

Appendix 11

Temporary Use Bans & Non-Essential Use Bans - Representation and Exceptions



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1. Temporary Use Bans (TUBs)

Temporary Use Bans, commonly referred to as TUBs, are powers granted to water companies to impose restrictions on customers' water use. Previously these were referred to as 'hosepipe bans' but they were modified in 2010 under the Flood and Water Management Act to cover a wider range of restrictions. TUBs can be introduced quickly and predominantly focus on water use by domestic customers.

Phasing of restrictions

As the introduction of TUBs gives water companies a wider range of powers, it is important we give careful consideration to the phasing of restrictions. Different levels of drought will be triggered at different times, according to each water company's water resource limits, so companies can decide to implement restrictions in stages according to local conditions, rather than apply them in full at once. Water companies are expected by industry regulators to apply their powers fully in one phase before progressing to the next, for example, implementing TUBs before applying for a Drought Order.

1.1 TUBs representation

Under circumstances where a temporary hosepipe ban is considered necessary to conserve essential water during periods of drought we will always provide the opportunity for representations to be submitted. In accordance with Section 76B of the WIA 1991 before any restriction becomes imposed we shall:

- Provide notice of the proposed temporary restriction and its terms -
 - in at least two newspapers circulating in the area to which it is to apply
 - on the Anglian Water website.
- Provide clear details how and by when to make representations about the proposed prohibition temporary restriction.
- Specify the date from which it applies and the area to which it applies.

The same advertising process will be followed for any further variation to a temporary restriction or the revocation of a restriction. We will revoke restrictions that are no longer required with immediate effect and no period of representation will be applied.

Making representations

An appropriate period of time will be given for representations to be received and considered prior to implementation of a temporary restriction. This time will be proportionate to the scale of the proposed implementation and the customer base likely to be affected by the restrictions but will always be for a period of at least 3 weeks. The period of representation will be clearly detailed in our notice and will ensure a balance between the urgency of demand restrictions with the anticipated public interest of the restriction.

Dedicated postal and email addresses will be created at the time, for customers seeking to make a representation by writing or email respectively.

Considering representation

Representation received within the period of consultation will be reviewed on a routine basis. The Drought Management Team will convene and consider representations. A Statement of Response will be produced following the close of the consultation period which will outline our considerations and actions taken.

1.2 TUBs exceptions

As a water undertaker we plan on the basis that on occasion, we may have to impose restrictions during long periods of very dry weather or drought. Water companies can grant exceptions from these restrictions for customers and businesses. The aim of exceptions is to minimise the impact on vulnerable customers and the economy. We have liaised with the regional planning groups (WRE and WRSE) in order to ensure the alignment of treatment of exceptions and concessions.

There are two types of exceptions to these restrictions which can be applied by water companies:

- Statutory Exceptions - activities / water uses which are exempt from the legislation; and
- Discretionary Exceptions - activities / water uses which are not covered by a statutory exception, but which water companies can grant the use of a hosepipe under certain circumstances.

Discretionary Exceptions can be further split into two categories:

- ‘Universal’ - these exceptions have been agreed by all companies who signed up to the Drought Code of Practice (a document which aims to ensure a common approach to drought management by UK Water companies). Such exceptions do not require customers to write or make representation to the water company to obtain permission; and
- ‘Other concessions’ - these are exceptions which individual water companies can choose to offer customers, depending on the particular circumstances. These exceptions do require customers to write or make representation to the water company to obtain permission.

Anglian Water grants a Discretionary Exception to those customers on our WaterSure tariff due to a medical condition for those activities where a suggested discretionary concessional exception includes customers on a Vulnerable Customer List. Such customers do not need to make representation or obtain permission from us. In order to provide transparency, any other exceptions would need to be managed and approved via the representation process detailed in **Section 1.1**. All applications for exceptions must be made within the prescribed consultation period and a formal response will be published to identify exceptions that have been approved.

We will liaise with our non-household (NHH) retail partners, regarding exceptions for businesses whose commercial activity would be affected by the imposition of restrictions.

Note, however, that no compensation will be awarded in the event of a temporary restriction on water usage.

Summary of exceptions

The following table sets out the statutory, universal discretionary and agreed discretionary TUB exceptions which have been agreed by Anglian Water in alignment with other water companies in south-east England.

Table 1.1: TUBs categories and exceptions

| TUB Category | Statutory Exception | Discretionary Universal Exception (granted by all water companies) | Suggested Discretionary Concessional Exception (granted by individual water companies) |
|--|--|--|--|
| <p>1. Watering a garden using a hosepipe</p> | <p>Using a hosepipe to water a garden for health or safety reasons. NB In this category, the definition of “a garden” includes “an area of grass used for sport or recreation”. Therefore it should be noted that watering areas of grass, which are used for sport or recreation, is covered by a Statutory Exception for health and safety only in relation to the active strip/playing area, not the entire ground.</p> | <ul style="list-style-type: none"> • To Blue Badge holders on the grounds of disability • Use of an approved drip or trickle irrigation system fitted with a pressure reducing valve (PRV) and timer | <ul style="list-style-type: none"> • To customers on the company’s Vulnerable Customers List who have mobility issues but are not in possession of a Blue Badge • To water newly laid turf for first 28 days |
| <p>2. Cleaning a private motor-vehicle using a hosepipe</p> | <p>A “private motor-vehicle” does not include (1) a public service vehicle, as defined in section 1 of the Public Passenger Vehicles Act 1981 (c), and (2) a goods vehicle, as defined in section 192 of the Road Traffic Act 1988 (d)</p> | <ul style="list-style-type: none"> • To Blue Badge holders on the grounds of disability • Use of a hosepipe in the course of a business to clean private motor vehicles where this is done as a service to customers | <ul style="list-style-type: none"> • To customers on the company’s Vulnerable Customers List who have mobility issues but are not in possession of a Blue Badge |
| <p>3. Watering plants on domestic or other non-commercial premises using a hosepipe</p> | <p>Does not include watering plants that are (1) grown or kept for sale or commercial use, or (2) that are part of a National Plant Collection or temporary garden or flower display.</p> | <ul style="list-style-type: none"> • To Blue Badge holders on the grounds of disability • Use of an approved drip or trickle irrigation system fitted with a PRV and timer | <ul style="list-style-type: none"> • To customers on the company’s Vulnerable Customers List who have mobility issues but are not in possession of a Blue Badge • To water newly laid turf for first 28 days |
| <p>4. Cleaning a private leisure boat using a hosepipe</p> | <p>(1) cleaning any area of a private leisure boat which, except for doors or windows, is enclosed by a roof and walls. (2) Using a hosepipe to clean a private leisure boat for health or safety reasons</p> | <ul style="list-style-type: none"> • Commercial cleaning • Vessels of primary residence • Cases where fouling is causing increased fuel consumption • Engines designed to be cleaned with a hosepipe | <ul style="list-style-type: none"> • To prevent or control the spread of non-native and / or invasive species |

| TUB Category | Statutory Exception | Discretionary Universal Exception (granted by all water companies) | Suggested Discretionary Concessional Exception (granted by individual water companies) |
|--|---|---|--|
| <p>5. Filling or maintaining a domestic swimming or paddling pool</p> | <p>(1) filling or maintaining a pool where necessary in the course of its construction (2) filling or maintaining a pool using a hand-held container which is filled with water drawn directly from a tap (3) filling or maintaining a pool that is designed, constructed or adapted for use in the course of a programme of medical treatment (4) filling or maintaining a pool that is used for the purpose of decontaminating animals from infection or disease (5) filling or maintaining a pool used in the course of a programme of veterinary treatment (6) filling or maintaining a pool in which fish or other aquatic animals are being reared or kept in captivity</p> | <p>None</p> | <p>None</p> |
| <p>6. Drawing water, using a hosepipe, for domestic recreational use</p> | <p>None</p> | <p>None</p> | <p>None</p> |
| <p>7. Filling or maintaining a domestic pond using a hosepipe</p> | <p>Filling or maintaining a domestic pond in which fish or other aquatic animals are being reared or kept in captivity</p> | <ul style="list-style-type: none"> • Blue Badge holders on the grounds of disability | <ul style="list-style-type: none"> • To customers on the company's Vulnerable Customers List who have mobility issues but are not in possession of a Blue Badge |
| <p>8. Filling or maintaining an ornamental fountain</p> | <p>Filling or maintaining an ornamental fountain which is in or near a fish-pond and whose purpose is to supply sufficient oxygen to the water in the pond in order to keep the fish healthy</p> | <p>None</p> | <ul style="list-style-type: none"> • To operate water features with religious significance |
| <p>9. Cleaning walls, or windows, of domestic premises using a hosepipe</p> | <p>Using a hosepipe to clean the walls or windows of domestic premises for health or safety reasons</p> | <ul style="list-style-type: none"> • To Blue Badge holders on the grounds of disability • Commercial cleaning | <ul style="list-style-type: none"> • To customers on the company's Vulnerable Customers List who have mobility issues but are not in possession of a Blue Badge |

| TUB Category | Statutory Exception | Discretionary Universal Exception (granted by all water companies) | Suggested Discretionary Concessional Exception (granted by individual water companies) |
|--|--|---|--|
| 10. Cleaning paths or patios using a hosepipe | Using a hosepipe to clean paths or patios for health or safety reasons | <ul style="list-style-type: none"> • To Blue Badge holders on the grounds of disability • Commercial cleaning | <ul style="list-style-type: none"> • To customers on the company's Vulnerable Customers List who have mobility issues but are not in possession of a Blue Badge |
| 11. Cleaning other artificial surfaces using a hosepipe | Using a hosepipe to clean an artificial outdoor surface for health or safety reasons | <ul style="list-style-type: none"> • To Blue Badge holders on the grounds of disability • Commercial cleaning | <ul style="list-style-type: none"> • To customers on the company's Vulnerable Customers List who have mobility issues but are not in possession of a Blue Badge |

2. Non-Essential Use Bans (NEUBs)

Drought Orders

Following the introduction of TUBs and if a drought continues to worsen, water companies can also apply to the Secretary of State for the Environment to further increase the level of water restrictions with a Drought Order.

These are introduced in addition to TUBs and include restrictions on businesses which use water in their operations. Prior to applying for Drought Orders, we would work closely with businesses and trade organisations to encourage them to use water wisely, and so delay the introduction of restrictions which could then impact on their operations.

Non-Essential Use Bans (NEUBs)

Non-Essential Use Bans, commonly referred to as NEUBs, are a set of measures granted to water companies to impose further restrictions on the use of water as long as certain legislative tests are met. These powers are sought through applying for a Drought Order.

Before applying for a Drought Order to restrict water use, water companies are expected to have made full use of their powers under the WIA 1991, as stated in the Explanatory Memorandum to the Water Use (Temporary Bans) Order 2010:

“By extending the water uses that water undertakers may prohibit under section 76(1) of the Act [WIA 1991], water undertakers may be able to delay or avoid the need for Drought Orders under the Water Resources Act 1991”

The Drought Direction 2011 (which replaced the Drought Direction 1991) sets out the restrictions available under an ordinary Drought Order, as allowed for under Section 73 of the Water Resources Act 1991 (WRA 1991). These are:

- Watering outdoor plants on commercial premises;
- Filling or maintaining a non-domestic swimming or paddling pool;
- Filling or maintaining a pond;
- Operating a mechanical vehicle-washer;
- Cleaning any vehicle, boat, aircraft or railway rolling stock;
- Cleaning non-domestic premises;
- Cleaning a window of a non-domestic building;
- Cleaning industrial plant;
- Suppressing dust; and
- Operating cisterns.

In order to grant a Drought Order under the WRA 1991 73(2), the Secretary of State must be satisfied that: “By reason of an exceptional shortage of rain, a serious deficiency of supplies of water in any area exists or is threatened”.

The potential timescales for introducing restrictions by recourse to a Drought Order are significantly longer than those for TUBs under the WIA 1991, and the Secretary of State would typically require a public inquiry or hearing to be held if an objection were received.

Under Schedule 8, paragraph 3(c) of the WRA 1991, the company must publish a notice of its application for a Drought Order to restrict water use, which shall state that objections to the application may be made to the Secretary of State within seven days from the date on which it is served or published.

Note, however, that no compensation will be awarded in the event of a NEUB.

2.1 NEUBs representation

In order to provide transparency, any exceptions would need to be managed and approved via the representation process which would be consistent with the TUBs representation detailed in **Section 1.1**. All applications for exceptions must be made within the prescribed consultation period and a formal response will be published to identify exceptions that have been approved.

2.2 NEUBs exceptions

The following table sets out the statutory, universal discretionary and agreed discretionary Drought Order (NEUB) exceptions which have been agreed by Anglian Water in alignment with other water companies in south-east England.

Table 2.1: Drought Order (NEUB) categories and exceptions

| Drought Order (NEUB) Category | Statutory Exception | Universal Exception | Discretionary Exception | UKWIR Suggested Discretionary Exceptions |
|--|---|---------------------|--|--|
| <p>1. Watering outdoor plants on commercial premises</p> | <p>This includes plants which are in a pot or container that is outdoors or under cover and plants which are in the ground under cover.</p> <p>This does not include plants grown (i.e. cultivated or propagated) or kept for sale or commercial use or plants part of a National Plant Collection or temporary garden or flower display.</p> | <p>None</p> | <ul style="list-style-type: none"> • Use of an approved drip or trickle irrigation system fitted with a PRV and timer is set for use in the evening or night. • Water newly bought plants for the first 28 days after the implementation of the ban. | <ul style="list-style-type: none"> • Use of an approved drip or trickle irrigation system fitted with a PRV and timer • Watering newly-bought plants |
| <p>2. Filling or maintaining a non-domestic swimming or paddling pool</p> | <p>This restriction shall not apply to:</p> <ul style="list-style-type: none"> • Pools open to the public (a pool is not open to the public if it may only be used by paying members of an affiliated club or organisation). • Filling or maintain a pool that is used by pupils of a school for swimming lessons. • Filling or maintaining a pool where necessary in the course of construction. • Filling or maintaining a pool using a hand-held container which is filled with water drawn directly from the tap. • Filling or maintaining a pool designed, constructed or adapted for use in the course of a programme of medical treatment. • Filling or maintaining a pool that is used to decontaminate animals from infections or disease. • Filling or maintaining a pool used in the course of veterinary treatment. • Filling or maintaining a pool in which fish or other aquatic animals are being reared or kept in captivity. | <p>None</p> | <p>None</p> | <ul style="list-style-type: none"> • Swimming pools serving industrial training if considered justified • Swimming pools with covers • Pools with religious significance • Pools fitted with approved water conservation or recycling systems • Pools that are subject to significant repair and innovation |

| Drought Order (NEUB) Category | Statutory Exception | Universal Exception | Discretionary Exception | UKWIR Suggested Discretionary Exceptions |
|---|---|---|--|---|
| 3. Filling or maintaining a pond | This restriction shall not apply to ponds in which fish or other aquatic animals are being reared or kept in captivity or to filling or maintaining the pond with a hand-held container which is filled with water directly from the tap. | <ul style="list-style-type: none"> Blue Badge holders on grounds of disability | None | <ul style="list-style-type: none"> Customers on the company's Vulnerable Customer List who have mobility issues but are not in possession of a Blue Badge |
| 4. Operating a mechanical vehicle washer | None | None | <ul style="list-style-type: none"> On biosecurity grounds | <ul style="list-style-type: none"> Washers which recycle water and thus use less than 23 litres per wash On biosecurity grounds |
| 5. Cleaning any vehicle, boat, aircraft or railway rolling stock | Cleaning any vehicle, boat, aircraft or railway rolling stock for health and safety reasons. | None | <ul style="list-style-type: none"> On biosecurity grounds | <ul style="list-style-type: none"> Low water use technologies Small businesses whose sole operations are cleaning of vehicles using hosepipes Those using vessels as a primary residence Cases where fouling of hulls causes fuel consumption To remove graffiti To prevent of control the spread of non-native and / or invasive species |

| Drought Order (NEUB) Category | Statutory Exception | Universal Exception | Discretionary Exception | UKWIR Suggested Discretionary Exceptions |
|--|---|---------------------|---|--|
| 6. Cleaning any exterior part of a non-domestic building or non-domestic wall | Cleaning any exterior part of a non-domestic building or non-domestic wall for health and safety reasons. | None | <ul style="list-style-type: none"> To remove graffiti by applying to the wholesale supplier | <ul style="list-style-type: none"> Small businesses whose sole operations are cleaning of buildings using hosepipes Low water use technologies To remove graffiti |
| 7. Cleaning a window of non-domestic building | Cleaning a window of non-domestic building using a hosepipe for health and safety reasons. | None | <ul style="list-style-type: none"> Small businesses whose sole operations are cleaning of windows using hosepipes. | <ul style="list-style-type: none"> Small businesses whose sole operations are cleaning of windows using hosepipes |
| 8. Cleaning industrial plant | Cleaning industrial plant using a hosepipe for health and safety reasons. | None | <ul style="list-style-type: none"> Biosecurity | <ul style="list-style-type: none"> To remove graffiti |
| 9. Suppressing dust | Suppressing dust using a hosepipe for health and safety reasons. | None | None | None |
| 10. Operating cisterns on unoccupied buildings | None | None | None | None |



Cover photo - A garden hosepipe with a multi-spray nozzle.