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Contact: Paul Hammett
Email: paul.hammett@nfu.org.uk

Tel: 01638 672106
Mobile: 07778 337852

Consultation: Strategic Review of Abstraction Charges (SRoC)

Introduction

The Environment Agency has published its long-awaited consultation to review the abstraction charging regime. The consultation will run for 12 weeks with a 10 November response deadline.

Charges are used to fund the Agency's duties for managing water resources in England. The underlying principles of the charging regime have remained unchanged for many years and, although individual charges do change, the EA says that they no longer allow it to fully recover costs it incurs to meet existing demands and future pressures.

Moreover, as the climate changes and the populations grow, the way that water is managed as a valuable resource must change to avoid situations where we run out of water and rivers dry up. Further investment in water management will be needed.

The EA wants to manage a step-change in its strategic approach to managing water which will benefit all current and new abstractors, as well as the environment. It wants to deliver a new and consistent regulatory regime, a modern service, with better local engagement. It wants to capture the shared planning solutions identified in [abstraction licensing strategies](#) and improve more surface water and groundwater bodies so that they meet required environmental standards.

Pressure on water resources is set to continue. The EA wants to deliver strong and effective water management to secure future water supplies, protect users' access to water and manage drought. This will require greater co-ordinated effort between regulators and the businesses that use water.

The consultation

The consultation seeks views on the proposed charging approach for water resources abstraction and impounding licensing. All documents relevant to the consultation can be found [here](#).

The NFU encourages all members who abstract water to respond to the consultation. It will be particularly important for farmers and growers to comment on any identified changes to charges that they will be subject to, and the impact of those costs on their businesses.

Principles

The EA wants to reform the water resources charging scheme so that it is fairer and works better for business and the environment and is financially sustainable.

The review forms part of the process to modernise the abstraction service that is already underway and is subject to the principles of:

- Promoting actions that will develop an even better environment for people, wildlife, and growth
- Delivery of the most effective and targeted regulatory service
- Promoting value for money, fairness, transparency, and simplicity under a single national charge account
- Ensuring alignment with HM Treasury's Managing Public Money requirements
- Seeking cost recovery for legitimate costs of water resource management and regulation

The current charging scheme

The existing scheme is based on principles of charging abstractors relative to the potential effect of their licences on the water environment, rather than in relation to the services provided by the EA.

The current annual charge is calculated using the volume authorised, multiplied by other factors including source of supply; season; loss of water to the environment; and a regional standard unit charge.

The current application charge has two tiers: a lower application charge (£135) for most licences needed by farmers and growers; and a higher application charge (£1500) for specific licence types such as transfer licences. Therefore, for most farmers and growers, the cost of the work carried out by the EA is recovered through annual charges.

The proposed charging scheme

The EA wants to move to a new cost recovery charging scheme that includes charges based on the service provided. For example, it believes that those who abstract more water, abstract in a catchment of restricted water availability or whose abstractions need to be covered by additional significant modelling activity should pay more.

Customer impacts

The EA has undertaken an economic impact analysis of the proposals set out in this consultation which can be found [here](#).

The EA says that it is difficult to assess the impact of its proposed changes where licences are held by individuals or small and medium-sized enterprise (SME) operators because the financial accounts of these operators are not publicly available. The EA seeks further financial evidence from SMEs like farmers and growers, particularly where it indicates disproportionately adverse impacts on them.

Cross border issues

The Environment Agency and Natural Resources Wales have operated separate abstraction charging schemes since 2014. Abstractors are billed based on the regional charge areas in which they are located as defined by river catchment boundaries and the political boundary. Customers in Wales who pay their abstraction charges to Natural Resources Wales will see no change.

Isles of Scilly

The water resources abstraction and impounding licensing regime for England will be introduced to the Isles of Scilly on 1 October 2021. From then, abstractions of more than 20 cubic metres per day of water from a surface water or groundwater source will require a licence and it is expected that proposals set out in this consultation will apply to the Isles of Scilly.

Environmental Permitting Regulations

Government is working towards moving abstraction and impounding licensing into the Environmental Permitting (England and Wales) Regulations (EPR). Defra plans to consult in autumn 2021 with a view to implementing the transition to the EPR England in 2023.

The EA proposes to align the proposals and approaches in this charging consultation as far as possible to fit with the move into the EPR. It will consult again if there are any charging changes required following transition of abstraction into EPR.

Environment Agency water resources services

The EA carries out a wide range of activities to manage water resources, ensure sustainable abstraction and to protect the environment and abstractors' water rights and its charging proposals are designed to adequately fund them.

In particular, the EA wants to make further investment in maintaining and operating ageing infrastructure, modernising the licensing system through digital transformation, and protecting and enhancing the

environment through a more sustainable approach to water abstraction with increased emphasis on rare and sensitive habitats.

Application charges

Application charges apply to new licences (including the renewal of time limited licences) and the variation of existing licences.

The proposed application charging framework is the same for all application types. EA proposes an application charge made up of two parts:

1. An application charge using the activity type, volume applied for and the water availability to determine the charge and
2. Additional charge factors for those applications that require additional work

The 'basic' application charge will cover the cost of the activities carried out to assess and determine an application to abstract or impound water, including the provision of basic pre-application advice, for example to signposting to the relevant forms and guidance.

Applications for non-consumptive activities where all water is returned to the same source of supply, such as fish passes, will not incur costs associated with work around water availability because it is not ultimately removed from the environment.

Additional charge factors will be applied to applications that require extra work. This includes more complex applications that require work such as external consultation, conservation assessment, advertising, relating to Sites of High Public Interest, environmental monitoring schedules and those involving competing schemes.

Additional charge factors also apply to applications that are amended during the technical determination. Licence holders that are water undertakers (as regulated by Ofwat, mainly public water companies) will incur an additional charge.

The EA proposes the retention of fixed application charges for licences to create impoundment structures such as a sluice, weir, or dam.

Further information on is available in the document 'draft water resources charging guidance' [here](#).

Time and materials charges

The EA proposes charging for the use of time and materials to cover the costs of the applicant's request for additional work such as for:

- Discretionary services such as enhanced pre-application advice
- Applications of high public interest
- Applications that compete for the same water (known as competing schemes)

The EA will seek full cost recovery and will charge at an hourly rate set out in the draft legal charging scheme.

Multiple activities

It is proposed that discounts may be applied where an application is made for more than one activity by one applicant where they reflect the time saved during the determination period, for example where one consultation can apply to multiple activities.

Discounts will apply when the proposed activities are reasonably considered to be part of the same operation. If the activities are operationally independent, then the full application charge for each activity will apply. If the application includes non-water resources activities as part of the operation, they will be charged for separately.

The highest application charge will be charged in full and discounts may then apply to any activities reasonably considered to be part of the same operation:

- 90% reduction of the relevant application charge for activities that take water from the same source, which take water from and discharge it back to the same source and can be reasonably considered to be part of the same operation
- 50% reduction of the relevant application charge for activities that take water from different sources of supply and that can be reasonably considered to be part of the same operation.

Further information on is available in the document 'draft water resources charging guidance' [here](#).

Applications to renew time limited abstraction licences

Currently all new abstraction licences are issued with a time limit, with licences referred to as time limited licences (TLLs). A high proportion of the 5,000 approx. TLLs (out of a total 17,500 abstraction licences) are held by farmers and growers. Time limits are normally tied to the common end date for the catchment on which the licence is located and licensing in each catchment operates on a six-year cycle.

New TLL will normally be granted for 6-18 years depending on the proximity of the catchment common end date at the time of grant. Licences renewed at catchment common end dates have usually been time-limited for 12 years to the next end date. Under certain circumstances, the EA may grant longer duration licences (such as farm reservoirs) for up to 24 years. TLLs and all the abstraction rights associated with them end on the expiry date although, until recently, there has been a presumption in favour of licence renewal based on the terms of the previous expired licence.

At TLL expiry, the licence holder must apply to renew their licence if they want to carry on abstracting. Renewal can be applied for on the basis of:

1. 'Same terms' as currently stated on the expiring TLL. The application is assessed for sustainability, efficiency and impact other abstractors or protected sites. Where the application meets these tests a new TLL is issued on the same terms as the previous licence. If not then the licence conditions and/or the volume authorised for abstraction will be changed to make the new time limited licence sustainable.
2. 'Different terms' to the licence conditions on the expiring TLL. The application is assessed using the same process as a new application to abstract water. The new TLL will be issued with new conditions for abstraction.

The EA proposes that applications to renew TLLs licences are divided split into two application charge categories. Renewal on the same terms will charged at a fixed rate whilst renewal on different terms will charge at a variable rate.

Further information on is available in the document 'draft water resources charging guidance' [here](#).

It is likely that the practice of determining new and renewal TLLs will change when abstraction licensing moves to the EPR system of permitting. Some TLLs and time limited variations to existing licences of right (LoRs) will expire before water resources licensing moves into the EPR, while others will expire after the transition to EPR. To avoid disadvantage to the TLL renewals after transition to EPR, it is proposed that 'same terms TLL renewals will be 'held'.

Licence variations

Where the licence holder applies to change the terms of the licence, an application to vary that licence must be made.

The EA does not currently apply charges for simple administrative changes to licences. It is proposed that applications will remain free of charge for simple licence variations including:

- Name, address, and trading title change
- Transferring a licence between licence holders
- Vesting (to end a licence on death or bankruptcy of the holder or insolvency of a company)
- Revocation of a licence

It is proposed to introduce an application charge for other types of licence variation, with the charge depending on the complexity of the variation. The variation types include:

- Minor variations which need for limited technical input but do not demand external consultation such as apportioning a licence, reducing the volume, and removing the purpose from a licence. It is proposed to apply a fixed application charge for these variations
- Normal variations which need technical input, for example increasing abstraction volume, adding an additional abstraction purpose, or adding an additional abstraction point. It is proposed to charge 50% of the application charge for a new licence for these variations
- Substantial variations which include the need to carry out significant assessment, for example where an applicant makes multiple changes to an existing licence. It is proposed to charge 90% of the application charge for a new licence for these variations

Annual charges

Annual charges are applied to all authorisations to abstract or impound water, unless specifically exempted. It is proposed to retain the following exemptions from the annual charge:

- Transfer licences – to move more than 20 cubic metres of water a day from one source (or within same source for some activities) to another without intervening use
- Temporary licences – to abstract more than 20 cubic metres of water a day over a period of less than 28 days
- Impounding licences – to create or alter an impoundment structure such as a sluice, weir, or dam
- Licences which authorise abstraction for direct use in the production of electricity or any other form of power by generating station or apparatus of a capacity of not more than five megawatts
- Licence for abstraction from inland waters which the Environment Agency or its predecessors has certified as having an average chloride content in excess of 8,000 milligrams per litre

Annual charges are applied to cover the costs incurred for water resource management activities carried out to protect the environment and the rights of those who have a water resources licence. The breadth and diversity of activities requiring licences means that there is significant tailoring of the regulatory activity to different licensable activities.

Further information on is available in the document 'draft water resources charging guidance' [here](#).

The EA has developed a charge indicator tool that helps abstractors to identify their annual charge under these proposals. You can access the charge indicator tool [here](#) (click on the link and then scroll down the page to find the related document).

It is proposed that the annual charge is made up of two parts:

1. Base charge that covers the costs for activities we carry out for all licence holders
2. Additional charge factors for those licence holders that require additional activity.

Base charge

It is proposed that the base will be derived from the following factors:

1. **Source of supply** - A lower annual charge is proposed for abstractions from tidal sources of water. Since water availability is not an issue, less monitoring and regulatory work will be required. The need for data analysis and environmental reports is also reduced.
2. **Authorised volume** - Annual charges are categorised based on the volume of water authorised to be taken on each licence in megalitres a year. The more water a licence authorises for abstraction, the greater the environmental risk posed. This means an increased level of monitoring and assessment and therefore an increase in our annual charges. It is proposed to base charges on categories/thresholds of volume (rather than units of volume as at present).

3. **Purpose of abstraction** - EA activity is scalable to the amount of water lost to the environment; the higher the loss of water to the environment, the more monitoring, assessment, and compliance activity it needs to carry out. This reflects the higher potential for causing adverse environmental impacts. It is proposed to also base annual charges on loss categories. The purpose of abstraction indicates the loss of water to the environment.

The draft legal charging scheme sets out the loss category for each purpose of abstraction, with three loss category groups proposed:

- **High loss** – including any activity that removes water from the source of supply and is not returned to that source after use, for example trickle or spray irrigation
- **Medium loss** – including activities that remove water from the source of supply and which is partially returned to the environment, for example, general washing, general farming (excluding trickle and spray irrigation) and domestic supply
- **Low loss** – including activities returning water directly to the source of supply in close proximity to the abstraction point, for example, aqua-culture, water-based cooling

Additional charge factors

It is proposed that additional costs will also be recovered through annual charges where they apply to some abstractions:

- **Water availability** – in catchments with 'restricted water available' or 'no water available' the EA carries out additional assessment work. This charge will account for additional work to monitor, assess, and manage water in these catchments.
- **Supported sources** – the EA incurs costs to monitor, manage and operate assets which augment and support surface water and groundwater resources. The cost of some of these activities are included in the current charges scheme under the supported sources schedule. However, it is proposed to increase the number of supported sources in the charging scheme to recover the cost of this work. Under this proposed charging approach, the cost of these additional services is recovered only from those licences that require the support to operate.
- **Specialised modelling** – it is proposed that the cost to carry out specialised modelling be applied to those licences in areas where modelling is required. These models are used to improve EA understanding and management of the water resources in the areas covered by the model. They are used to support regulatory decisions on managing water resources.

Additional water undertaker charge

It is proposed to levy an additional charge to licences held by water undertakers (as regulated by Ofwat) that authorise water abstraction for public water supply, or which supports the provision of public water supply.

This charge will cover the cost of the additional activities carried out to regulate these licences. For example the preparation, assessment and evaluation of statutory Water Resource Management Plans and Drought Plans. The EA proposes to recover this charge proportionally based on the impact the abstraction has on the water environment.

Revised supported sources schedule

It is proposed to extend the schedule of supported sources in the current abstraction charges scheme. The new scheme will include surface waters and groundwater where the EA carries out additional activities to ensure abstraction can take place. It proposes a more cost-reflective charges scheme where only those licence holders whose abstractions require this support pay for the service.

If this proposal is implemented, the EA expects over 50% of the licences from existing supported sources will not incur a supported source charge in the future, though some licences will attract a charge for the first time. The number of licences that incur the supported source charge would reduce by 14%.



Because the assessment considers the scale of abstraction in proportion to the support provided there will be a shift in the type of abstractions that pay the supported source charge. The most noticeable shift is that 114 licences in the agriculture sector and 20 licences in the industrial, commercial and services sectors will no longer incur the charge, and 81 licences in the water supply sector and 15 agriculture licences currently not charged, will pay the supported source charge.

Further information on is available in the document 'draft water resources charging guidance' [here](#).

Compensation charge

The current charges scheme includes a compensation charge (through the Environmental Improvement Unit Charge or EIUC) for the recovery of costs associated with the revocation or variation of abstraction licences under section 52 of the Water Resources Act 1991. It can also be used to recover compensation costs associated with the refusal of applications or curtailing of abstraction in relation to the removal of exemptions from abstraction licensing control such as trickle irrigation (sections 26 and 29 of the Water Resources Act 1991). It is proposed to retain the compensation mechanism in the new charging scheme.

It is proposed to retain the current approach of levying a supplementary charge that is a proportion of the annual charge due for each licence. This will be determined on a regional basis to enable collection of compensation funds by region (as required).

The EA has not raised a compensation charge in recent years and it will continue to be held in abeyance. The EA will issue a specific consultation if it proposed to levy the new compensation charge.

The Water Act 2014 removed the ability for water undertakers and sewerage undertakers (public water companies) to claim compensation for regulator-initiated reduction or removal of abstraction licences. The compensation charge does not apply to water undertakers or sewerage undertakers, as such matters form part of the Price Review process regulated by Ofwat.

Time and materials charges

It is proposed to charge time and materials costs for any additional compliance effort that needs to be carried out. These would typically be unplanned events that could cause significant harm to the environment. Time and materials charging allows the cost recovery of:

- Staff time
- Consultants, contractors, or equipment they need to use
- Community engagement work that may be needed as the result of over-abstraction

It is proposed to charge for unplanned events at an hourly rate for staff time plus the cost of any materials or equipment used.

Abatement of annual charges

Some licensed abstractions provide important environmental and amenity benefits. The Water Resources Act (Section 126) provides a mechanism for customers of these licence types to seek an agreement to abate all or part of their annual charge. Section 126 agreements can be entered into when an abstraction, in whole or part, contributes to the fulfilment of the Environment Agency's duties and responsibilities.

It is proposed that charges may increase for some abstractions that are for environmental benefit. However, the EA does not want to see these activities cease or scaled back and so it proposes to continue to offer a provision similar to section 126 agreements under the new charging scheme. Licences which meet the criteria below would be considered on a case-by-case basis.

Abatements are generally agreed where the abstraction is for environmental benefit, contributes to EA duties and responsibilities and the licence holder does not gain commercially from the abstraction. Examples include those for abstractions which are used to:

- Supplement flows to wetlands to support wading bird populations

- Increasing the water level in a pond to support a designated special wildlife site, which has been affected by reduced groundwater levels as a result of others' abstraction
- Increased flow to a number of wildlife ponds to improve water quality issues caused by others

Two-part tariff agreements

Two-part tariff agreements (Water Resources Act 1991 Section 127) allow the annual charge for spray irrigation licences to be divided into two parts:

- Part 1 – the abstractor pays 50% of the charge based on the authorised annual quantity. This charge is invoiced through the annual bill run in April.
- Part 2 – the abstractor pays a supplementary charge that is 50% of the charge based on the actual abstracted quantity reported and is payable in arrears (after the abstraction season).

It is proposed to retain the special charge agreement available for spray irrigation, and to introduce this special charge for trickle irrigation.

The licence must specify an annual authorised volume solely for spray or trickle irrigation. Where a licence specifies a combined annual volume for two purposes, only one of which is spray or trickle irrigation, it is proposed that the special charge will not be permitted. Examples of additional authorised use could be for agriculture and golf courses.

Under this agreement, licence holders must submit abstraction returns, even if they abstracted no water; otherwise, the charge will be based on the full authorised quantity.

Canal & River Trust licences

Licences held by the Canal & River Trust are eligible for a discounted annual charge as set out in the Water Resources Act 1991 (section 130). This is to reflect the water conservation benefits that may result from its activities. It is proposed to retain the 50% discount.

Winter abstraction

It is proposed to retain the 50% reduction in annual charges for abstractions for, for example farm reservoirs, authorised during the winter season only. The winter season is defined as the calendar dates 1 November to 31 March (inclusive).

Abstraction licences which authorise abstraction outside of the winter period, even if authorised quantities are specified for the different periods, will not be eligible for this reduction in annual charge.

Complex and aggregate licences

An abstraction licence can authorise the abstraction of water from one or more points and for one or more purposes – known as a 'complex licence'. A licence which authorises abstraction from multiple points and for multiple purposes may specify the volume of water which is authorised to be abstracted in a number of ways, including:

- by specified point and purpose
- an aggregate authorised volume across all points and purposes
- by specified point and purpose with an aggregate across all points and purposes
- by specified point and purpose with an aggregate across some of the points and purposes

How the licence specifies the authorised volume will affect the way the annual charge is calculated.

Two or more licences can also be in an 'aggregate authorised volume' group. Each individual licence in an aggregate group will usually specify an authorised volume. There will also be a condition linking the licences which effectively sets the maximum quantity of water that can be abstracted across all the licences in the aggregate group. If the condition specifies an annual aggregate quantity of water that can be abstracted this will affect the way the annual charge for each of the licences in an aggregate group is calculated – known as an 'aggregate licence'.

It is proposed to charge for these types of licences based on the highest regulatory cost that could be incurred. The EA needs to carry out the highest level of regulatory activity associated with a licence to understand the impact on other abstractors and the environment regardless of whether the water is abstracted for that purpose and loss category.

The EA proposes to use:

- The total authorised aggregate volume on one licence or across licences
- From the total authorised volume, it will also take the point or purpose with the authorised volume to be abstracted associated with the highest loss category plus any additional charge factors to identify the first charge category.
- It will then take the next authorised volume and next highest associated loss category plus any additional charge factors to get the next charge category and so on until all the aggregate volume has been accounted for.

Further information on is available in the document 'draft water resources charging guidance' [here](#).