

Horticulture and Irrigation under New Authorisations



Options for existing licence holders who now require trickle irrigation* licences and licences for other forms of irrigation.

New Authorisations – The removal of abstraction exemptions

If you abstracted water for irrigation prior to 1st January 2018 and were previously exempt from needing to have a licence under the Water Resources Act 1991 (WRA 91), the law has now changed and you may now need to apply for an abstraction licence (New Authorisation) before the deadline closes on **31st December 2019**.

We strongly recommend that you submit your application in good time before the transitional application period closes. We cannot guarantee to check all applications we receive close to the deadline (3 months) prior to the application period closing, and those that are found to be incorrect or invalid will be rejected and risk missing the opportunity to take advantage of the transitional arrangements. There can be no extensions to the deadline of 31st December 2019.

Do I need a New Authorisation?

If you have been abstracting more than 20 cubic metres of water from a surface or groundwater source without a licence for irrigation, you will need to apply for an abstraction licence before the application deadline closes. The main irrigation activities that will now require a licence are as follows:

| Activity / method of application | General Description |
|--|---|
| Trickle Irrigation (drip irrigation) | The form of irrigation where water is applied directly to plants through pipes or other apparatus |
| Capillary Matting | Strips of capillary matting (synthetic mats). Water is brought to the matting with runs of trickle tape |
| Hydroponics | Technique of growing plants (without soil) in water containing dissolved nutrients |
| Sand Beds | Shallow beds of coarse sand may be used if water and nutrient supply can be regulated adequately |
| Flood Irrigation (of land and plants) | Either through a system of ditches and channels or where land is inundated with water |
| Flood irrigation (for environmental schemes) | Either through a system of ditches and channels or where land is inundated with water. Including water meadows, managed wetlands and water level management plans |
| Ebb and Flood | Temporary inundation of an area with water |
| Bubbler Irrigation | Irrigation using a localized, low pressure, system usually for orchards. |
| Horticultural Irrigation | Utilising any form of irrigation (other than spray irrigation which is already a licensable activity) |

*The term trickle is used throughout this document and in the scenarios below in a generic context and is taken to mean all previously exempt forms of irrigation – this includes (but is not limited to) drip, horticultural irrigation, hydroponics, flood irrigation, capillary matting etc.

Where you operate different types of irrigation, or have moved from one form of irrigation to another, it is important to understand how these changes affect you and what steps you now need to take. In addition, spray irrigation has never been an exempt activity, and, if you irrigate using spray methods, then you must already have a licence in place that states “spray irrigation” as a purpose of use to enable you to abstract lawfully.

If you have an existing licence which states spray irrigation as a purpose of use and use water for other previously exempt forms of irrigation, you still need to make an application to cover the additional forms of irrigation under the transitional arrangements that have been put in place.

| Activity / method of application prior to 1 st January 2018 | Previously exempt? | Licence required? | Purpose |
|--|--------------------|---------------------------------------|--------------------------------------|
| Spray irrigation (including sprinkler irrigation) | No | Yes (under WRA 91**) | Spray irrigation |
| Trickle Irrigation (drip irrigation) | Yes | Yes (under transitional arrangements) | Trickle Irrigation |
| Capillary Matting | Yes | Yes (under transitional arrangements) | Horticultural Irrigation (non-spray) |
| Overhead sprinklers/nozzles | No | Yes (under WRA 91) | Spray irrigation |
| Hydroponics | Yes | Yes (under transitional arrangements) | Horticultural Irrigation (non-spray) |
| Flood Irrigation (of land) | Yes | Yes (under transitional arrangements) | Flood Irrigation |
| Flood irrigation (for environmental schemes) | Yes | Yes (under transitional arrangements) | Flood Irrigation |
| Ebb and Flood (for plants) | Yes | Yes (under transitional arrangements) | Horticultural Irrigation (non-spray) |
| Anti-frost spraying | No | Yes (Under WRA 91) | Spray irrigation |
| Sand Beds | Yes | Yes (under transitional arrangements) | Horticultural Irrigation (non-spray) |
| Bubbler Irrigation | Yes | Yes (under transitional arrangements) | Horticultural irrigation (non-spray) |

Can I add trickle irrigation onto my existing spray irrigation licence?

There are currently a number of situations where existing licence holders for spray irrigation now need to apply for a licence to authorise ongoing or new*** irrigation operations. This could be as a result of moving from spray to trickle operations, or using trickle irrigation in addition to existing licensed activity for spray irrigation.

In law, spray irrigation and other forms of irrigation are treated separately and need to be specified as different uses under any licence issued. As such, any abstraction for all non-spray irrigation (whether within existing spray licensed allowance or not), will require a valid application to be made before the deadline closes on 31st December 2019, in order to remain lawful.

Depending on the exact circumstances, there are a number of permutations and options as to how these activities can be licensed going forwards. The scenarios table below provides guidance on the different options available.

** WRA 91 – Water Resources Act 1991

*** A new operation is any form of irrigation that commenced after the exemption was removed on 1st January 2018 and includes any increase in the volumes of water abstracted after 1st January 2018 for previously exempt forms of irrigation.

Licence variations

The transitional arrangements for New Authorisations are in place to allow existing abstractions that were taking place prior to 1st January 2018 to be brought into regulation and, where possible, to preserve existing historic entitlements. The regulations allow for this to be done as either a variation to any existing licence that is in place, or through the issue of a new licence. You have the ability to state a preference which we will consider.

If you require additional water for any post 1st January 2018 operations, then this will require an additional application to be made under the 2006 regulations as this additional abstraction will not fall under the transitional arrangements.

New Authorisations only relates to the licensing of any previously exempt abstraction that was taking place prior to 1st January 2018. Any requirement to apportion quantities differently between multiple purposes (including spray and trickle irrigation) will therefore require a future formal variation where operational changes are required.

There is no advantage or disadvantage in holding either a new separate licence or a varied licence (subject to the paragraph below).

Where you voluntarily agree to aggregate quantities between your existing spray and trickle irrigation, (for example, where spray irrigation is no longer used but you wish to retain the right to spray irrigate at some future point), meaning that abstraction overall remains within the maximum historic use for either purpose, we will **NOT** impose a time limit on any permanent licence for the trickle irrigation use where this is done through the licence variation procedure.

Existing Licences for Horticulture

We are aware that historically a number of licences have been issued that authorise abstraction for the purpose of horticulture, which, in the main, have generally been used for various methods of irrigation.

In view of this ambiguity, as a working expedient, we will consider that these existing licences have legal effect to allow abstraction for the purpose of all forms of irrigation to continue within the terms of the licence. This means that if you currently hold a licence authorising “horticulture” as a purpose of use, then you will not be required to make an application through the transitional arrangements to add any form of non-spray irrigation onto your licence.

If, in the future, your licence requires variation for any reason, we will take the opportunity to rectify these inconsistencies and state the irrigation methods used on the licence.

Existing Licences for Agriculture

Any licence which states “agriculture” as a purpose of use does not authorise you to abstract for any form of irrigation, and if you wish to irrigate (in any form) you will be required to submit an application, either for a new licence, or for a variation to any existing licence.

Scenarios

| Scenario | Position | Approach Post January 1 st 2018 |
|---|---|--|
| <p>1. Existing permanent licence states spray irrigation. Operation now uses water for trickle irrigation only.</p> | <p>The existing permanent licence is valid for spray irrigation only.</p> <p>A valid transitional application for trickle is required before 31st December 2019.</p> | <p>You have the choice of a separate new licence for trickle irrigation or a variation to your existing spray irrigation licence with separate volumes and purpose for the trickle component.</p> <p>Quantities will not be combined or aggregated to allow more for spray irrigation than is currently licensed.</p> <p>We will seek your agreement to revoke the unused spray irrigation licence.</p> <p>Failing that we will seek your agreement to either:</p> <ul style="list-style-type: none"> - Aggregate the trickle irrigation to the existing spray total (if trickle is equal or lower) or - Aggregate the spray to the new trickle irrigation total (if the trickle is higher). - In either case keeping the same individual limits for each purpose. - We will seek to incentivise aggregated quantities by NOT imposing a time limit on your permanent licence for the trickle irrigation use where this is done through the licence variation procedure. <p>Abstraction for existing rates of trickle irrigation (prior to 1st January 2018) can continue without a licence at the applied for quantities until your New Authorisation transitional application has been determined.</p> |
| <p>2. Existing permanent or time limited licence states 'irrigation' or 'trickle irrigation' or "horticulture" as the purpose.</p> | <p>We have previously issued a licence which could authorise trickle irrigation once the exemptions have lifted.</p> <p>No transitional application required.</p> | <p>The licence should have stated the exact type of irrigation being undertaken. For any future variations we will take the opportunity to specify the exact purposes.</p> |
| <p>3. Existing time limited licence issued with spray irrigation as the sole purpose which (a) expires between 1st January 2018 and 31st December 2019 or (b) expires after 1st January 2020. Operation now uses water for trickle only.</p> | <p>The existing time limited licence is valid for spray irrigation only.</p> <p>A valid transitional application for trickle irrigation is required before 31st December 2019 for both (a) and (b)</p> | <p>At renewal, if you are using the water solely for trickle irrigation, the spray element is not justified. We cannot renew the current licence unless you can justify the spray element, so the application will either be refused or issued with reduced volumes for spray irrigation.</p> <p>A new Licence will be issued for the trickle irrigation. Abstraction for existing rates of trickle irrigation (prior to 1st January 2018) can continue without a licence at the applied for quantities until the New Authorisation transitional application has been determined.</p> |

| Scenario | Position | Approach Post January 1 st 2018 |
|---|---|---|
| <p>4. Existing time limited licence issued with spray irrigation as the sole purpose which (a) expires between 1st January 2018 and 31st December 2019 or (b) expires after 1st January 2020. Operation uses water for both Spray and Trickle irrigation.</p> | <p>The existing time limited licence is valid for spray irrigation only.</p> <p>A valid transitional application for trickle irrigation is required before 31st December 2019 for both (a) and (b)</p> | <p>At renewal, if you are using water for both spray and trickle irrigation the spray element can be justified for renewal based on historic abstraction rates.</p> <p>You have the choice of a separate new licence for trickle irrigation or a variation to your existing spray irrigation licence with separate volumes and purpose for the trickle component.</p> <p>Quantities will not be combined or aggregated to allow more for spray irrigation than is currently licensed.</p> <p>If the total amounts licensed for both purposes cannot be justified for use in the same year, we will seek agreement to either:</p> <ul style="list-style-type: none"> - Aggregate the trickle to the existing spray total (if trickle is equal or lower) or - Aggregate the spray to the new trickle total (if the trickle is higher). - In either case keeping to the individual limits for each purpose together with any individual quantities applied for. <p>Abstraction for existing rates of trickle irrigation (prior to 1st January 2018) can continue without a licence at the applied for quantities until the New Authorisation transitional application has been determined.</p> |
| <p>5. Existing permanent licence for spray irrigation and has historically abstracted for trickle irrigation prior to the exemption being removed on 1st January 2018. Now wish to increase quantities over and above what has historically been licensed (for spray) or abstracted for trickle (during the 7 year qualifying period).</p> | <p>The existing permanent licence is valid for spray irrigation only.</p> <p>A valid transitional application for the historic trickle irrigation is required before 31st December 2019.</p> <p>An additional application will be required for any additional spray or trickle irrigation quantities under the 2006 regulations.</p> | <p>You have the choice of a separate new licence for trickle irrigation or a variation to your existing spray irrigation licence with separate volumes and purpose for the trickle component.</p> <p>We will seek agreement to either</p> <ul style="list-style-type: none"> - Aggregate the trickle to the existing spray total (if trickle is equal or lower) or - Aggregate the spray to the new trickle total (if the trickle is higher). - In either case keeping to the individual limits for each purpose together with any individual quantities applied for. - We will seek to incentivise aggregated quantities by NOT imposing a time limit on any permanent licence for the existing trickle irrigation use where this is done through the licence variation procedure. <p>Abstraction for existing rates of trickle irrigation (prior to 1st January 2018) can continue without a licence at the applied for quantities until the New Authorisation transitional application is determined.</p> <p>If the application for the additional water is made at the same time as the transitional application we will treat this as 1 application and 1 fee.</p> |

How much will my licence application cost?

In most circumstances, irrigation will require a full abstraction licence application which costs £135. A full licence will also incur an annual subsistence charge for the quantity of water you are licensed to abstract. This charge will commence on the issue date of a licence document.

More details on abstraction charges can be found at;

<https://www.gov.uk/government/publications/abstraction-charges-scheme>

I'm not currently abstracting, but I am planning to do so soon, what do I need to do?

When the current exemptions are removed, the changes will also affect various activities where abstraction has yet to commence. **If you are planning a new abstraction for a previously exempt purpose, or are planning to increase your current abstraction volumes, then, after 1st January 2018, you will need to have an abstraction licence in place before the new or additional abstraction can commence.**

This would apply for example where a new trickle irrigation operation was planned. These new or planned changes are not covered by the transitional arrangements that apply to existing abstractions. In these cases you will need to allow sufficient time to make the necessary applications which normally take up to three months from the date we receive a valid application. Please go to

<https://www.gov.uk/guidance/water-management-apply-for-a-water-abstraction-or-impoundment-licence#application-forms-for-all-other-licences> for more information.

More Questions - who to contact?

If having read the .gov.uk guidance you are still unsure if you require a licence or have questions about preparing your application, please call our Permitting Support Centre on 02084748939

For detailed information on how to apply for a licence for previously exempt activities please go to <https://www.gov.uk/guidance/water-management-apply-for-a-water-abstraction-or-impoundment-licence#apply-for-a-licence-for-a-previously-exempt-abstraction>