

# SL(5)148 - The Water Abstraction and Impounding (Exemptions) Regulations 2017

## Background and Purpose

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These Regulations provide for exemptions from the restriction on abstraction and the restriction on impounding works in the Water Resources Act 1991 (c. 57).

## Procedure

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Negative

## Technical Scrutiny

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The following points are identified for reporting under Standing Order 21.2 in respect of this instrument:

1. These Regulations are made in English only (Standing Order 21.2(ix)). The Explanatory Memorandum states that the Regulations, being a composite Statutory Instrument, "apply to both England and Wales, and are subject to approval by the National Assembly for Wales and by Parliament. It is therefore not considered reasonably practicable [by the Welsh Ministers] for these instruments to be made bilingually."

## Merits Scrutiny

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No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Implications arising from exiting the European Union

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The following points are identified for reporting under Standing Order 21.3 in respect of this instrument.

2. The definition of 'conservation site' in regulation 2 refers to a list provided to the European Commission. The footnote explains that the list is also available from the Welsh Government and DEFRA, so that the provision would not cease to work after the UK's departure from the EU. It may be desirable to amend the provision, but it would not be essential to do so unless and until it was thought appropriate to amend the list, since any new list would not be provided to the Commission. It would be appropriate for the Welsh Ministers and the Secretary of State to amend the provision using the powers relied upon to make these Regulations.
3. The Regulations also contain a number of references to the Conservation of Habitats and Species Regulations 2010. Those Regulations transposed Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ('the Habitats Directive') and will need to be reviewed for the UK's departure from the European Union. The references to the 2010 Regulations in the present Regulations will therefore also need to be reviewed at that stage.

## Government Response

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No government response is required.



## Committee Consideration

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The Committee considered the instrument at its meeting on 20 November and reports to the Assembly in line with the points above.

