



# Association of Drainage Authorities

Rural Innovation Centre, Avenue H,  
Stoneleigh Park, Warwickshire, CV8 2LG  
Telephone 02476 992 889  
Email [admin@ada.org.uk](mailto:admin@ada.org.uk)  
Website [www.ada.org.uk](http://www.ada.org.uk)

<b>Consultation:</b>	Changes to water abstraction licensing exemptions in England and Wales: New Authorisations		
<b>By:</b>	Department for Environment, Food & Rural Affairs, and Environment Agency	<b>Contact:</b>	Ian Moodie, Technical Manager
<b>To:</b>	<a href="mailto:waterresources.consultations@defra.gsi.gov.uk">waterresources.consultations@defra.gsi.gov.uk</a>	<b>Tel:</b>	024 76 992889
<b>Date:</b>	07 April 2016	<b>Email:</b>	<a href="mailto:ian.moodie@ada.org.uk">ian.moodie@ada.org.uk</a>

## Defra Consultation: Changes to water abstraction licensing exemptions in England and Wales: New Authorisations Response by the Association of Drainage Authorities

0.00	<b>Summary of ADA's position as set out in this response</b>
0.01	We do not think that a case has been made <b>to bring into the licensing system the non-consumptive transfers of water into Internal Drainage Districts</b> . In our view, the financial and administrative costs imposed on Internal Drainage Boards arising from the <b>'water transfer' proposals would exceed perceived benefits</b> . This could in turn <b>adversely impact on the way that water levels are currently managed in internal drainage districts</b> , and lead to <b>significant adverse impacts to: existing licenced end users, designated environmental sites and the water quality and ecology of managed lowland waterbodies</b> . Worryingly these impacts have not been assessed according to the <i>Consultation impact assessment for new authorisations</i> .
0.02	<b>Therefore it is ADA's view that:</b> <ol style="list-style-type: none"><li>1. There should be a <b>simple register of water transfer points into Internal Drainage Districts</b> rather than the licencing arrangement proposed.</li><li>2. <b>No volumetric limit</b> should be placed on these (citing environmental, practical reasons).</li><li>3. <b>No charge</b> either one off or annual should be placed <b>on an Internal Drainage Board for registration</b>.</li><li>4. The <b>details of water transfers</b>, such as the type, size, intake and outflow levels <b>may need to be recorded as part of the registration</b> to assist with water level, water resource and flood risk management planning purposes.</li></ol>
0.03	More generally regarding New Authorisations, Defra should be prepared to <b>deliver a programme of advice, support and ongoing training</b> to help those end abstractors (particularly in the agricultural and horticultural sector) adapt to the new regulatory regime. ADA believes that water resource planning and licensing policy in the UK, <b>must pay due regard to both global food supply issues and global water pressures</b> if we are to avoid importing more food (and therefore embedded water) from countries where water is under even greater stress arising from climate change impacts.

The membership body for water level management

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1.00	<b>Detailed response by the Association of Drainage Authorities</b>
1.01	This response is written to the proposals set out within Defra and the Environment Agency's consultation on <i>Changes to water abstraction licensing exemptions in England and Wales: New Authorisations</i> and in particular, the proposal to remove the existing exemption from licensing for the transfer of water into Internal Drainage Districts. It should be noted that internal drainage districts (IDDs) cover a tenth of England by area (1.2 million hectares) with over 22,000km of watercourses within these districts.
1.02	The Association of Drainage Authorities (ADA) is the association for water level management organisations in the United Kingdom, with over 230 members. Our members include Internal Drainage Boards, the Environment Agency, Regional Flood & Coastal Committees, Natural Resources Wales, the Rivers Agency Northern Ireland, Local Authorities, and suppliers to the sector.
1.03	ADA has considered with its members (namely the 110 Internal Drainage Boards in England) the proposals for new authorisations, contained in the consultation document and have met with Defra and Environment Agency staff to discuss the contents. ADA understands the need to reform water abstraction in England and Wales to both protect the environment and to include end abstractors currently falling outside licence control.
1.04	However, the Association and its members remain concerned and disappointed at the proposed approach outlined in the consultation with regards to the removal of the exemption for the transfer of water into internal drainage districts. Fundamentally, the proposals appear to wrongly consider these movements of water between main river and internal drainage districts as abstractions when they would be better termed as transfers between lowland water bodies which help ensure the environmental health and functioning of lowland water systems and provide water to end abstractors who are themselves either already licenced or would be licenced under the consultation proposals (e.g. trickle irrigators).
1.05	No attempt appears to have been made within the preparation of the consultation document to ascertain why transfers between water bodies exist and to assess what is already known in respect of such transfers. It is noted that the consultation impact assessment states that such transfers have not been the subject of a proper and detailed financial or environmental assessment.
1.06	Information about these non-consumptive transfers could easily have been sought by Defra or the Environment Agency through contact with ADA and IDBs. Indeed ADA issued a questionnaire to all IDBs at its own cost in the preparation of this consultation response. The 46 IDBs who have so far responded identified that there were 182 transfer points into IDDs from 89 unique watercourses. Whilst it is noted that a small number of IDBs also responded that they did not have any transfers of water into their districts, IDBs in Somerset were unable to identify the number of transfer points present owing the nature of the system and the number of transfer points present. Many of these are completely passive (open channels, no control structure or pipe) and all ultimately serve environmental functions associated with designated sites on the Somerset Levels & Moors.

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1.07	These findings suggest that there are many more transfer points in total into Internal Drainage Districts than the 218 estimated in the consultation impact assessment. It is also noteworthy that only 17 of the 182 transfers have any form of identifiable volume and the majority of these 17 were only estimates of annual volumes. ADA would therefore strongly advise against placing volumetric limits on transfers should such licences be imposed.
1.08	Furthermore IDBs often do not claim ownership of these transfer points, and a majority of those identified in fact form an integral part of the flood defence banks of the Environment Agency Main River network. IDBs predominantly operate these transfer points but a number are operated on request by the Environment Agency and some are operated by third parties.
1.09	IDBs are rarely the end user of water they transfer into their districts and instead such transfers by IDBs facilitate agricultural, industrial and domestic supply within their districts. Furthermore, without such transfers and the active management of water by IDBs many of these lowland systems would either flood or dry up completely on a periodic basis with major environmental consequences to both the watercourses and designated sites within internal drainage districts.
1.10	IDBs have a duty to look after the environment under Section 61A of the Land Drainage Act 1991 and with specific regard to Sites of Special Scientific Interest under Section 61C. IDBs take their environmental duties very seriously and have been tasked with improving the biodiversity of their districts. All Internal Drainage Boards have created and are implementing their own Biodiversity Action Plans. These environmental duties and functions often require the feeding of freshwater from outside of Internal Drainage Districts. Therefore, water transfers into Internal Drainage Districts are essential to IDBs meeting their environmental requirements for managing an artificial wetland network of watercourses.
1.11	With regards to the Water Framework Directive the consultation refers exclusively to the effect on the water body from which the abstraction/transfer is made but entirely avoids mention or consideration of the body into which a transfer is made. Furthermore, while reference is made to the Water Framework Directive in justification of this and in relation to the former category of water body, no mention is made of the need to ensure compliance with this Directive as regards the receiving water body nor of the impact on the application of other Directives, such as the Habitats Directive. There are 398 SSSI's within Internal Drainage Districts in England.
1.12	IDBs across England are currently actively consulted by the Environment Agency on abstraction licence applications within their districts. IDB staff advise the Environment Agency on water availability and hands off levels to protect the environment within the district and wider catchment. During summer months there is regular liaison between IDBs and the Environment Agency to ensure the maximum effective use of available freshwater within catchments, and during prolonged dry spells, when water availability is stretched, the cooperation between both parties ensures a fair and proportionate share of this valuable resource with voluntary limits being imposed on end abstractors such as night

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	<p>time only irrigation by growers to reflect reduced flows throughout the drainage network. Environment Agency area staff have highlighted to ADA the value of this assistance provided by IDBs at no cost. ADA recognises that the licencing of transfers of water into Internal Drainage Districts would put at risk these excellent working relationships between IDBs and the Environment Agency at a local level, and increase the risk of poor judgements to the management of water resources by the regulator.</p> <p>1.13 ADA does not agree with the view that the consultation proposals constitute “light touch” regulation but rather, when combined with the separate Environment Agency proposals on charging for Transfer Licences, must consider them an entirely inappropriate and bureaucratic imposition. ADA cannot support any form of charging regime relating to transfers into Internal Drainage Districts.</p> <p>1.14 ADA therefore considers that it is essential that the existing exemption for the transfer of water into internal drainage districts should remain in place. Instead of transfer licences for transfers into IDD, ADA would propose a simple registration for IDBs with the Environment Agency of the location of inlets from main rivers into each internal drainage districts, noting their type and details of their dimensions to assist with better water resource planning by the Environment Agency and IDBs. ADA feels that this approach would better serve the existing cooperation arrangements between Risk Management Authorities found in catchments around the country.</p>
<p>2.00</p> <p>2.01</p>	<p><b>ADA’s response to the Consultation impact assessment for new authorisations</b></p> <p>ADA is concerned that little evidence is provided regarding the removal of the exemption to transfer water into Internal Drainage Districts. The impact assessment fails to consider:</p> <ul style="list-style-type: none"> <li>• The financial impact on Internal Drainage Boards. The impact assessment itself states that: <i>‘Finally, while Internal Drainage Boards are modelled in the ABM catchments where relevant, the detail does not exist for providing any economic impact.’</i> And that: <i>‘our research base from the evidence study was unable to reliably estimate this indirect impact on income [for IDBs]’.</i></li> <li>• The water quality and wider environmental impact on the watercourses receiving water within Internal Drainage Districts and therefore the requirements of the Water Framework Directive in this regard. Watercourses within internal drainage districts are typically (but not only) artificial or heavily modified channels where water levels have to be actively controlled in order to prevent flooding on the one hand and drying out completely on the other. Given that the channels within internal drainage districts are typically narrower and smaller than surrounding main river channels they can be more acutely effected by changes in water quality during periods of low flows. These smaller channels can be important spawning grounds for a range of fish species, and are home to a range of specialist and rare aquatic plants and invertebrate species.</li> <li>• The environmental impact on designated sites within Internal Drainage Districts and therefore the requirements of the Habitats Directive.</li> <li>• The practical impacts for the effective management of water during periods of drought and flood as currently exist between the Environment Agency, IDBs and other risk management authorities.</li> </ul>

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<p>2.02</p> <p>2.03</p>	<p>ADA is concerned that neither it nor any individual IDBs were contacted to our knowledge in the development of the Impact Assessment. Some of the statements/assumptions made regarding Internal Drainage Boards within the impact assessment are inaccurate, most glaringly that <i>'We feel the impacts would be limited to IDBs with extensive agriculture: the crop production of farms could be impacted as water is being abstracted on their behalf.'</i> It is ADA's view having conducted a survey of IDBs that the most extensive and acute impacts will be felt in areas where water is transferred for environmental needs such as the water quality of receiving watercourses and designated sites within Internal Drainage Districts.</p> <p>We therefore believe that it is unsafe to make a judgement as to whether to remove the exemption for the transfer of water into internal drainage districts based on the evidence provided. Furthermore given the potentially detrimental environmental impact on receiving watercourses and designated sites ADA believes that the opening statement in the risk assessment that the proposed changes will provide an <i>'Environmental benefit; prevention of environmental damage and more efficient water resource management.'</i> is unfounded and misleading with regards to the removal of the exemption for the transfer of water into internal drainage districts.</p>
	<p><b>ADA's response to the Consultation Questions posed</b></p> <p><b>Q1.</b> How long do you think the period applicable for the temporary construction abstraction exemption should be?</p> <p>Given the detailed terms for a temporary construction abstraction exemption within paragraph 65 of the consultation document, and particularly the saving that such works would <i>'not damage protected aquatic life nor damage the integrity of a site designated for nature conservation'</i> ADA considers that such exemptions could reasonably be granted for longer than six months especially in circumstances connected with the work and operations of Risk Management Authorities.</p> <p><b>Q2.</b> The Impact Assessment at Annex D discusses the evidence for the proposal around planned abstractions. Please let us know of any other evidence you are aware of that should be considered in respect of planned abstractions?</p> <p>No comment raised.</p> <p><b>Q3.</b> Do you agree with the Government's proposal to exclude from transitional arrangements compensation provisions for those who have plans to abstract in the future?</p> <p>No comment raised.</p> <p>Please explain the reasons for your answer above.</p> <p><b>Q4.</b> What do you think are the main issues or challenges that might arise from excluding planned abstractions from the New Authorisations transitional arrangements? What do you think are the main benefits?</p>

No comment raised.

**Q5.** What other pieces of evidence do you think abstractors could use to meet the evidence requirements for applications?

No comment raised.

**Q6.** Do you think putting basic universal HoFs on New Authorisations licences to protect the environment from damage caused by low river flows or drought is an effective control to protect against environmental damage?

Given Internal Drainage Boards essential role in managing water levels within internal drainage districts and their role as risk management authorities ADA would not support HoFs applying to water transfers into Internal Drainage Districts. We believe that management of such transfers is better achieved through partnership working between the relevant IDBs and the Environment Agency's area team within a given catchment to manage water availability and demand during low flow conditions. ADA has been made aware of many compelling examples of such close working by Environment Agency area staff and by Internal Drainage Boards in East Anglia during the consultation period. For example close working in the Great Ouse catchment between the EA and Ely Group of IDBs and within the Welland catchment with Welland & Deepings IDB.

**Q7.** Do you think a universal HoF of Qn95 on New Authorisations licences is the right level for licences in over-abstracted catchments?

ADA understands that Qn95 is broadly equivalent to a drought cessation level for abstractors in over-abstracted catchments.

On this basis it may be the most appropriate HoF level for the protection of very low flows in extreme conditions for end users. However, for the reasons set out in our answer to Q6 we do not think that its application can be universal and should apply to the non-consumptive transfer of water into Internal Drainage Districts.

**Q8.** Do you think a universal HoF of 75% of Qn99 on New Authorisations licences is the right level in catchments that are not over abstracted?

ADA understands that 75% of Qn99 is broadly equivalent to a drought cessation level for abstractors in catchments that are not over-abstracted

On this basis it may be the most appropriate HoF level for the protection of very low flows in extreme conditions for end users. However, for the reasons set out in our answer to Q6 we do not think that its application can be universal and should apply to the non-consumptive transfer of water into Internal Drainage Districts.

**Q9.** What do you think are the main issues or challenges that might arise from using basic universal HoFs? What do you think are the main benefits?

ADA would encourage the Government to ensure that new licence holders are provided with clear guidance on the practical meaning of HoFs to them. For example, it will be important for end user licence holders to understand the relationship between the Qn and the physical trigger point on the surface water source for the licence.

**Q10.** Do you think there is an alternative approach that should be used to ensure environmental protection? Please explain your response.

No comment raised.

**Q11.** Do you agree with the proposal to include volumes on transfer licences under New Authorisations?

Water transfers into Internal Drainage Districts are deemed to be low risk and are made for a range of purposes including environmental benefit, navigation and abstraction. When water is transferred for the purposes of abstraction, the 'end use' is subject to abstraction licensing so the consumptive element of the system is already well managed.

ADA does not support the removal of the exemption for transfers of water into internal drainage districts and furthermore would not support proposal to include volumes on such transfer licences. ADA notes that current legislation gives the Environment Agency some discretion in whether to impose volumetric conditions on licences for water transfers.

Such volumetric conditions could put at risk the biodiversity and water quality of receiving water bodies and put environmentally designated sites at risk of deterioration within Internal Drainage Districts.

ADA is not convinced that a case has been made to bring these non-consumptive transfers of water into the licensing system.

We agree with the NFU's concerns regarding the potential impact of this exercise on farmers in IDB areas such as the Fens, where farm businesses are hugely dependent on access to a secure supply of water to grow irrigated crops. Transfers of water into these drainage districts are crucial to local farmers.

There are many good examples where water levels are managed in collaborative partnership between the Environment Agency, IDBs and farmers; arrangements that work extremely well and should not be jeopardised. ADA is concerned that the introduction of Transfer Licences could destabilise existing arrangements.

**Q12.** Do you agree with the intention of Government and the Regulator to use EIUC funds already collected, that are potentially no longer required for the completion of the Restoring Sustainable Abstraction programme, to fund any compensation that may result from the implementation of New Authorisations?

No comment raised.

**Q13.** The Government expects the Regulator to raise and use funds collected through the EIUC from non-water company charge payers to pay any compensation identified under

New Authorisations. Taking into consideration that there is unlikely to be additional Government money available, do you agree with this approach?

No comment raised.

**Q14.** Can you suggest any alternative ways to fund compensation?

No comment raised.

**Q15.** Having read the Government response to the 2009 consultation on implementing the abstraction elements of the Water Act 2003 in Part I and taking account of the revised proposals in Part II, do you have any other comments about the overall policy approach to New Authorisations?

Please see detailed comments raised in sections 1 and 2 of this response above.

**Q16.** Do you have any suggestions as to how we could implement the requirement for licensing control in a way that further reduces the burdens for abstractors, whilst achieving effective regulation?

Please see comments raised in paragraph 1.14 with regards to transfers into Internal Drainage Districts.

**Q17.** If there is anything else you would like to add to your response please include it here.

We agree that impoundment works carried out by IDBs should remain outside the abstraction licensing system, but furthermore consider that transfers into and between Internal Drainage Districts should also be exempt for the reasons set out throughout this consultation response.