

# The Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006

Guidance for operators of abstractions & impoundments



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### SCOPE OF THE REGULATIONS

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

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



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

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

## LEGISLATIVE DRIVERS

### HABITATS DIRECTIVE

The Habitats Directive requires member states to have a formal/legal method of assessing the potential impact of abstraction/impoundments on protected and sensitive sites (e.g. a wetland). A protected site is defined as one which has a European designation, for example, a Special Area of Conservation or a Special Protection Area. If any activity may have a significant impact on a protected site, it will be subject to further assessment and consent controls. The Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 provide the controls required by this Directive.

### WATER FRAMEWORK DIRECTIVE

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

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### FEES AND CHARGES

On 1 Feb 2007 the Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 came into effect. The Regulations fulfil Northern Irelands obligation to the European Commission under the Habitats and Water Framework Directives, establishing a water resource management, assessment and licensing regime. The regulations provide a single and consistent environmental risk based approach that covers all abstractions and impoundment operations.

Following a consultation process a fees and charges paper was produced by the Department in 2008. Approval for the introduction of a Water Abstraction & Impoundment Licensing charging scheme was duly granted by the Environment Minister on the 9 June 2009 and with effect from 1<sup>st</sup> April 2010.

The fees and charges scheme has been developed with the aim of recovering the full costs associated with implementing the legislation and applies to anyone who abstracts from; surface waters (e.g. rivers, lakes and wetlands), coastal waters within 3 nautical miles of land and ground waters (e.g. wells, boreholes and springs).



## Guidance for operators of abstractions & impoundments

With effect from 1st April 2010 the following charges will apply:

- (1) A fee of **£135** for all applications to abstract and/or impound water of 20 cubic metres per day or more.
- (2) A fee of **£30** for any variations to an existing licence. This is to include any modification of a licence, the transfer of a licence to another person, technical variations to licence or the surrender of a licence.
- (3) No fee is required for applications to abstract between 10 and 20 cubic metres of water per day, however NIEA must be notified of details.
- (4) No action is necessary for an abstraction of less than 10 cubic metres per day but you must comply with Permitted Controlled Activities conditions as detailed on the Agency's website.

**Payment must accompany your application. Applications received without enclosing the relevant fee will be deemed incomplete by NIEA and returned to the applicant.**

## ANNUAL CHARGE

1st April 2010 marks the formal introduction of an annual charge payable by licence holders who abstract more than **100 cubic metres of water per day**.

The Department will determine the annual charge payable based on the information submitted in the application form and conditioned within the licence. Should an annual charge apply to your activity, the Department will issue a single bill each year to cover the calendar year 1<sup>st</sup> January to 31<sup>st</sup> December.

## Guidance for operators of abstractions & impoundments

### REDUCED FEES & EXEMPTIONS

Hydropower schemes with a designed installed generation capacity of 2 megawatts (MW) or less will not be subject to annual charges. This is due to the non consumptive nature of the associated abstraction.

The fee for fish farms will be the minimum annual charge. This is due to (a) the very low consumptive nature of the associated abstractions and (b) the fact they are currently subject to annual subsistence charges under an existing NIEA discharge consent charging scheme.

Abstractors who operate on a seasonal basis may also be subject to reduced annual fees.

Persons or bodies may be exempt from fees if the abstraction is used for:

- Extinguishing of fires, protecting life & property in the event of fire;
- Testing apparatus used for either of these purposes;
- Training or practice in the use of such apparatus
- Where the abstraction is for nature conservation or biodiversity reasons
- Sustainable drainage schemes (SUDS)

## PAYMENT METHOD

Payment should be made when submitting the application form. Please make cheques / postal orders payable to “The Department of the Environment”. Any application received without the fee will be deemed incomplete by NIEA and returned to applicant. Please do not send cash in the post. If you would prefer to pay by cash, this can only be done in person by visiting the Agency’s office in Lisburn.

Annual charges will be invoiced in advance for the 12 month period running from 1st January to 31 December. Details of payment methods will be stated on invoice when issued. Payments must be made within 30 days of the invoice date.

Further information on all aspects of the fees and charges scheme can be accessed at: [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk)

## Guidance for operators of abstractions & impoundments

It is your responsibility to ensure that you have submitted all the relevant information to allow your application to be considered. Your application may be returned if deemed incomplete. During processing, further information and details may be requested to enable us to determine your application. If further information is required you will be notified. Failure to supply this information may invalidate your application.

Dependant on the scale of the activity and/or the sensitivity of the location, you may be asked to advertise your application. The Agency will contact you if advertising is necessary. Advertisement must be carried out within 28 days of the date the notice is served.

**The operation of an Abstraction Licence does not confer a legal right to abstract water or a legal right to access land at any location within Northern Ireland. Any applicant applying for authorisation in accordance with these regulation should have established “water rights” and “access rights” either through ownership or by agreement with any relevant third party.**

## THE APPLICATION PROCESS

An application pack can be requested using any of the contact methods stated on the back of this booklet. Alternatively you may download it from the Agency website.

**The completion of an application form is not required for an abstraction of under 10m<sup>3</sup> per day (2,200 gal/day) however you must comply with the permitted controlled activities as detailed on page 13.**

## KEY INFORMATION

If you intend to install a hydro-electric power scheme, operate a fish farm or quarry, plan to irrigate land, or abstract volumes over 100m<sup>3</sup> per day, then it is strongly recommended that you contact the Agency prior to application.

### Please note

All completed applications and licences will be kept on a public register. All information captured in this application will be held in accordance with **The Data Protection Act 1998** (see Annex B).

### Under these regulations it is a criminal offence to:

- **Fail to provide the Department with information about abstractions of volumes greater than 10m<sup>3</sup> per day.**
- **Make false statements in order to obtain a licence where one is necessary.**
- **Impound or abstract water without a licence where one is necessary.**
- **Fail to comply with conditions on a licence.**
- **Interfere with meters or other devices to measure quantities of water abstracted.**

## AUTHORISATION PROCESS

There are two levels of authorisation:

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

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

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

**Guidance for operators of abstractions & impoundments**

Authorisation for impoundments will be determined as follows:

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

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

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

**\* PERMITTED CONTROLLED ACTIVITIES (PCA)**

Summary of the conditions which apply to low risk activities:

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

## FOR FURTHER INFORMATION, ADVICE OR AN APPLICATION PACK PLEASE CONTACT:

Northern Ireland Environment Agency  
Abstraction & Impoundment Licensing Team  
17 Antrim Road  
Lisburn  
BT28 3AL  
Tel: (028) 9263 3482  
Fax: (028) 9267 6054  
Website: [www.ni-environment.gov.uk](http://www.ni-environment.gov.uk)  
Email: [AIL@doeni.gov.uk](mailto:AIL@doeni.gov.uk)

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

<http://www.ni-environment.gov.uk>

### APPEAL PROCESS:

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

### **Appeals against Notices should be addressed to:**

The Water Appeals Commission  
3<sup>rd</sup> Floor, Park House  
87-91 Great Victoria Street  
Belfast BT2 7AG  
Tel. (028) 9024 4710  
Website: [www.pacni.gov.uk](http://www.pacni.gov.uk)

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

Northern Ireland Environment Agency  
Abstraction & Impoundment  
Licensing Team,  
Water Management Unit,  
17 Antrim Road, Lisburn BT28 3AL  
T. (028) 9263 3462  
[www.ni-environment.gov.uk](http://www.ni-environment.gov.uk)

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

