

# The Drought Direction 2011

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, in exercise of the powers conferred by sections 74(2)(b) and 76(2) of the Water Resources Act 1991(a), give the following Direction to water undertakers generally.

## **Citation and commencement**

1. This Direction may be cited as the Drought Direction 2011 and comes into force on 31st March 2011.

## **Purposes which may be specified by virtue of section 74(2)(b) of the Water Resources Act 1991**

2. The purposes set out in paragraphs 2 to 11 of the Schedule may be specified in any ordinary drought order by virtue of section 74(2)(b) of the Water Resources Act 1991.

## **Revocation of the Drought Direction 1991**

3. The Drought Direction 1991(b) is revoked.

29th March 2011

*John Bourne*  
Head of Water Supply and Regulation Division,  
for and on behalf of the  
Department for Environment, Food and Rural Affairs

29th March 2011

*Claire Bennett*  
Deputy Director, Climate Change and Water Division,  
for and on behalf of the Welsh Ministers

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- (a) 1991 c. 57. The functions of the Secretary of State under sections 74(2)(b) and 76(2) of the Water Resources Act 1991, so far as they are exercisable in relation to Wales, were transferred to the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1991 (S.I. 1999/672). The functions of the National Assembly for Wales were subsequently transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11, to the Government of Wales Act 2006 (c. 32).
- (b) The Drought Direction 1991 was made on 18th April 1991. It was made by the Secretary of State for the Environment, in relation to England, and the Secretary of State for Wales, in relation to Wales, in exercise of their powers under section 131(4)(b) of the Water Act 1989 (c. 15). Section 131(4)(b) of the Water Act 1989 was repealed by section 3 of, and Schedule 3 to, the Water Consolidation (Consequential Provisions) Act 1991 (c. 60) and replaced by section 74(2)(b) of the Water Resources Act 1991.

# SCHEDULE

Paragraph 2

## Interpretation

1.—(1) In this Schedule—

“the Act” means the Water Industry Act 1991(a);

“health or safety reasons” includes—

- (a) removing or minimising any risk to human or animal health or safety; and
- (b) preventing or controlling the spread of causative agents of disease;

“hosepipe” has the same meaning as in section 76 of the Act(b); and

“non-domestic building” means any of the following not being domestic premises within the meaning of section 76(2)(i) of the Act(c)—

- (a) a building that is not used principally as a dwelling or dwellings;
- (b) any other structure.

(2) Using a hosepipe, in relation to a purpose set out in paragraphs 2 to 11 of this Schedule, includes the following—

- (a) drawing relevant water through a hosepipe from a container and applying it for the purpose;
- (b) filling or partly filling a container with relevant water by means of a hosepipe and applying it for the purpose.

(3) In sub-paragraph (2), “relevant water” does not include water supplied by a water undertaker before the use of water to which the purpose relates was prohibited under an ordinary drought order.

## Purpose 1: watering outdoor plants on commercial premises

2.—(1) Watering the following plants on commercial premises using a hosepipe—

- (a) plants which are in a pot or other container that is outdoors or under cover;
- (b) plants which are in the ground under cover.

(2) The purpose specified in sub-paragraph (1) does not include watering plants that are—

- (a) grown or kept for sale or commercial use; or
- (b) part of a National Plant Collection or temporary garden or flower display.

(3) In this paragraph—

“commercial premises” means any land, building, other structure or premises not being domestic or other non-commercial premises within the meaning of section 76(2)(c) of the Act(d);

“grown” includes cultivated or propagated;

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(a) 1991 c. 56.

(b) Section 76 of the Water Industry Act 1991 was substituted by section 36 of the Flood and Water Management Act 2010 (c. 29). Section 76A(5) of the Water Industry Act 1991 provides that, subject to provision under section 76A(2) of the Water Industry Act 1991, a reference to a hosepipe in section 76 includes a reference to anything designed, adapted or used to serve the same purpose as a hosepipe.

(c) The meaning of “domestic premises” in section 76(2)(i) of the Water Industry Act 1991 is set out in article 12(3) of the Water Use (Temporary Bans) Order 2010 (S.I. 2010/2231).

(d) The meaning of “domestic or other non-commercial premises” in section 76(2)(c) of the Water Industry Act 1991 is set out in article 6(2) of the Water Use (Temporary Bans) Order 2010.

“National Plant Collection” means a plant collection which is part of the National Council for the Conservation of Plants and Gardens’ National Plant Collection scheme;

“plants” includes plant organs, seeds, crops and trees;

“temporary garden or flower display” means a garden or flower display that is—

- (a) at a show or exhibition; and
- (b) on public display for a period not exceeding 7 days; and

“under cover” means in a greenhouse or outbuilding or under a permanent canopy.

### **Purpose 2: filling or maintaining a non-domestic swimming or paddling pool**

**3.**—(1) Filling or maintaining a swimming or paddling pool other than a domestic swimming or paddling pool within the meaning of section 76(2)(e) of the Act(a).

(2) The purpose specified in sub-paragraph (1) does not include—

- (a) filling or maintaining a pool that is open to the public;
- (b) filling or maintaining a pool where necessary in the course of its construction;
- (c) filling or maintaining a pool using a hand-held container which is filled with water drawn directly from a tap;
- (d) filling or maintaining a pool that is designed, constructed or adapted for use in the course of a programme of medical treatment;
- (e) filling or maintaining a pool that is used for the purpose of decontaminating animals from infections or disease;
- (f) filling or maintaining a pool that is used in the course of a programme of veterinary treatment;
- (g) filling or maintaining a pool in which fish or other aquatic animals are being reared or kept in captivity;
- (h) filling or maintaining a pool that is for use by pupils of a school for school swimming lessons.

(3) For the purposes of paragraph 3(2)(a), a pool is not open to the public if it may only be used by paying members of an affiliated club or organisation.

### **Purpose 3: filling or maintaining a pond**

**4.**—(1) Filling or maintaining—

- (a) a non-domestic pond; or
- (b) a domestic pond within the meaning of section 76(2)(g) of the Act(b).

(2) The purpose specified in sub-paragraph (1) does not include—

- (a) filling or maintaining a pond in which fish or other aquatic animals are being reared or kept in captivity;
- (b) filling or maintaining a pond using a hand-held container which is filled with water drawn directly from a tap.

(3) The purpose specified in sub-paragraph (1)(b) does not include filling or maintaining a domestic pond using a hosepipe.

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(a) The definition of “domestic swimming or paddling pool” in section 76(2)(e) of the Water Industry Act 1991 is set out in article 8(2) of the Water Use (Temporary Bans) Order 2010.

(b) The definition of “domestic pond” in section 76(2)(g) of the Water Industry Act 1991 is set out in article 10(2) of the Water Use (Temporary Bans) Order 2010.

**Purpose 4: operating a mechanical vehicle-washer**

5. Operating a mechanical vehicle-washer, whether automatic or not.

**Purpose 5: cleaning any vehicle, boat, aircraft or railway rolling stock**

6.—(1) Cleaning any vehicle, boat, aircraft or railway rolling stock using a hosepipe.

(2) The purpose specified in sub-paragraph (1) does not include cleaning any vehicle, boat, aircraft or railway rolling stock for health or safety reasons.

(3) In this paragraph—

“boat” means a vessel or other thing which—

(a) is designed, constructed or adapted to move through, in, on or over water; and

(b) is not a private leisure boat within the meaning of section 76(2)(d) of the Act<sup>(a)</sup>; and

“vehicle” means any of the following not being a private motor-vehicle within the meaning of section 76(2)(b) of the Act<sup>(b)</sup>—

(a) a vehicle designed, constructed or adapted for use on roads; or

(b) a trailer or other thing designed, constructed or adapted for attachment to a vehicle falling within paragraph (a) of this definition.

**Purpose 6: cleaning non-domestic premises**

7.—(1) Cleaning any of the following using a hosepipe—

(a) any exterior part of a non-domestic building other than a window;

(b) a non-domestic wall.

(2) The purpose specified in sub-paragraph (1) does not include the cleaning of any exterior part of a non-domestic building or a non-domestic wall for health or safety reasons.

(3) In this paragraph, “non-domestic wall” means a wall or any other enclosing structure or partition which—

(a) does not form part of a non-domestic building; and

(b) is not within the curtilage of a domestic building.

**Purpose 7: cleaning a window of a non-domestic building**

8. Cleaning a window of a non-domestic building using a hosepipe other than for health or safety reasons.

**Purpose 8: cleaning industrial plant**

9. Cleaning industrial plant using a hosepipe other than for health or safety reasons.

**Purpose 9: suppressing dust**

10. Suppressing dust using a hosepipe other than for health or safety reasons.

**Purpose 10: operating cisterns**

11.—(1) Operating a cistern in any building that is unoccupied and closed.

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(a) The definition of “private leisure boat” in section 76(2)(d) of the Water Industry Act 1991 is set out in article 7(3) of the Water Use (Temporary Bans) Order 2010.

(b) The definition of “private motor-vehicle” in section 76(2)(b) of the Water Industry Act 1991 is set out in article 5 of the Water Use (Temporary Bans) Order 2010.

(2) In this paragraph, "cistern" means an automatically-operated flushing cistern which services a water closet pan or urinal.