation and the Environmental Permitting Regulations contain similar provisions which allow an applicant or operator to appeal the Environment Agency's decisions; for example, within England appeals are made to the appropriate authority (the Secretary of State) and are generally delegated to the Planning Inspectorate.

We propose to adopt the Environmental Permitting Regulations appeals provisions to ensure there is a consistent approach across all regimes. The Environmental Permitting Regulations timescales for appeals are generally longer than the timescales set out in

water resources legislation (see **Table 1** in the **Supplementary Document** for appeal periods).

There are some specific aspects to the abstraction and impounding appeals regime not in the Environmental Permitting Regulations, such as the requirement for the Secretary of State to consider protected rights, lawful uses and river flows when making a decision with regards to an appeal. We propose that these requirements will be included within the Environmental Permitting Regulations for abstraction and impounding to ensure the Secretary of State has the same duty to protect abstraction rights and the environment in the future as they do now.

## **Proposal 11 – Permit Review Process**

We propose to adopt the Environmental Permitting Regulations approach of having permits that will be subject to periodic review. We propose to no longer have a system that is based on issuing time-limited licences and the associated licence renewal process.

A permit review is undertaken at any time to assess the permit in its current form and whether any changes need to be made to it. All existing abstraction and impounding licences will become permits on the transition to the Environmental Permitting Regulations and all permits will be subject to periodic reviews.

Permit operators will be notified that a review will take place and be informed of the purpose of the review.

It is proposed there will be two different types of review:

- programmed periodic reviews – these will be periodic planned reviews that are primarily based on catchment sustainability and an assessment as to whether abstraction is sustainable in catchments that are approaching their common end dates.
- individual review – it may be necessary in some cases for the EA to review and potentially vary a permit outside of the periodic review programme. It is proposed that abstraction and impounding adopt the Environmental Permitting Regulations approach of periodically reviewing permits.

More information is available in the Environment Agency's [Technical Annex: Permit Review](#), with this consultation.

### **Q18. Do you agree with the two types of review? If not, why?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

**Q19. Do you think there should be any other review type? If so, what?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

**Q20. How should the frequency of permit reviews be decided?**

## **Proposal 12 – Enforcement and suspension**

### **Enforcement and suspension notices**

The Environmental Permitting Regulations contain discretionary powers for the Environment Agency to serve enforcement notices (where an operator has contravened, is contravening or is likely to contravene a permit condition) and suspension notices (where the operation of the regulated facility under a permit involves the risk of serious pollution or risk of pollution). In either case the notice must explain what steps need to be taken to remedy the contravention or risk respectively and may include steps to remedy the effect of harm. Suspension notices can be partial or apply across an entire regulated facility and can only be used at permitted sites.

The term 'pollution' within the Environmental Permitting Regulations does not fully reflect the potential impacts of abstraction and impounding activities. We propose using the alternative terms 'harm to the environment' or 'risk of harm to the environment' to reflect their impacts on the environment. 'Harm to the environment/risk of harm to the environment' would not be defined in the Environmental Permitting Regulations but would be contained in guidance. We propose the following definition:

'Harm to the environment/risk of harm to the environment' means a result of human activity which may:

- cause harm to the conservation, protection and enhancement of any species and habitats designated under any enactment as having special protection or priority; or
- prevent the achievement of environmental objectives within the meaning of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017; or
- cause pollution; or
- otherwise adversely affect the protection and enhancement of the environment.

This is based on the definition used in flood risk activity permits under the Environmental Permitting Regulations. The application of this term and definition for abstraction and impounding activities would therefore be consistent with flood risk activities and is already established within the Environmental Permitting Regulations.

Enforcement notices already exist under current water resources legislation – section 25A WRA 1991 enforcement notices and compliance and restoration notices under the Environmental Civil Sanctions (England) Order 2010 can be used to enforce in similar circumstances. Suspension notices are new for abstraction and impounding activities. There is a power under section 57 of the WRA 1991 to restrict abstraction for spray irrigation purposes and stop notices served under the Environmental Civil Sanctions (England) Order 2010 have a similar effect. A suspension notice can be served in respect of all permits to stop abstracting under certain circumstances. For water abstraction and impounding activities, we consider a suspension notice could be used where necessary to suspend permits to prevent saline intrusion, during pollution incidents and where there are impacts on the environment as a result of prolonged low flows. When a suspension notice is in effect, subsistence charges are still payable and protected rights will not be affected.

We propose to adopt the Environmental Permitting Regulations enforcement (Regulation 36) and suspension notices (Regulation 37) for abstraction and impounding activities and amend the Environmental Permitting Regulations to include relevant impacts from abstraction and impounding activities. 'Environmental effect' for enforcement notices would be defined as 'harm to the environment' or 'risk of harm to the environment'. The 'risks' for suspension notices would be 'risk of harm to the environment' and 'risk of serious harm to the environment'.

These two notices are fundamental tools of the Environmental Permitting Regulations and would enable the Environment Agency to effectively and appropriately address permit condition breaches and actual or potential harm to the environment as with other regulated facilities.

### **Section 3 and 4 Water Act 2003 notices**

Within the existing water resources legislation two notices can be served in respect of unlicensed impounding works constructed before 1 April 2006. Under section 3 WA 2003 a notice can be served to require a person to apply for a licence where it is regarded necessary for the impounding works to be regulated. A section 4 WA 2003 notice can be served to require a person to undertake works including to alter or remove impounding works where necessary for the protection of the environment, or to allow the Environment Agency to perform its water resources management functions. The impounding works can remain unlicensed. These two notices are specific and necessary to abstraction and impounding management and do not currently exist in the Environmental Permitting Regulations. Therefore, we propose to move these sections into the Environmental Permitting Regulations for use on abstraction and impounding. The way in which the notices are served would align with other Environmental Permitting Regulations notices for consistency. The reasons for serving these notices and their requirements would not change.

## Civil sanctions

Civil sanctions are an important tool to help effectively regulate abstraction and impounding activities and the Environment Agency currently has six civil sanctions available as response options for offences under current legislation. These are:

- variable monetary penalty,
- enforcement undertaking,
- compliance notice,
- restoration notice,
- stop notice,
- fixed monetary penalty.

Under the Environmental Permitting Regulations regime only enforcement undertakings are available. We think it preferable to ensure that the Environment Agency does not lose the powers conferred by the other 5 sanctions set out above. However, there is some duplication between the civil sanction notice powers and what is already available under the Environmental Permitting Regulations via the enforcement and suspension notice powers as well as the new remediation notices which will be available on transition and which are described below.

A **compliance notice** is able to set a requirement to take such steps as the Environment Agency may specify, within such period as it may specify, to secure that an offence does not continue or recur (“a compliance notice”). There is a right of appeal against the notice.

A **restoration notice** is able to set a requirement to take such steps as the Environment Agency may specify, within such period as it may specify, to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed (“a restoration notice”). There is a right of appeal against the notice.

A **stop notice** can be served on any person in relation to a specified offence which prohibits the activity specified in the notice until the person has taken the steps specified. There is a right of appeal against the notice and the powers include a right to compensation if the service of the notice/steps specified in the notice were unreasonable.

The Environmental Permitting Regulations enforcement notice is very similar to a compliance notice and a restoration notice and the Environmental Permitting Regulations suspension notice is very similar to a stop notice and would enable the Environment Agency to take equivalent enforcement action in relation to permitted sites. The proposed remediation notices would be available for use in relation to unauthorised abstraction and impounding activities. We do not therefore propose to bring compliance notices, restoration notices and stop notices across into the Environmental Permitting Regulations on transition.

There are, however, some differences between them. An Environmental Permitting Regulations enforcement notice can be issued by a regulator if the regulator considers that there has been, is continuing or is likely to be a permit contravention. Compliance and restoration notices are subject to the requirement that before serving a notice the Environment Agency must be satisfied beyond reasonable doubt that the person has committed the offence and the requirement to serve a “notice of intent” before a final compliance/restoration notice. There is also no right to compensation for suspension

notices as there would be for stop notices where a person has suffered loss as a result of the service of the stop notice or refusal of a completion certificate where to do so in either case is found to have been unreasonable.

Therefore, we propose to retain and bring across into the Environmental Permitting Regulations regime (for abstraction and impounding activities only):

- fixed monetary penalties;
- variable monetary penalties; and
- third party undertakings in relation to variable monetary penalties.

### **Regulation 58A Environmental Permitting Regulations**

The Environmental Permitting Regulations also contain a power, where a regulated facility gives rise to a risk of serious pollution, for regulators to arrange for the risk to be removed. We propose that the current Regulation 58 for flood risk activities be replicated for exempt and permitted abstraction and impounding activities with an amendment to tailor it to those activities which are at risk of causing serious harm to the environment. The Environment Agency will be able to seek to recover costs incurred.

### **Remediation notices**

There are existing powers under the current legislation requiring remedial works for unauthorised abstraction and impoundment activities. We propose to bring these into the Environmental Permitting Regulations as two new notices for unpermitted abstraction and impounding activities for the Environment Agency to be able to require action to be taken where an operator needs to remedy the environmental impacts in respect of unpermitted activity. Enforcement and suspension notices can only be used at permitted sites. We propose to continue to enable the Environment Agency to recover costs from the responsible person/operator, incurred when undertaking remedial steps.

### **Section 216 WRA 1991**

Under the current legislation the Environment Agency has a duty to enforce the provisions for abstraction and impounding licensing; only the Environment Agency and the Director of Public Prosecutions can bring criminal proceedings. Under the Environmental Permitting Regulations, the Environment Agency is the enforcing authority in England and is responsible for compliance and enforcement activities. We propose to adopt the same enforcement position under the Environmental Permitting Regulations for abstraction and impounding activities, as for any other activity and remove the power for the Director of Public Prosecutions to bring proceedings/consent to the bringing of proceedings.

**Q21. Do you agree with the proposal to adopt the Environmental Permitting Regulations enforcement and suspension notices for abstraction and impounding activities?**

- Agree
- Disagree

Not sure/ don't have an opinion/ not applicable

**Q22. Do you agree with the proposal to use the term 'harm to the environment' and the definition proposed?**

Agree

Disagree

Not sure/ don't have an opinion/ not applicable

**Q23. Do you think there should be any additional points included in the definition?**

Yes

No

Not sure/ don't have an opinion/ not applicable

**Q24. Do you agree with the proposal to move the two existing notices for unlicensed impounding works into the Environmental Permitting Regulations?**

Agree

Disagree

Not sure/ don't have an opinion/ not applicable

**Q25. Do you agree with the proposal to retain and bring across only fixed monetary penalties, variable monetary penalties and third party undertakings in relation to variable monetary penalties?**

Agree

Disagree

Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response to Q21-25 where applicable.

## **Proposal 13 – Offences and Penalties**

The Environmental Permitting Regulations contain a range of offences and penalties. Summary offences are heard by a magistrates' court and are for the less serious offences; the maximum penalty is unlimited fine and/or 12 months prison. Indictable offences are heard by a Crown Court in front of a judge and jury; a person is liable to an unlimited fine and/or 2 or 5 years imprisonment. Some offences can lead to a summary conviction only, while others can lead to either a summary conviction or conviction by indictment.

Most offences in the water resources legislation have a clear equivalent Environmental Permitting Regulations offence. We propose to align abstraction and impounding activity offences and penalties with those in the Environmental Permitting Regulations and set the



maximum prison term at 2 years rather than 5 years as this more closely reflects the current abstraction and impounding legislation and also the potential impacts of an offence (see Tables in **proposal 13** in the **Supplementary Document**). Aligning with the Environmental Permitting Regulations does mean that certain offences which do not currently carry a custodial sentence will do on the transition to the Environmental Permitting Regulations. In some instances we propose to adopt offences in the Environmental Permitting Regulations for abstraction and impounding activities (which do not exist under current water resources legislation) and in others we propose to bring across into the Environmental Permitting Regulations offences specific to abstraction and impounding activities only:

- We propose to create a new offence (for Environmental Permitting Regulations), replicating the existing offence under the water resources legislation, for wilfully altering or interfering with a meter, gauge or other required under the provisions of a licence for abstraction and impounding activities only.
- We propose to create a new offence (for Environmental Permitting Regulations), replicating the existing offence under the water resources legislation, for causing or allowing any underground water to run to waste for abstraction and impounding activities only.
- We propose to adopt a new offence for abstraction and impounding activities (which is already in the Environmental Permitting Regulations) which states it is an offence for someone else to cause another to commit an offence.
- We propose to adopt a new offence under the Environment Act 1995 related to powers of entry for failure/refusal to provide facilities or assistance reasonably required by the Environment Agency officer.

A range of important safeguards exist within the enforcement system to ensure that enforcement action is proportionate to the risks posed to the environment and other abstractors and the seriousness of any breach. In addition, we propose to maintain the emergency specific abstraction and impounding exemptions and move them into the Environmental Permitting Regulations as an exclusion. The general defence provision provided under regulation 40(1) of the Environmental Permitting Regulations (see **proposal 13** in the **Supplementary Document**) would therefore not be applied to abstraction and impounding and the specific circumstances which constitute emergencies for abstraction and impounding will be set out within the relevant schedules.

With regard to drought permits, drought orders or emergency drought orders, the legislative provisions in respect of these will continue to apply under the WRA 1991 and will not be subject to any provision under the Environmental Permitting Regulations.

Powers of entry give the Environment Agency a wide range of essential legal powers to enter onto land or premises in order to assess compliance with environmental protection legislation. We propose to align abstraction and impounding with the other regimes under the Environmental Permitting Regulations and adopt the powers of entry and inspection under the Environment Act 1995 rather than the current powers of entry under the water resources legislation (see **proposal 13** in the **Supplementary Document**).

**Q26. Do you agree with the proposal to set the maximum prison term for an indictable offence at 2 years rather than 5 years?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

## **Proposal 14 – Public Register**

The Environmental Permitting Regulations require the Environment Agency to maintain public registers containing specified information. Exclusions exist to prevent information being placed on the register where its inclusion would be contrary to national security. Information may also be withheld from the public register where the regulator considers it may be commercially confidential. We propose to adopt the Environmental Permitting Regulations approach to maintaining the public register for applications and permits for a water abstraction or impounding activity. The Environmental Permitting Regulations public register requirements will apply from the implementation date and require the Environment Agency to keep considerably more information on the register than is currently collected. Currently the public register contains:

- details of the applicant,
- a brief summary of the proposal,
- key dates such as the decision date; and
- information on any changes to a licence, e.g. requests for revocation, transfer, vesting, or apportionment.

Under the Environmental Permitting Regulations the requirements are more comprehensive and would include additional information such as a copy of all applications to grant, vary, transfer or surrender a permit, every determination or notice of a decision on an application, all information obtained through monitoring and/or that is required by the conditions on the permit and all documents pertaining to an appeal. For the full details of the new requirements for the public register see the **Supplementary Document**.

For existing licences that will become transitional permits, there will be no back-population of data or information on to the public register for additional information now required to be provided on the public register.

The existing public register will remain in its current format and will be available for inspection by members of the public. The public register is also available online.

**Q27. Do you agree with the proposal to adopt the approach to maintaining the public register when we have moved into the Environmental Permitting Regulations?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

## **Proposal 15 – Advertising and public participation**

Under Schedule 5 (paragraphs 5 and 6) of the Environmental Permitting Regulations all applications for a new permit are subject to public participation (advertising) and all advertisements are digital and hosted online on the .GOV.UK website. An application to vary a permit may need to be advertised in some circumstances. We propose to move to a period of 20 working days for advertisements (aligning with the Environmental Permitting Regulations) rather than the current 28 day requirement.

It is proposed that abstraction and impounding will move to align with the Environmental Permitting Regulations approach of online digital advertising, except for High Public Interest (HPI) applications.

Under the Environmental Permitting Regulations, there is no newspaper advertising except in the case of applications that are classed as HPI where further public participation may be required which could include newspaper advertisements. The approach to advertising for HPI applications is decided on a case-by-case basis as outlined in the existing Environment Agency public participation statement.<sup>21</sup>

The Government believes that statutory notices in local newspapers continue to have an important role in supporting transparency and accountability, bringing matters to the public's attention which might affect their lives (such as HPI applications). There also is a particular need to reach out to people who cannot digitally access information. Therefore, we propose for advertising in newspapers for HPI abstraction and impounding applications to be mandatory in all cases.

It is proposed that provisions are included in the Environmental Permitting Regulations for water abstraction and impounding activities to allow for advertising to be dispensed with where appropriate (as is currently the case under section 37 of the WRA 1991). There are currently provisions in the Environmental Permitting Regulations (for flood risk specifically) to dispense with advertising and we propose to adopt something similar for abstraction and impounding. This is when the activity is:

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<sup>21</sup> <https://www.gov.uk/government/publications/environmental-permits-when-and-how-we-consult/environmental-permits-when-and-how-we-consult>

- not likely to have a significant appreciable effect on the environment, protected rights or other lawful uses; or
- in respect of which public consultation has been carried out under another statutory requirement where that consultation addresses the potential environmental impact of the flood risk activity.

Currently (sections 37 and 37A of the WRA 1991) the Environment Agency is required to send a copy of an application to specified persons (for example the relevant National Park Authority) and notify any relevant statutory consultees (including Internal Drainage Boards and Statutory Water Undertaker (Water Company)). The Environmental Permitting Regulations is different in that it requires the Environment Agency to take appropriate steps to inform the public consultees of an application and invite them to make representations (paragraph 6 of Schedule 5). The Environmental Permitting Regulations does not name specific organisations but rather leaves this to the discretion of the Environment Agency. The Environment Agency has agreed how they work with particular organisations through joint agreements such as ‘working together agreements’ and ‘memorandums of understanding’. We propose to align with the Environmental Permitting Regulations and move the current duty under legislation into guidance in the form of an agreement or memorandum of understanding.

The Environment Agency has a public participation statement setting out when and how it will consult on permit applications. It is proposed that this should be extended to cover water abstraction and water impounding activities.

**Q28. Do you agree with the proposal to move to online digital advertising for abstraction and impounding licence applications, except for High Public Interest applications which will require local newspaper advertisement as well as online advertising?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

**Q.29 Do you agree with the proposal to dispense with public participation (advertising) where there would no appreciable adverse effect on the environment and other abstraction rights?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

**Q30. Do you agree with the proposal to move the current duty under legislation to consult with key organisations to guidance in the form of an agreement or memorandum with the key organisations?**

- Agree

- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response to Q28-30 where applicable.

## **Proposal 16 – Vesting and Bankruptcy**

Under section 59B WRA 1991 vesting is a process which occurs when the existing licence holder of any type of licence, including temporary licences, no longer holds the licence because of death or bankruptcy. Vesting allocates responsibility for the licence to personal representatives (in cases of death) or a trustee in bankruptcy (in cases of bankruptcy) until it can be transferred or revoked. Currently there is a 15-month period to notify the Environment Agency of a vesting. Under regulation 71 of the Environmental Permitting Regulations the vesting period for the death of a sole operator is 6 months from the date of death. The Environmental Permitting Regulations does not cover bankruptcy. The consequences of the bankruptcy of a permit holder are determined in accordance with the usual operation of law under the relevant legislation and under this regime the permit would vest in the trustee in bankruptcy.

Under the Environmental Permitting Regulations, if the Environment Agency were not notified of the vesting within the 6-month period the permit would lapse and cease to have effect. We propose adopting the Environmental Permitting Regulations approach of a 6 month vesting period to align with existing Environmental Permitting Regulations regimes and create a single regulatory framework. This will apply to both new and transitional permits. A transitional provision will be in place to cover those circumstances where a licence holder dies within the 15 months prior to the date of the implementation of the Environmental Permitting Regulations. This is to ensure the licence holder (their estate) is not treated unfairly by the transition into the Environmental Permitting Regulations. In such circumstances, if the Environment Agency were not notified within the 15-month period from the date of death, then the transitional permit would lapse and a new permit would be required.

Where a transitional permit has vested, compensation rights will be retained by the new permit holder. Where there is a failed vesting this would be treated as a new application (in line with current approaches) and any permit issued would not have compensation provisions.

### **Q31. Do you agree with the proposal to adopt the Environmental Permitting Regulations provisions for vesting and the 6 month notification period?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

## **Proposal 17 – Climate change adaptation**

Since December 2019, there has been a provision under the Environmental Permitting Regulations to help industry understand and manage climate change, this is implemented through one of two approaches:

- 1) A specific climate change adaptation condition in the permit requiring a risk screening to be completed (this approach is followed by Waste/Installation regimes), Or
- 2) Climate change adaptation measures set out within the Environment Management System covered by condition 1.1.1 of the permit (this approach has been adopted by all other Environmental Permitting Regulations regimes).

Upon the move of abstraction and impounding licensing into the Environmental Permitting Regulations it is proposed to include climate adaptation measures within the Environment Management System. Operators would be required to establish how their activity could be affected by climate change and include the measures to manage this risk within the Environment Management System. These requirements are specified in the ‘Develop a management system: environmental permits’<sup>22</sup> guidance.

The Environment Agency currently assesses water sustainability as part of ongoing water resources management and the drive to address unsustainable abstraction; through measures outlined in the Water Abstraction Plan 2017. This will continue upon the move to the Environmental Permitting Regulations and will form part of the consideration for climate change adaptation measures.

**Q32. Do you agree with the proposal to include climate change adaptation measures within the Environment Management System? If not, why not?**

- Agree
- Disagree
- Not sure/ don’t have an opinion/ not applicable

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<sup>22</sup> <https://www.gov.uk/guidance/develop-a-management-system-environmental-permits>

**Q33. What, if any, further conditions would you propose to be included in a permit to help mitigate climate change?**

### **Proposal 18 – Protected rights, derogation and lawful use**

Currently, full abstraction licences and some exempt (unlicensed) abstractions attract protected rights. We propose including the current definition of what is a protected right in the Environmental Permitting Regulations for abstraction and impounding activities. We also propose retaining the duty of the Environment Agency not to derogate from existing protected rights when choosing to grant or vary a permit for an abstraction or impounding activity. This would be with the exception of an application for a permit for a groundwater investigation abstraction activity; see **proposal 5** for more detail. The liability of the Environment Agency to pay compensation if it grants or varies a permit which derogates from a protected right would also remain. These proposals will maintain the rights of existing licence holders and will be available to future abstractors in new permits.

Currently within abstraction and impounding legislation the Secretary of State can direct the Environment Agency to grant or vary a licence which would cause derogation from a protected right. For example, they may wish to do this where a proposed abstraction was in the public interest. In these circumstances the holder of the protected right who is derogated can claim compensation from the Environment Agency.

We propose that these provisions are carried across into the Environmental Permitting Regulations for abstraction and impounding.

Transfer and temporary abstractions, as well as many unlicensed (exempt) abstractions, do not attract protected rights and are instead considered lawful uses. Full abstraction activities are also existing lawful uses but have protected rights.

The Environment Agency must consider abstractions that are existing lawful uses when it chooses to grant or vary an abstraction or impounding licence and the Environment Agency can, having given due consideration to the potential effect, decide to grant a licence even if it would impact an existing lawful use abstraction. Lawful uses do not entitle abstractors to compensation.

We propose that these provisions are included within the Environmental Permitting Regulations for abstraction and impounding.

**Q34. Do you agree with the proposal to carry across into the Environmental Permitting Regulations the duty for the Environment Agency not to derogate from protected rights when considering a permit application or variation?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

**Q35. Do you agree with the proposal to include within the Environmental Permitting Regulations the duty for the Environment Agency to have regard to lawful uses when considering a permit application or variation?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response to Q34-35 where applicable.

## **Proposal 19 – Applying for a permit**

Under the current legislation, a person can apply to the Environment Agency for an impounding licence or an abstraction licence using the applicable forms; the Environment Agency has a duty to make a decision on that application.

There is a similar process under the Environmental Permitting Regulations which we propose to adopt for water abstraction and impounding activities. In addition to the current Environmental Permitting Regulations approach we propose the inclusion of a new 28-day time limit for determination of applications for a temporary licence.

All applicants must have an 'entitlement to apply' when they apply for a licence to abstract water of any type. This also applies to applications to transfer or apportion an existing (full or transfer) licence. To meet this requirement the applicant must either have:

- a right of access,
- a prospective right of access; or
- occupy the land.

This does not apply for an application for an impounding licence.

Entitlement to apply checks are required to confirm that an applicant has sufficient legal basis to abstract and to ensure any riparian owners would not have their basic rights of property affected.

We consider that rights of access checks are fundamental to the underlying principles of water resources management and propose that they should be carried across to the Environmental Permitting Regulations.

We also propose that the requirement to state the abstraction purpose will be retained when abstraction and impounding moves into the Environmental Permitting Regulations for a permit for a water abstraction activity. We propose to also retain certain provisions within the legislation which are essential for the licensing of abstraction and impounding where there are currently no similar Environmental Permitting Regulations provisions and carry these across into the Environmental Permitting Regulations. These are the



consideration of protected rights and derogation; the justification of the need for water and bulk supplies.

It is currently possible for the Environment Agency to serve a notice on an applicant where they consider that they have applied for the wrong type of abstraction licence; for example, where they have applied for a full abstraction licence when a transfer licence would be more appropriate. The Environment Agency would then determine the application for what they consider is the correct type of licence. The applicant has a right of appeal against this notice.

There is no equivalent process under the Environmental Permitting Regulations and so we propose to carry across the ability for the Environment Agency to issue an application notice into the Environmental Permitting Regulations for abstraction and impounding activities.

Under the Environmental Permitting Regulations, the Secretary of State can request that an application is referred to them for determination and they can instruct the Environment Agency to either grant or refuse it.

We propose to adopt the Environmental Permitting Regulations approach to referrals to the Secretary of State and include in the Environmental Permitting Regulations the requirement for the Secretary of State to take into account lawful uses and derogation from protected rights when considering an application for a permit for an abstraction or impounding activity.

**Q36. Do you agree with the proposal to carry across into the Environmental Permitting Regulations the ability for the Environment Agency to serve a notice on an applicant, and the ability for the applicant to appeal, in circumstances where the applicant has applied for an activity and the Environment Agency considers they have applied for the wrong type of activity?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

## **Proposal 20 – Permit applications by the Environment Agency**

The current abstraction and impounding licence sign off process for licence applications by the Environment Agency involves approval at the Deputy Director level within the Environment Agency and in Defra. Licence applications may also be called in by the Secretary of State.

Under the Environmental Permitting Regulations, the Environment Agency would need to apply for permits in the same situations that any other operator would if they were undertaking a water abstraction or water impounding activity. The level of sign-off for permits under Environmental Permitting Regulations is at the Deputy Director level within the Environment Agency and they are not signed off by Defra.

We propose to adopt the Environmental Permitting Regulations approach to permit applications by the Environment Agency which treats the regulator in the same way as any other operator. This would align abstraction and impounding with the other regimes under the Environmental Permitting Regulations. The Environment Agency would continue to ensure that its decisions for determining its own permits are free of bias and follow a comparable process to that of an external applicant.

The Environment Agency will notify Defra of a new Environment Agency permit application once it has been duly made and of the outcome of the application following determination. As with other permit applications, the Secretary of State can request that the application is sent to them for determination.

**Q37. Do you agree with the proposal to adopt the Environmental Permitting Regulations approach to permit applications by the Environment Agency?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

**Proposal 21 – Canal & River Trust Provisions**

There are provisions in the current legislation (section 66 WRA 1991) which state that no person other than the Canal & River Trust (CRT) is able to apply for an abstraction licence on waters owned or managed by the trust; with the exception of some waters where this does not specifically apply.

As such, all abstraction licences on the CRT waters are currently held by the CRT, even if they are not the abstractor. This does not apply to an application for impounding licence on CRT waters. It is proposed that these provisions are carried across into the Environmental Permitting Regulations.

We propose that once abstraction and impounding moves into the Environmental Permitting Regulations, new permits would continue to be granted to CRT as the operator; regardless of whether CRT are undertaking the abstraction, or it is carried out by a third party.

For existing transitional permits CRT will automatically become the operator when abstraction and impounding moves into the Environmental Permitting Regulations.

**Q38. Do you agree with the proposal to retain the existing provisions concerning the CRT when abstraction and impounding moves into the Environmental Permitting Regulations?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

**Proposal 22 – Civil Remedies for loss or damage due to water abstraction**

There is a provision in the existing legislation (section 48A WRA 1991) which provides that a person suffering loss or damage resulting from abstraction can seek compensation by making a claim against the abstractor. We propose that the ability for the affected person to seek this compensation will be retained after abstraction and impounding has moved into the Environmental Permitting Regulations.

There are no similar provisions for the other existing Environmental Permitting Regulations regimes, and this provision is not directly associated with the licensing of abstraction and impounding activities.

**Proposal 23 – Fishing rights and Ecclesiastical property**

There are specific provisions relating to fishing rights and ecclesiastical property under current water resources legislation.

*Fishing rights*

The owner of fishing rights can apply to the Secretary of State to revoke or vary a licence where they can show they have suffered loss or damage directly attributable to that licence (sections 55 and 56 WRA 1991). The loss or damage cannot be attributable to derogation from a protected right. This is a rarely used power with one, unsuccessful, case in the last 30 years of which we are aware.

We propose to repeal the relevant sections of legislation (including compensation for owners of fishing rights under section 62 WRA 1991) and not carry them across into the Environmental Permitting Regulations.

In determining the grant of a licence or the variation of one, regard has to be given by the Environment Agency to fishing rights in any event. We propose that this would still be the

case under the Environmental Permitting Regulations for abstraction and impounding activities as the Environment Agency will continue to have regard to existing lawful uses of water and amenity interests when granting or varying a permit.

### *Ecclesiastical property*

Section 67 WRA 1991 applies to applications and licence holders related to ecclesiastical property. Ecclesiastical property is land which belongs to a benefice, or forms part of a church or burial ground that is subject to the jurisdiction of a Church of England bishop or the site of a church.

Abstraction and impounding licences for ecclesiastical property (Church of England) do not need to specify the name of the licence holder. Instead, the incumbent benefice (e.g. vicar or reverend) is considered to be the licence holder and if this position is vacant the licence holder is considered to be the Diocesan Board of Finance for the diocese in which the land is situated. This section also details how any relevant compensation must be paid in respect of a licence related to ecclesiastical property, if it is due.

We propose to carry across this provision into the Environmental Permitting Regulations for water abstraction and impounding activities only. Any existing licence for ecclesiastical property will become a transitional permit on the move to the Environmental Permitting Regulations. We propose that the compensation provisions within section 67 are carried across into the Environmental Permitting Regulations for existing licences only on a transitional basis see **proposal 24**.

### **Q39. Do you agree with the proposal to repeal the relevant sections of legislation relating to fishing rights and not to take them into the Environmental Permitting Regulations?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

### **Proposal 24 – Compensation**

Where the Environment Agency varies or revokes licences, compensation is available to licence holders for:

- expenditure which is rendered abortive by the revocation or variation,
- loss or damage which is directly attributable to the revocation or variation.

Eligibility for compensation has been restricted by subsequent legislation in the following circumstances:

- to a water or sewerage undertaker,
- if a licence has not been used for 4 years,
- if the licence is causing serious damage<sup>23</sup>; or
- if there is an applicable minimum value condition included on the licence.

Under the Environmental Permitting Regulations the Environment Agency is not required to pay an operator compensation for varying or revoking a permit. We propose that the Environment Agency would be able to revoke or vary (under a regulator initiated variation) new Environmental Permitting Regulations abstraction and impounding permits issued under the Environmental Permitting Regulations without being liable to pay compensation (even if this causes the operator loss or damage) in line with the Environmental Permitting Regulations regime. This will bring consistency across the Environmental Permitting Regulations regimes and allow the Environment Agency to manage water resources to protect the environment, taking into account currently unknown future requirements, such as the impact of climate change.

For existing licences that will transition into the Environmental Permitting Regulations and become permits we propose that they retain their current right to claim compensation on a transitional basis. Therefore, both current permanent licences (without a time limit) and time limited licences will transition into the Environmental Permitting Regulations with their right to claim compensation for a regulator-initiated revocation or variation intact.

For transitional permits we propose this will continue until a voluntary action is taken on behalf of the operator which means that the licence is no longer considered a transitional permit (discussed in further detail below).

Once a transitional permit with a time limit expires the operator will need to apply for a new Environmental Permitting Regulations permit to continue abstracting. The new permit issued under the Environmental Permitting Regulations will be reviewable and will not have compensation rights and the Environment Agency would be able to revoke or vary (under a regulator initiated variation) this permit without being liable to pay compensation (even if this causes the operator loss or damage).

It is proposed that when a permit holder voluntarily applies for some variations, a transfer or part transfer, the permit holder will be issued with an Environmental Permitting Regulations permit which does not contain any statutory compensation rights. This would mean that the permit holder would then be unable to claim compensation if the

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<sup>23</sup> Serious damage policy should be regarded as what was consulted on by Defra in late 2012 - <https://www.gov.uk/government/consultations/the-water-act-2003-withdrawal-of-compensation-on-the-grounds-of-serious-damage>

Environment Agency made a variation to or revoked the permit in future. The circumstances proposed relate solely to an operator initiated variation where there could be an environmental impact, for example additional water is required or there is a change in purpose of the abstraction that is considered to negatively impact the environment.

Where the permit holder seeks a variation where there could be no environmental impact, compensation rights would not be removed as this would not be proportionate and there would be no link to environmental protection. We want to encourage these types of permit holder led variations and are confident that there is no risk to the environment. Similarly, where the variation is not voluntary, for example if it arises due to the death of the transitional permit holder – see **proposal 16** on vesting, compensation rights would not be removed.

We propose that in the following circumstances the Environment Agency will issue an Environmental Permitting Regulations permit (as long as the Environment Agency is satisfied that the needs of the environment and existing abstractors are met):

- upward variation of quantities,
- addition/change to a purpose which results in less water being returned to the environment,
- addition/change to a point or reach or an abstraction period which results in a net increase in abstraction OR an increased risk of a physical impact on existing water users, wetlands, springs, river baseflows, a designated conservation site or Habitats Directive site. This could include any reduction in flow, water level, depth or velocity.

If the variation applied for falls under a 'minor change' such as a change of name, or there is a benefit to the environment or reduction in risk to the environment from the proposed variation, then the Environmental Permitting Regulations permit issued will retain the statutory compensation rights for any future variation or revocation (see **Supplementary Document** for further information).

### **Permit transfer or part transfer of a transitional permit**

We propose that if a transitional permit holder (the transferor) seeks to transfer their permit to another person (the transferee), the transferee will be issued with a new Environmental Permitting Regulations permit which does not have statutory compensation rights. If a transfer takes place following the death of the transferor, the transferee will retain the existing rights to statutory compensation.

We propose that if a transitional permit holder (transferor) wants to part transfer (apportion) a permit to another permit holder (transferee) then the transferee is issued with a new Environmental Permitting Regulations permit that does not have statutory compensation rights. The transferor permit will be considered to be varied in these circumstances and whether they retain the original transitional permit or are issued with a new Environmental Permitting Regulations permit will depend on the environmental impact of the variation (as described above).

**Q40. Do you agree with our proposal to issue an Environmental Permitting Regulations permit to replace a transitional permit as a result of certain operator initiated variations and transfers/part transfers?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

## **Proposal 25 – Discharge of functions**

The Environmental Permitting Regulations identifies the regulator for each class of regulated facility. It is our intention that water abstraction and impounding activities in England as well as those that have been delegated to the Environment Agency are regulated by the Environment Agency. Water abstraction and impounding activities could occur at a site where other regulated facilities are permitted and where the regulator is not the Environment Agency. Part A1 installations are regulated by the Environment Agency but Part A2 and B installations are regulated by local authorities. We propose to specifically exclude water abstraction and impounding from regulation by local authorities where they are part of an A2 or part B installation to ensure they continue to be regulated by the Environment Agency.

## **Proposal 26 – Civil liability and defences**

Section 48 of the WRA 1991 specifies the general effect of a licence and defences to any civil action brought in relation to abstraction or impounding authorised by a licence. Section 70 of the WRA 1991 provides for civil liability under Chapter II. We propose that sections 48 and 70 are repealed as we move to Environmental Permitting Regulations. There is no equivalent provision within the Environmental Permitting Regulations on liability defences and it would be anomalous to have activities on a permit to which such provisions apply, when they do not apply to other activities under the Environmental Permitting Regulations which may be in the same permit.

**Q41. Do you agree with our proposal to repeal the liability defences under sections 48 and 70 and not carry them across to the Environmental Permitting Regulations?**

- Agree
- Disagree
- Not sure/ don't have an opinion/ not applicable

Please provide the reason for your response where applicable.

# Supporting documents

## Glossary

Term	Definition
Aquifer	An aquifer is an underground layer of water-bearing rock through which water can move.
Consolidation	Combining several permits held by the same operator into single permit without changing the conditions.
Contravene	To contravene a law or rule means to do something that is forbidden by the law or rule.
Derogation	The Water Resources Act 1991 (as amended) prohibits the regulator (the Environment Agency) from granting an abstraction licence, or impounding licence, that would prevent an abstractor from abstracting water to the extent mentioned in their licence (or exemption).
Duly made	An application is duly made when it has been through validation checks to ensure that all basic information has been provided and that there is sufficient detailed information to allow determination to start. The duly made date is the date that the determination period commences.
Environmental Management System	A written set of procedures required by a permit describing how activities and risks will be managed to protect the environment.
Full abstraction licence Full abstraction activity	A full abstraction licence / activity allows the abstraction of more than 20 cubic metres of water per day from a surface, tidal, or groundwater source for a period of 28 days or more.  Full abstraction licence / activity provide the holder with protected rights status.
Impounding licence Impounding activity	An impounding licence / activity authorises the holder to obstruct or impede the flow of a specified inland water at a specified point by means of impounding works.
Impounding works	'Impounding works' means either, any dam, weir or other works by which water may be impounded; or, any works for



	diverting the flow of waters in connection with the construction or alteration of such dam, weir or other works.
Indictable offence	More serious criminal charges are called indictable offences. An indictable offence is an offence where the defendant has the right to trial by jury. Indictable only offences must be tried in the Crown Court.
Installation	A stationary technical unit where one or more activities are carried out and any other location on the same site where any directly associated activities are carried out.
Lawful use	<p>An abstraction may not be defined as a protected right but it may still be a lawful use of water.</p> <p>A lawful use is a use of water that:</p> <ul style="list-style-type: none"> <li>• does not have a protected right,</li> <li>• but is a legal use, because it is exempt from licensing controls</li> </ul> <p>The Environment Agency must 'have regard to' abstractions that are lawful uses, when dealing with applications for new licences.</p>
Limited extension of validity - LEV	Where the Environment Agency has been unable to determine a renewal application before it expires, it is possible to extend the validity by a short period of time subject to certain criteria being met.
Previously exempt abstraction activities	Previously exempt abstraction activities applications are applications applied for under The Water Abstraction (Transitional Provisions) Regulations 2017.
Operator	The person who is responsible for the regulated activity and must ensure that the permit conditions are met.
Permit	The document issued by the Environment Agency that allows an operator to carry out certain activities at a given location and applies the necessary regulatory controls.
Permitted activity	The activity that is allowed to take place within the boundaries set within the permit.
Protected right	<p>A protected right is simply a right to abstract under:</p> <ul style="list-style-type: none"> <li>• a small abstraction (20m<sup>3</sup>/day) exemption,</li> </ul>

	<ul style="list-style-type: none"> <li>• a full abstraction licence</li> </ul> <p>The right protects the quantity of water that can be abstracted, up to the amount allowed by the exemption or in a licence.</p> <p>A protected right means that the regulator (the Environment Agency) has a statutory duty not to derogate (somehow take away from or weaken) the right, by granting another licence.</p>
Regulated facility	A collective term used to describe all the different kinds of operations that require a permit under the Environmental Permitting Regulations.
Stand-alone	An activity that is not carried out as part of the operation of a regulated facility of another class.
Summary offence	A summary offence is an offence that can be heard by a magistrate sitting alone, rather than a judge and jury. Summary offences are usually considered to be less serious offences.
Temporary abstraction licence	Temporary abstraction licence / activity allow a one off abstraction activity for a period of less than 28 days.
Temporary abstraction activity	A temporary abstraction licence is not considered to be a protected right.
Transfer abstraction licence	A transfer abstraction / licence allows the abstraction of water from one source of supply over a period of 28 days or more for the purpose of transferring the water to another source of supply, or between two points within the same source of supply.
Transfer abstraction activity	A transfer abstraction / licence is not considered to be a protected right.

## Table of Legislation

Legislation	Shortened reference in this document	Type
<a href="#">Water Resources Act 1991 (as amended)</a>	WRA 1991	UK Public General Act
<a href="#">The Water Resources (Abstraction and Impounding) Regulations 2006</a>		UK Statutory Instrument
<a href="#">The Water Resources (Abstraction and Impounding) (Amendment) Regulations 2008</a>		UK Statutory Instrument
<a href="#">The Water Abstraction (Transitional Provisions) Regulations 2017</a>	2017 Regulations	UK Statutory Instrument
<a href="#">The Water Abstraction and Impounding (Exemptions) Regulations 2017</a>		UK Statutory Instrument
<a href="#">Water Act 2003</a>	WA 2003	UK Public General Act
<a href="#">The Environmental Permitting (England and Wales) Regulations 2016</a>	Environmental Permitting Regulations	UK Statutory Instrument
Environment Act 1995		UK Public General Act
Water Industry Act 1991		UK Public General Act
Water Act 2014	WA 2014	UK Public General Act
Pollution Prevention and Control Act 1999		UK Public General Act
Regulatory Enforcement and Sanctions Act 2008		UK Public General Act
Environmental Civil Sanctions (England) Order 2010		UK Statutory Order