

The Water Bill

House of Commons

Parliamentary Briefing

Background

The Water Bill originated from the 1997 Water Summit. In the subsequent consultation document *Taking Water Responsibly* [DETR 1999], the Government stated that it intended to make the water abstraction licensing system contribute to sustainable development by protecting the water-dependent environment and where possible enhancing it.

English Nature welcomes and supports the intention of the Water Bill. However, we have advised that certain areas should be strengthened.

What does the Bill propose?

1. **Improved water abstraction licensing.** Reform of the archaic abstraction licensing system - most abstraction licences date back to the 1963 Water Resources Act and do not account fully for their environmental impact.
2. **Better economic regulation in the water industry.** Replaces the Director General of Water Services with a Water Services Regulation Authority, with a principal objective to "protect the interests of consumers", and creates a Consumer Council for Water.
3. **Competition in the water industry.** Limited competition is introduced for non-domestic large water users.

Why is English Nature interested in the Water Bill?

English Nature is the Government's statutory adviser on biodiversity, geology and geomorphology. A third of biological Sites of Special Scientific Interest (SSSIs) in England include freshwater and wetland habitats. Sufficient water supplies, in the right place at the right time, are fundamental to meeting the needs of these special wildlife sites. English Nature and Environment Agency figures suggest that 280 sites of European importance (Natura 2000 sites) and an additional 100 SSSIs are affected by water abstraction. Measures contained within the Bill will help to reduce impacts of abstraction on our important wildlife sites and provide an opportunity to achieve sustainable management of water resources for people and wildlife.

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It is vital that improvements in the Bill, as drafted, are not lost as a result of particular amendments. English Nature has particular concerns with regard to the following areas:

1. Improved Water Abstraction Licensing

1.1 English Nature welcomes the provision that all new licences should be time-limited from 15 July 2012 onwards, this is in keeping with the Environment Agency's current licensing activity. However:

1.1.1 English Nature recommends that the process for voluntary conversion to time-limited licences be supported by clear targets and milestones. Most existing damaging licences are licences of right. English Nature supports the gradual conversion for environmentally damaging licences towards 2012, as proposed by the Government. However we call for supplementary guidance with milestones, and progress reports in 2006, 2008 and 2010. These dates are in line with EU Habitats Directive reporting requirements and the Defra Public Service Agreement target to achieve 95% of Sites of Special Scientific Interest in favourable condition by 2010 (Clause 21).

1.1.2 English Nature recommends that the term "serious damage" be replaced by "significant damage", to make it consistent with the approach followed in the Habitats Regulations. English Nature welcomes the provision that existing licences of right can be revoked or varied without compensation from 15 July 2012 in order to protect other water, underground strata or flora and fauna dependent upon them from serious damage. The term "serious" is open to legal interpretation and this would make the process of revocation or modification after 2012 a very lengthy and complex process. It would also hamper the Environment Agency in exercising its modification and revocation powers (Clause 29).

1.2 English Nature recommends that the definition of discrete waters for abstraction licensing purposes needs to be redefined. Abstractions from discrete waters are exempt from licensing (Section 221 of the Water Resource Act 1991). Discrete waters are defined as lakes, ponds or reservoirs either alone or in a group of two or more connected lakes, ponds or reservoirs that do not discharge in to any other inland waters. This definition includes certain water-dependent ecosystems such as ponds and rainwater-fed lakes, several of which are SSSIs. Abstraction from these waters is currently not regulated, which leaves these water bodies vulnerable to exploitation and damage.

1.3 English Nature recommends that trickle irrigation should be brought within the regulatory system and not be exempt from abstraction licensing procedures. Amendments to exempt these activities should be resisted. Trickle irrigation abstracts water from the common resource and should thus be judged to the same standards as all other abstractors. English Nature recognises that trickle irrigation is a relatively effective use of water. The favourable position of trickle irrigation could, for instance, be shown in the pricing of water abstracted under the licence. The current 'loss equation' is a good basis to ensure favourable pricing for trickle irrigation. The relatively reduced use of water in comparison with spray irrigation should already result in a smaller cost, since pricing is based on abstracted volume (Clauses 9 and 11).

1.4 English Nature recommends that amendments providing blanket exemption on abstraction during winter months for storage should be resisted. In general, we support the collection of excess water by farmers during winter months for storage and subsequent use during the summer, but we have concerns that this practice may have detrimental environmental impacts under certain conditions. Keeping these abstractions within the licensing system provides an opportunity to monitor the extent of this practice and consider the implications further (Clauses 4 and 9).

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- 1.5 English Nature recommends that de-watering of quarries should be included within abstraction licensing; amendments to exempt these activities should be resisted.** Although quarries are non-consumptive water users, English Nature strongly recommends that these abstractors should abide by the same environmental regulations as other abstractors. The excavation of material and associated change in groundwater flow patterns can have potentially negative impacts on hydrologically linked water-dependent nature reserves. Whilst mitigation through infiltration of the abstracted water can be successful, this is not always the case. Furthermore, the water quality and quantity in receiving streams can be altered, this could also affect water-dependent nature reserves. We therefore recommend that these abstractions be screened for their environmental impacts through abstraction licensing (Clause 7).
- 1.6 English Nature believes that navigation authority reservoirs should be included under abstraction regulation.** Abstraction or transfer from these reservoirs could impact wildlife, especially where the ecological functioning of the species of interest is dependent on particular water levels. Furthermore, inclusion in the abstraction licensing system would facilitate the implementation of strategic long-term water resource management as promoted under the Catchment Abstraction Management Strategy (CAMS) process (Clause 7).
- 2 Better economic regulation in the water industry**
- 2.1 English Nature supports the duty on water companies to further water conservation, we recommend that this duty be widened to include all water abstractors and not only the water companies.** A more broadly placed duty would be in line with the original ethos of the Bill that set out to reform the water licensing system and help to achieve sustainable and efficient water management. More efficient use of resources is a central plank of the Government's sustainable development programme. *A better quality of life - a strategy for sustainable development for the UK* (DETR 1999) specifically identifies "safeguarding freshwater resources and water quality, at a time when pressures from climate change and household demand are likely to increase" as a major challenge. This strategy is supported by the sustainable development indicators of water demand and availability, water leakage, abstractions by purpose, and household water use and peak demand. A water conservation duty would translate this commitment to the water industry (Clause 81).
- 2.2 English Nature supports a water efficiency duty for all public bodies and abstractors.** "Prudent use of natural resources" is one of the Government's sustainable development aims. Water is a renewable but limited resource, which is vital for public health and the environment. Water use is growing and safeguarding our resources and promoting efficiency for all public bodies, through a water efficiency duty, is essential for sustainable development (Clauses 84 and 85).
- 2.3 English Nature recommends that the Consumer Council for Water should have a sustainability duty.** Recent research has clearly indicated that the interest of the consumer goes beyond price and we believe that this interest should be reflected in a sustainability duty. Such a duty would give the Council the legitimacy to consider how its policies and actions affect issues such as public health, water quality, associated clean-up costs and the effects of abstraction on the natural environment (Clause 45).
- 3 Competition in the water industry**
- 3.1 English Nature recommends that new entrants to the water market (Schedule 4) should be regarded as public bodies so that they will have the same environmental obligations as the existing water companies under S28G of the Countryside and Rights of Way Act 2000.**

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4 Water Framework Directive

- 4.1 English Nature believes that the Water Framework Directive should be delivered through carefully drafted regulations rather than amendments to the current Water Bill.** Our concern is that amendments relating to the Water Framework Directive may delay the passage of the Water Bill, which is fundamentally important to ensure that water abstraction is undertaken in a sustainable manner. We believe that secondary legislation is the best way to meet the timescale for transposition of the Directive into domestic law by the end of 2003.

However, English Nature is not opposed to making reference to the Water Framework Directive within the Water Bill. English Nature does have concerns with regard to transposition of specific aspects of the Water Framework Directive and has been working closely with Defra and the Environment Agency to ensure our concerns are taken into account through regulations and departmental guidance.

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