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STATUTORY INSTRUMENTS

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**1973 No. 70 (NI 2)**

**Water and Sewerage Services (Northern Ireland) Order 1973**

- - - - - [19th January 1973]

**PART I**  
**INTRODUCTORY**

**Title and commencement**

**1.**—(1) This Order may be cited as the Water and Sewerage Services (Northern Ireland) Order 1973.

*Para.(2)—Commencement*

**Interpretation**

**2.**—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Parliament of Northern Ireland.

(2) <sup>F1</sup> In this Order—

the Appeals Commission has the meaning assigned to it by Article 7(1);

authorised officer means a person authorised by the Ministry in writing either generally or specially to act in matters of any specified kind or in any specified matter;

[<sup>F2</sup>domestic purposes, in relation to a supply of water to any premises, means the purposes of human consumption, cooking and washing necessary for human health or hygiene but does not include the purposes of the business of a laundry;]

[<sup>F2</sup>domestic sewage, in relation to any premises, means—

- (a) the contents of lavatories; and
- (b) water which has been used for cooking or washing necessary for human health or hygiene, not being water used for the business of a laundry or for a business of preparing food or drink;]

drain, in relation to any premises, means any pipe or drain used solely for or in connection with the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage;

[<sup>F2</sup>food production premises means premises used for the purposes of a business of preparing food or drink for consumption otherwise than on the premises;

food production purposes shall be construed in accordance with paragraph (3);]

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*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED). (See end of Document for details)*

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foul water means any water contaminated by domestic sewage or trade effluent;

house means a dwelling-house, whether a private dwelling-house or not, and includes any part of a building if that part is occupied as a separate dwelling-house;

local authority means the council of any county, county or other borough, or of an urban or rural district, or a joint board constituted for every united district within the meaning of section 12 of the Public Health (Ireland) Act 1878 or section 7 of the Water Supplies and Sewerage Act (Northern Ireland) 1945 , or the Belfast City and District Water Commissioners;

Londonderry Area has the same meaning as in the Foyle Fisheries Act (Northern Ireland) 1952 ;

main means a pipe vested in the Ministry, being a pipe for the purpose of giving<sup>F2</sup> or intended to give] a general supply of water as distinct from a supply to an individual consumer and includes any apparatus used in connection with such a pipe;

maintain shall be construed in accordance with section 147 of the Local Government Act (Northern Ireland) 1972 ;

[<sup>F2</sup>micro-organism includes any microscopic biological entity which is capable of replication;]

the Minister means the Minister of Development<sup>F3</sup>;

the Ministry means the Ministry of Development<sup>F3</sup>;

occupier means the person in occupation or having the charge, management or control of premises either on his own account or as the agent of another person;

owner means a person who is for the time being receiving a rent of not less than two-thirds of the net annual value of any land whether on his own account or as agent or trustee for any other person or who, if the land were let at such a rent, would receive it;

[<sup>F2</sup>prescribed means prescribed by regulations;]

private sewage treatment works means a sewage treatment works which is not vested in the Ministry;

[<sup>F2</sup>private sewer means a sewer not vested in the Department;

private supply means, subject to paragraph (4), a supply of water provided otherwise than by the Department (including a supply provided for the purposes of the bottling of water);]

private water supply works means a water supply works which is not vested in the Ministry;

provide shall be construed in accordance with section 147 of the Local Government Act (Northern Ireland) 1972;

public body has the same meaning as in section 148 of the Local Government Act (Northern Ireland) 1972;

road means a road maintainable at the public expense;

[<sup>F2</sup>service pipe means, subject to paragraph (5), so much of a pipe which is, or is to be, connected with a main for supplying water from that main to any premises—

(a) as is or is to be subject to water pressure from that main; or

(b) as would be so subject but for the closing of some valve,

and includes part of any service pipe;]

sewage<sup>F2</sup> means] domestic sewage, surface water and trade effluent;

sewage treatment works means any works, apparatus, or plant used for the treatment or disposal of sewage and includes a septic tank;

sewer does not include a drain as defined in this Article but, subject to that, includes all sewers, pipes or drains vested in the Ministry which are used for the drainage of buildings and yards appertaining to premises and includes any apparatus used in connection with such a sewer;

[<sup>F2</sup>substance includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;]

surface water means the run-off of rain water from roofs and any paved ground surface within the curtilage of premises;

*Definition rep. by 1984 c. 12*

trade effluent means any liquid either with or without particles of matter in suspension therein which is wholly or in part produced in the course of any trade or industry carried out at trade premises, including trade waste waters or waters heated in the course of any trade or industry, and in relation to any trade premises, means any such liquid which is produced in the course of any trade or industry carried on at those premises;

trade or industry for the purposes of the definition of trade effluent includes agriculture, horticulture and scientific research or experiment and the carrying on of a hospital or a nursing home and for the purposes of the definition of trade premises includes premises used or intended to be used in the whole or in part for the carrying on of agriculture, horticulture or scientific research or experiment, or as a hospital or nursing home;

trade premises means any premises used or intended to be used for carrying on any trade or industry;

transferred provision has the same meaning as in the Interpretation Act (Northern Ireland) 1954 ;

underground strata has the same meaning as in the [<sup>F4</sup> Water (Northern Ireland) Order 1999];

water fittings includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, water closets, soil pans and other similar apparatus used in connection with the supply and use of water;

water supply works means any works, apparatus or plant used for the supply, distribution or treatment of water;

waterway has the same meaning as in the [<sup>F4</sup> Water (Northern Ireland) Order 1999].

[<sup>F2</sup>wholesome shall be construed subject to the provisions of any regulations made under Article 3C;]

[<sup>F2</sup>(3) In this Order references to food production purposes are references to the manufacturing, processing, preserving or marketing purposes with respect to food or drink for which water supplied to food production premises may be used.

(4) In this Order for the purposes of references to a private supply, or to supplying water by means of a private supply, water shall be treated as supplied to any premises not only where it is supplied from outside those premises, but also where it is abstracted, for the purpose of being used or consumed on those premises, from a source which is situated on the premises themselves; and for the purposes of this paragraph water shall be treated as used on any premises where it is bottled on those premises for use or consumption elsewhere.

(5) In this Order references to a pipe, including references to a main, a drain or a sewer, shall include references to a tunnel or conduit which serves or is to serve as the pipe in question and to any accessories for the pipe; and, accordingly, references to the laying of a pipe shall include references to the construction of such a tunnel or conduit, to the construction or installation of any such accessories and to the making of a connection between one pipe and another.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED). (See end of Document for details)*

(6) For the purposes of this Order a service pipe or drain shall be treated as connected with a main or sewer even if the connection is an indirect connection made by virtue of a connection with one or more than one other service pipe or, as the case may be, drain or private sewer.]

<b>F1</b>	functions transf. so far as relating to functions under f009
<b>F2</b>	1993 NI 16
<b>F3</b>	Functions of Minister transf. to Head of D/Env. and of Ministry to D/Env., SRO (NI) 1973/504
<b>F4</b>	1999 NI 6

## PART II

### WATER AND SEWERAGE SERVICES

#### Ministry's duty to provide water and sewerage services

**3**<sup>F5</sup>.—(1) Subject to this Order, the Ministry shall—

- (a) supply and distribute water;
- (b)<sup>F6</sup> provide and maintain sewers for draining domestic sewage, surface water and trade effluent; and
- (c)<sup>F6</sup> make provision for effectually dealing with the contents of its sewers.

*Para. (2) rep. by 1993 NI 16*

<b>F5</b>	functions transf. by SR 1999/481
<b>F6</b>	mod. by SR 1995/12

#### Water quality

**3A**<sup>F7</sup>.—(1) The Department shall—

- (a) when supplying water to any premises for domestic or food production purposes, supply only water which is wholesome at the time of supply; and
- (b) so far as reasonably practicable, ensure, in relation to each source or combination of sources from which the Department supplies water to premises for domestic or food production purposes, that there is, in general, no deterioration in the quality of the water which is supplied from that source or combination of sources.

(2) For the purpose of this Article and Article 3B and subject to paragraph (3), water supplied by the Department to any premises shall not be regarded as unwholesome at the time of supply where it has ceased to be wholesome only after leaving the pipes of the Department.

(3) For the purposes of this Article where water supplied by the Department to any premises would not otherwise be regarded as unwholesome at the time of supply, that water shall be regarded as unwholesome at that time if—

- (a) it has ceased to be wholesome after leaving the pipes of the Department but while in a pipe which is subject to water pressure from a main or which would be so subject but for the closing of some valve; and
- (b) it has so ceased in consequence of the failure of the Department, before supplying the water, to take such steps as may be prescribed for the purpose of securing the elimination, or reduction to a minimum, of any prescribed risk that the water would cease to be wholesome after leaving the pipes of the Department.

**F7** functions transf. by SR 1999/481

### **Regulations for preserving water quality**

**3B.—(1)** The Department may make regulations prescribing the steps required to be taken to secure compliance with Article 3A; and without prejudice to the foregoing, regulations under this paragraph may—

- (a) prescribe the steps to be taken for monitoring and recording whether the water which is supplied to premises for domestic or food production purposes is wholesome at the time of supply;
- (b) prescribe the steps to be taken for monitoring and recording the quality of the water from any source, or combination of sources, which is used or is proposed to be used for supplying water to any premises for domestic or food production purposes;
- (c) make provision for ensuring that a source which is used or proposed to be used for supplying water for domestic or food production purposes is not so used until prescribed requirements for establishing the quality of water which may be supplied from that source have been complied with;
- (d) make provision for the keeping of records of the localities within which all the premises supplied with water for domestic or food production purposes are normally supplied from the same source or combination of sources;
- (e) prescribe requirements with respect to the analysis of water samples.

(2) Without prejudice to paragraph (1), the Department may make regulations with respect to the use in connection with the preparation of water for supply to any premises for domestic or food production purposes, of such processes and substances, and of products that contain or are made with such substances or materials, as the Department considers might affect the quality of any water; and, without prejudice to the generality of the foregoing, regulations under this paragraph may—

- (a) regulate such use of processes, substances and products;
- (b) for the purposes of provision made under sub-paragraph (a), require processes, substances and products so used to conform to such standards as may be prescribed by the regulations;
- (c) impose such other conditions as may be prescribed with respect to such use of prescribed processes, substances and products and for the modification and revocation of any such condition;
- (d) provide for the circumstances in which the Department shall consult prescribed persons for advice on such use of certain processes, substances and products;
- (e) without prejudice to Article 57(2), provide that persons contravening the regulations shall be guilty of an offence and shall be liable—
  - (i) on summary conviction, to a fine not exceeding the statutory maximum; and
  - (ii) on conviction on indictment, to a fine;
- (f) make provision for the recovery from a person convicted of an offence under the regulations of expenses reasonably incurred by the Department in carrying out works of repair or reinstatement necessitated by his action.

(3) The Department may by regulations make provision for—

- (a) the publication of information about the quality of water supplied for domestic or food production purposes to any premises; and
- (b) the provision of information about the quality of water so supplied.

(4) Regulations under paragraph (3)—

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- (a) may prescribe both the information which is to be published or provided under the regulations and the manner and circumstances in which it is to be published or provided;
- (b) may authorise the provision of information to any person on payment of such charge as the Department may determine; and
- (c) may impose such other conditions on the provision of information to any person as may be prescribed.

### **Standards of wholesomeness**

**3C.**—(1) The Department may by regulations make provision that water that is supplied to any premises is or is not to be regarded as wholesome for the purposes of this Order if it satisfies or, as the case may be, fails to satisfy such requirements as may be prescribed.

(2) Without prejudice to the generality of paragraph (1), regulations under this Article may, for the purpose of determining the wholesomeness of water supplied for domestic or food production purposes,—

- (a) prescribe specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;
- (b) prescribe specific requirements as to other characteristics of the water;
- (c) provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed; and
- (d) provide for, or enable the Department to authorise, such relaxations of and departures from the prescribed requirements (or from any of them) as may be prescribed, to make any such authorisations subject to such conditions as may be prescribed and to modify or revoke any such authorisation or condition.

### *Private water supplies*

### **Functions of Department in relation to water quality of private supplies**

**3D.**—(1) The Department shall—

- (a) take all such steps as it considers appropriate for keeping itself informed about the wholesomeness and sufficiency of private supplies; and
- (b) maintain a register of private supplies used for domestic or food production purposes.

(2) Where the Department is satisfied—

- (a) that any private supply used for domestic or food production purposes to any premises is, has been or is likely to become unwholesome or (so far as any such premises are concerned) insufficient for domestic and sanitary purposes; and
- (b) that the unwholesomeness or insufficiency of any such supply is, was or is likely to be such as to cause a danger to life or health;

the Department shall notify—

- (i) the district council for the district; and
- (ii) the Health and Social Services Board for the area;

in which the premises are, and the supply is, situated.

(3) The Department may by regulations make such provision, supplementing the provisions of this Article, as the Department considers appropriate for—

- (a) obtaining information about the quality and sufficiency of private supplies, including information as to the source of the supplies and the premises supplied by such supplies;
  - (b) regulating the performance of any function under this Article; and
  - (c) prescribing the particulars in respect of each private supply to be recorded in the register maintained under paragraph (1)(b).
- (4) Without prejudice to the generality of paragraph (3), regulations under that paragraph may—
- (a) prescribe the matters to be taken into account in determining, for the purposes of paragraph (1), what is appropriate;
  - (b) provide, for the purposes of this Article, for such samples of water to be taken and analysed at such times and in such manner as may be prescribed;
  - (c) provide for functions under this Article to be carried out by prescribed persons;
  - (d) provide for the recovery by the Department from prescribed persons of such amounts as may be prescribed in respect of expenses reasonably incurred by the Department under this Article.

#### **Remedial functions of Department in relation to private supplies**

**3E.—**(1) Subject to the following provisions of this Article, where the Department is satisfied in relation to any premises which are supplied with water for domestic or food production purposes by means of a private supply—

- (a) that any water which is being, has been or is likely to be supplied for domestic or food production purposes to those premises by means of that private supply is not, was not or, as the case may be, is likely not to be, wholesome; or
- (b) that that private supply is failing, has failed or is likely to fail to provide to any house on those premises such a supply of wholesome water as (so far as that house is concerned) is sufficient for domestic and sanitary purposes,

the Department may serve a notice in relation to that private supply on one or more of the relevant persons.

- (2) A notice under paragraph (1) in relation to a private supply to any premises shall—
- (a) give particulars of the matters mentioned in paragraph (1) in respect of which the notice is served; and
  - (b) specify the steps which, in the opinion of the Department, are required to be taken for ensuring that there is a supply of water to those premises which is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic and sanitary purposes;

and the person on whom the notice is served may, within 28 days from the date of the service of the notice, appeal to the Appeals Commission.

(3) Where the Department serves a notice under paragraph (1) on any relevant person it may do one or more of the following, that is to say—

- (a) by that notice designate as steps to be taken by the Department such of the steps specified in the notice as the Department considers it appropriate to so designate;
- (b) by that notice require that person, within such reasonable period as may be specified in the notice, to take one or more of the steps so specified;
- (c) by that notice require that person, at such times as may be determined in accordance with provision contained in the notice, to make to another relevant person or to the Department such payments as may be so determined in respect of expenses reasonably incurred by that other person or the Department in taking any step specified in the notice;

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(d) by that notice undertake to make such payments to that person as may be so determined in respect of expenses reasonably incurred by that person in taking any step specified in the notice.

(4) Where any relevant person who is required by virtue of a notice under paragraph (1) to take any step in relation to any premises fails to take that step within the period specified in the notice, the Department may, in accordance with any applicable provision having effect under this Order, take that step.

(5) Where any step is taken by the Department in relation to any premises by virtue of paragraph (4)—

(a) the Department may recover from the person who failed to take that step within the specified period any expenses reasonably incurred by the Department in taking that step; and

(b) for the purposes of any requirement under which payments are required to be made to that person by any person other than the Department, sums paid by virtue of sub-paragraph (a) in respect of the taking of any step shall be deemed to be expenses incurred in the taking of that step by the person who failed to take it.

(6) Nothing in this Order shall confer any right of action on any person in respect of any loss or damage sustained by that person in consequence of the failure by any other person to take any step specified in a notice under paragraph (1); but any sum required to be paid to any person by virtue of any requirement or undertaking contained in such a notice shall be recoverable summarily as a civil debt by that person from the person who is required to pay it.

(7) The Department may by notice served on any person modify or revoke the effect in relation to that person of any notice under this Article, and the person on whom the notice is served may, within 28 days from the date of the service of the notice, appeal to the Appeals Commission except where the notice—

(a) extends the period within which any step is required to be taken by that person; or

(b) discharges, postpones or abates any obligation of that person to make a payment to the Department.

(8) For the purposes of this Article the relevant persons, in relation to a private supply to any premises, are the owners and occupiers of those premises and the owners and occupiers of the premises where the source of that supply is situated and any other person who exercises powers of management or control in relation to that source.

### **Supplementary provisions**

**3F.**—(1) The Department may serve on any person a notice requiring him to furnish the Department, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by the Department for the purposes of Articles 3D and 3E.

(2) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Cost in relation to provision of services**

**4.**—(1) Article 3 shall not require the Ministry to do anything which is not practicable at a reasonable cost.

*Para. (2) rep. by 1993 NI 16*



### Consultation with district councils

5.—(1) The Ministry shall, where it appears necessary or desirable to do so and in any case at least once in each year, consult with each district council with respect to the proposals of the Ministry to exercise its functions under this Order in the district of the council.

(2) A district council may make representations to the Ministry about the exercise by the Ministry of its functions under this Order and under the<sup>F8</sup> Water (Northern Ireland) Order 1999] in the district of that council and the Ministry shall pay due regard to any such representations.

F8 1999 NI 6

Art. 6 rep. by 1999 NI 6

### Water Appeals Commission for Northern Ireland

7.—(1) There shall be established a Water Appeals Commission for Northern Ireland (in this Order referred to as the Appeals Commission).

(2) Schedule 1 shall have effect with respect to the constitution and staff of the Appeals Commission.

### Procedure on appeals

8<sup>F9</sup>.—<sup>F10</sup>(1) Where, under this Order or any other transferred provision, the Appeals Commission may determine an appeal or hear an application—

- (a) the jurisdiction of the Appeals Commission may be exercised by any one of its members;
- (b)<sup>F11</sup> except where an appeal or application is to be decided solely by reference to written representations, the Chief Commissioner may, after consultation with the Appeals Commission and<sup>F12</sup> the Office of the First Minister and deputy First Minister], appoint an assessor to sit with the member under sub-paragraph (a) at the appeal or hearing of the application to advise him on any matters arising;
- (c) notwithstanding sub-paragraphs (a) and (b) any decision on the appeal or application shall be made by the Appeals Commission and reported to the Department.

(2)<sup>F11</sup> The Appeals Commission may pay to any assessor appointed under paragraph (1)(b) such fees and allowances as the Commission, with the approval of<sup>F12</sup> the Office of the First Minister and deputy First Minister], may approve.]

<sup>F13</sup>(2A) Where, in pursuance of any statutory provision listed in paragraph (2B), any appeal made to the Appeals Commission, the Appeals Commission shall, without prejudice to its powers under paragraph (7) and section 23 of the Interpretation Act (Northern Ireland) 1954, advertise the appeal in one or more newspapers circulating in the area to which the appeal relates.

(2B) The statutory provisions referred to in paragraph (2A) are—

- (a) section 11A(4)(b) of the Fisheries Act (Northern Ireland) 1966 (fish culture licences);
- (b) Article 11(4) of the Water and Sewerage Services (Northern Ireland) Order 1973 (acquisition of water rights);
- (c) Article 6 of the Water (Northern Ireland) Order 1999 (water quality objectives);
- (d) Article 13(1)(a), (b), (c), (d), (f) and (g) of the Water (Northern Ireland) Order 1999 (appeals in relation to consents).

(2C) Where the Appeals Commission advertises an appeal in accordance with paragraph (2A), the Commission shall be entitled to recover the expenses of the advertisement from the appellant.]

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(3) The Ministry shall notify the applicant or appellant, and any other person appearing to it to be interested, of any decision reported to it under<sup>F10</sup> paragraph (1)(c)].

(4) The Ministry may, after considering any representations made to it under paragraph (5), vary the decision of the Appeals Commission or substitute for it a new decision.

(5) Where the Ministry intends to act under paragraph (4) it shall, within twenty-eight days from the date on which it receives the decision of the Appeals Commission, notify the applicant or appellant and any other interested person of its intention and its reasons therefor and afford to those persons an opportunity of making representations to it.

(6) Subject to paragraph (5), the Appeals Commission's decision or any variation or substitution under paragraph (4) of that decision shall be final except—

(a) on a point of law;

*Sub#para. (b) rep. by 1999 NI 6*

(7<sup>F11</sup> Without prejudice to section 23 of the Interpretation Act (Northern Ireland) 1954 ,<sup>F12</sup> the Office of the First Minister and deputy First Minister] may, after consultation with the Appeals Commission, make rules regulating the procedure to be followed by the Appeals Commission and, subject to this Order and the provision of any such rules, the Appeals Commission may regulate its own procedure.

*Para. 8 rep. by 1999 NI 6*

**F9** functions transf. so far as relating to functions under f009

**F10** [1993 NI 16](#)

**F11** functions transf. by SR 2001/229

**F12** SR 2001/229

**F13** [1999 NI 6](#)

**Modifications etc. (not altering text)**

**C1** [Art. 8](#) applied (1.1.2007) by [S.R. 2006/489](#), [reg. 23](#)

**C2** [Art. 8\(4\)](#) excluded (1.2.2007) by [S.R. 2006/482](#), [reg. 29\(9\)](#) (with [reg. 3](#))

**Transfer to Ministry of certain sewers, drains, pipes etc. in roads**

**9.** There shall on 1st October 1973 be transferred to and vested in the Ministry by virtue of this Article all sewers, drains, mains and service pipes in, under or across a road which connect with any works vested in the Ministry on that date under the Local Government Act (Northern Ireland) 1972.

**PART III**

**WORKS AND LAND**

**Acquisition of land**

**10**<sup>F14</sup>.—(1) The Ministry may, for any purpose in connection with the performance of any of its functions under this Order—

(a) by agreement acquire or take on lease any land or acquire land compulsorily;

(b) dispose of any land so acquired or taken on lease.

(2) Where the Ministry in exercise of the power conferred on it by paragraph (1) desires to acquire any land otherwise than by agreement, the Ministry may make an order (in this Article referred to as a vesting order) vesting the land in the Ministry.

(3) Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications specified in Schedule 2, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(4) The power to make a vesting order in respect of land—

(a) which is the property of a public body which has power under any transferred provision to acquire land compulsorily; or

(b) which is declared by or under any transferred provision to be inalienable;

shall not, where representations objecting to the proposal to make the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal to make the vesting order has been approved by a resolution of each House of Parliament.

(5) Nothing in this Article shall authorise the acquisition without the consent of the Ministry of Finance<sup>F15</sup> of any land on or in which there is, to the knowledge of the Ministry, any historic monument or archaeological object within the meaning of<sup>F16</sup> the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995].

(6) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 shall not affect the disposal of any land acquired or taken on lease under this Article.

**F14** functions transf. by SR 1999/481

**F15** Now D/Env., SR 1976/80

**F16** 1995 NI 9

### Acquisition of water rights

**11**<sup>F17</sup>.—(1) The Ministry may impound or abstract water from any waterway or water contained in underground strata.

(2) Where the Ministry proposes after 1st October 1973 to impound or abstract water, it shall, subject to paragraph (3)—

(a) inform the Foyle Fisheries Commission, where the water to be impounded or abstracted is within the Londonderry Area;

(b) inform the Fisheries Conservancy Board for Northern Ireland, where the water to be impounded or abstracted is outside the Londonderry Area;

(c) take all reasonable steps to inform persons who in its opinion will be affected thereby;

(d) give public notice of its intention to do so by publishing at least once in each of two successive weeks, in one or more newspapers circulating in the locality, a notice stating the general effect of its proposals.

(3) Paragraph (2) shall not apply to any impounding or abstraction of water—

(a) by means of works which are in operation or under construction on 1st October 1973;

(b) which has been authorised by an order made by the Ministry under <sup>F18</sup> section 22 of the Local Government Act (Northern Ireland) 1934 ];

(c) which is approved by the Ministry under section 1(2) of the Lough Neagh Drainage (Amendment) Act (Northern Ireland) 1970 ;

(d) which is approved under regulations made under<sup>F19</sup> Article 20 of the Water (Northern Ireland) Order 1999].

(4) Any person aggrieved by a proposal of the Ministry to impound or abstract water may appeal to the Appeals Commission against the proposal within twenty-eight days from the date on which

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the Ministry informs him of the proposal under paragraph (2)( *a*), ( *b*) or ( *c*) or public notice of it [<sup>F18</sup> is given for the second time] under paragraph (2)( *d*), whichever happens first.

(5) Where the impounding or abstraction of water by the Ministry reduces the flow of water in any waterway or reduces the amount of water in underground strata the Ministry shall—

- (a) provide an adequate amount of compensation water; or
- (b) pay compensation to any person who suffers loss or damage as a result of the impounding or abstraction.

(6) In determining the amount of compensation water required under paragraph (5)( *a*), regard shall be had—

- (a) to the character and flow of the waterway;
- (b) to the extent to which the waterway or water is, or may be, used for water supply, the disposal of effluent, fisheries, the generation of power and navigation;
- (c) to the value of the waterway or water for amenity, recreation and nature conservation;
- (d) to the interests of public health;
- (e) to the rights of riparian owners and of owners of fishing rights.

(7) Where the Ministry impounds or abstracts water under paragraph (1) and provides compensation water under paragraph (5)( *a*), then if there is any change in circumstances the amount of that compensation water may be varied accordingly.

(8) Any dispute as to compensation or as to the amount or any variation of the amount of compensation water required to be paid or provided under this Article shall be referred to and determined by the Lands Tribunal.

**F17** functions transf. by SR 1999/481

**F18** 1978 NI 19

**F19** 1999 NI 6

### **Adoption of works, sewers, pipes or drains**

**12** <sup>F20</sup>.—(1) Subject to and in accordance with this Article, the Ministry may, by agreement with the owner of private water supply or private sewage treatment works, or failing such agreement, in pursuance of proposals made by it under paragraph (2), take over the works.

(2) The Ministry may, by notice served on the owner of any works mentioned in paragraph (1), intimate its proposals to take over the works within such period, not being less than two months, as may be specified in the notice, and on such conditions, including compensation, as may be so specified.

(3) If an owner on whom a notice has been served under paragraph (2) is aggrieved by the notice, he may, within the period specified in the notice, appeal to the Appeals Commission.

(4) All works taken over by the Ministry under this Article shall vest in it in accordance with the terms of any agreement made under paragraph (1), or failing such agreement, at the end of the period specified under paragraph (2) or on such date as may be specified in a decision on an appeal under paragraph (3).

(5) Subject to this Order, a person who immediately before the taking over of works under this Article was lawfully entitled to use them shall continue to be so entitled after they have been so taken over.

(6) An agreement under paragraph (1) or proposals under paragraph (2) may relate—

- (a) to a part only of works;

(b) to any drain, pipe or sewer connecting with any works specified in the agreement or proposals.

(7) The Ministry may adopt, subject to such conditions as it thinks fit, any pipe or drain other than a pipe or drain which is within the curtilage of a building and serves only that building.

(8) Any dispute as to the compensation payable in respect of any works taken over in pursuance of proposals made by the Ministry under paragraph (2) shall be referred to and determined by the Lands Tribunal.

**F20** functions transf. by SR 1999/481

### Execution of works

**13** <sup>F21</sup>.—<sup>F22</sup>(1) The Ministry may—

- (a) provide and maintain such works;
- (b) perform such services;
- (c) do such things;

as it considers necessary or expedient for the purposes of any of its functions under this Order.

(2) Before commencing construction of a sewer, or the laying of a main, in, on or over any land not forming part of a road the Ministry shall serve notice of its intention on the owner and the occupier of the land concerned together with a description of the proposed works.

(3) If within twenty-eight days after the service of a notice under paragraph (2) the owner or the occupier of the land objects to the proposed works, and the objection is not withdrawn, the Ministry shall consider that objection and notify the objector of its decision and may proceed to carry out the works specified in the notice, with or without modifications.

(4) The Ministry may enter into agreements with other persons for the execution or performance by them on behalf of the Ministry of works or services under this Order and for the execution or performance by the Ministry of works or services on behalf of those persons.

**F21** functions transf. by SR 1999/481

**F22** [1978 NI 19](#)

### Closing etc. of facilities

**14** <sup>F23</sup>.—<sup>F24</sup>(1) Subject to paragraph (2), the Ministry may, if it thinks fit, close (whether temporarily or otherwise), alter, replace or remove any works vested in it for the purposes of this Order.

(2) Before any person who is lawfully using any facilities provided under this Order is permanently deprived by the Ministry of that use, the Ministry shall provide facilities equally effective for that use and shall at its expense carry out any work which is necessary.

(3) If any person who is lawfully using any facilities provided under this Order is temporarily deprived by the Ministry of that use, the Ministry shall make available to him such alternative facilities as are practicable at reasonable cost.

**F23** functions transf. by SR 1999/481

**F24** [1978 NI 19](#)

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED). (See end of Document for details)*

### Notice of certain works

**15** <sup>F25</sup>. <sup>F26</sup>The Ministry, before commencing to execute repairs or other work which will cause any material interference with the supply of water or any use of sewerage facilities provided by it—

- (a) shall, except in a case of emergency, give to all persons likely to be affected such notice as is reasonably practicable, and
- (b) shall complete the work with all reasonable despatch.

**F25** functions transf. by SR 1999/481

**F26** 1978 NI 19

### Power to require occupier to permit works to be executed by owner

**16** <sup>F27</sup>. <sup>F28</sup>If on a complaint by the owner of any premises it appears to the county court that the occupier of those premises is preventing the owner from executing any work which he is required or authorised to execute under this Order, the court may authorise the owner to enter the premises and execute the work

**F27** functions transf. by SR 1999/481

**F28** 1978 NI 19

## PART IV

### RIGHTS AND DUTIES OF OWNERS AND OCCUPIERS

#### [<sup>F29</sup>Applications for water or sewerage services

**17** <sup>F30</sup>.—(1) Where the provision of a water or sewerage service from the Department is required in respect of any premises, the owner or occupier may apply to the Department—

- (a) for a supply of water from the Department;
- (b) to discharge into a sewer or sewage treatment works vested in the Department domestic sewage and surface water;
- (c) for the connection of his service pipe, drain or private sewer with an existing main, sewer or sewage treatment works vested in the Department; or
- (d) for an existing main or sewer to be extended or augmented and the connection of his service pipe, drain or private sewer with that extended or augmented main or sewer.

(2) An application under paragraph (1) shall be in writing.

(3) The Department may refuse the application or grant the application unconditionally or subject to such terms and conditions (including conditions as to costs and charges) as it thinks fit to impose.

(4) Where a person has applied under paragraph (1) for a water or sewerage service, the Department may enter into an agreement with that person for the provision at the expense of that person of works in connection with that service, and any such agreement may specify the terms and conditions on which the works are to be provided, including conditions as to costs and charges and as to the adoption by the Department of such works.

(5) Any person aggrieved by a decision of the Department under paragraph (3), other than a decision in respect of conditions relating to costs and charges, may appeal to the Appeals Commission within 28 days from the date on which he receives notice of the decision.

(6) Any person who—

- (a) obtains a water or, as the case may be, a sewerage service from the Department otherwise than in accordance with this Order; or
- (b) contravenes any condition on which an application for such a service is granted;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) The Department may—

- (a) close, remove or remake any connection obtained otherwise than in accordance with this Order; and
- (b) recover from the person in respect of whose liability the power under sub-paragraph (a) is exercised, the costs reasonably incurred by it in so doing.

(8) Paragraphs (1) to (7) shall apply in relation to the alteration of an existing water or sewerage service as they apply to the provision of a service.

(9) Nothing in this Article applies to the discharge of any trade effluent.]

**F29** 1993 NI 16

**F30** functions transf. by SR 1999/481

### **Rights of owners and occupiers following lawful connections**

**18**<sup>F31</sup>.—(1) Where, whether before or after 1st October 1973, any service pipe or drain from any premises has been or is lawfully connected with a main or sewer, or any sewage disposal works, vested in the Ministry or any predecessor in title of it, the owner or occupier of the premises may take a sufficient supply of water for his domestic<sup>F32</sup>, central heating and sanitary] purposes from that main or may drain domestic sewage and surface water from his premises into the sewer or works.

(2) Nothing in this Article shall authorise the owner or occupier of any premises—

- (a) to discharge domestic sewage into a sewer reserved for the conveyance of surface water; or
- (b) to discharge, without the approval of the Ministry, surface water into a sewer reserved for the conveyance of domestic sewage.

**F31** functions transf. by SR 1999/481

**F32** 1993 NI 16

### **[<sup>F33</sup>Liability of certain owners and occupiers**

**19**<sup>F34</sup>.—(1) Where an application under Article 17(1) for the provision of a water or sewerage service has been granted and the Department, in connection with the provision of that service, supplies and installs any fittings in a private street within the meaning of the Private Streets (Northern Ireland) Order 1980, or, subject to paragraph (3), in a road, the person who applied for that service shall maintain such of those fittings as are flush, or intended to be flush, with the street or as the case may be, the road during the period from the date on which the fittings are installed by the Department until—

- (a) in the case of a private street, the date on which the street becomes a public road under Article 7(4) or (4C), 8, 9(2), 9(3) or 13(3) of that Order; or
- (b) in the case of a road, the issue of a certificate by the Department that the road has been reinstated to the satisfaction of the Department.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED). (See end of Document for details)*

(2) Where an application under Article 17(1) for a water or sewerage service, has been granted and the Department, in connection with the provision of that service, supplies and installs any fittings in land in such areas as may be designated by the Department for the purpose of this paragraph, other than land used for a private street or road, the Department may require the person who applied for that service to maintain such of those fittings as are flush, or intended to be flush, with the land during the period from the date on which the fittings are installed by the Department until such date as the Department may determine.

(3) Paragraph (1) shall not apply where the charge for the provision of the service mentioned in that paragraph includes an amount for excavation and restoration of the road.

(4) In an action against any person in respect of damage from his failure to maintain any fittings in a private street, a road or land in any area to which paragraph (2) applies, as the case may require, it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that he had taken such care as in all the circumstances was reasonably required to secure that the fittings to which the action relates were not dangerous or did not cause damage to persons or property.]

**F33** 1993 NI 16

**F34** functions transf. by SR 1999/481

## PART V

### TRADE EFFLUENTS

#### Right to discharge into sewers and sewage treatment works

**20**<sup>F35</sup>.—(1) Subject to this Order, the occupier of any trade premises may discharge into the sewers or sewage treatment works of the Ministry any trade effluent from those premises.

(2) Any occupier of trade premises who discharges trade effluent into the sewers or sewage treatment works of the Ministry without the consent of the Ministry, where such consent is required, or contrary to any direction given or condition imposed by virtue of this Part, shall be guilty of an offence.

(3) A person guilty of an offence under paragraph (2) shall be liable—

(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding<sup>F36</sup> level 5 on the standard scale];

but if it is shown to the satisfaction of the court by or before which the person is convicted that the offence was substantially a repetition or continuation of an earlier offence by him after he had been convicted of the earlier offence (whether under this Order or otherwise), he shall be liable—

(i) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;

(ii) on summary conviction, to the greater of a fine not exceeding<sup>F36</sup> level 5 on the standard scale] or a fine not exceeding £40 for each day on which the offence was so repeated or continued.

**F35** functions transf. by SR 1999/481

**F36** 1984 NI 3



## CONTROL OF NEW DISCHARGES

### Meaning of new discharge

**21**<sup>F37</sup>. In this Part new discharge means a discharge from trade premises into the sewers or sewage treatment works of the Ministry of trade effluent where the discharge—

- (a) has not previously been lawfully made into such sewers or works or the sewers or works of a local authority;
- (b) not being an existing discharge by virtue of Article 28 and whether commenced before or after 1st October 1973, has become substantially altered in nature or composition or whose temperature, volume or rate of discharge has been substantially increased since 1st October 1973; or
- (c) has been discontinued for a period of two years or more, the whole or part of which period occurs after 1st October 1973, and is thereafter resumed.

**F37** functions transf. by SR 1999/481

### Consent required to new discharges

**22**<sup>F38</sup>. Subject to Article 32, an occupier or prospective occupier of trade premises who proposes to make a new discharge of trade effluent from those premises into the sewers or sewage treatment works of the Ministry shall obtain the consent of the Ministry to the discharge, which shall be applied for in accordance with Article 23.

**F38** functions transf. by SR 1999/481

### Procedure on application for consent to new discharge

**23**<sup>F39</sup>.—(1) An application for the consent of the Ministry under Article 22 shall be made by serving a notice on the Ministry (in this Part referred to as a trade effluent notice).

- (2) A trade effluent notice shall state so far as is reasonably practicable—
  - (a) the nature, composition and temperature of the effluent;
  - (b) the maximum quantity of the effluent which it is proposed to discharge on any one day;
  - (c) the maximum hourly rate at which it is proposed to discharge the effluent.

(3) Where the person applying for the consent of the Ministry is not the owner of the premises, he shall, at the same time as serving a trade effluent notice on the Ministry under paragraph (1), send a copy of the notice to the owner of the premises and inform him that he may make representations in respect of the application to the Ministry within twenty-eight days of receipt of the copy.

(4) The Ministry before making a decision on an application shall take into account any representations made in pursuance of paragraph (3).

**F39** functions transf. by SR 1999/481

### Decision on application

**24**<sup>F40</sup>.—(1) The Ministry in its decision on an application under Article 22 shall, within three months from the date on which it receives that application, refuse its consent or grant its consent

*Status: Point in time view as at 01/01/2006.*

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either unconditionally or subject to such conditions (including conditions as to charges) as it thinks fit to impose.

(2) A consent granted under this Article, and (where such consent is granted subject to any conditions) all or any of the conditions, may be made to take effect as from a specified date or for a specified period, or both as from a specified date and for a specified period.

(3) Any decision of the Ministry under this Article shall continue to be effective notwithstanding that there has been a change of ownership or occupancy of the premises to which the decision relates.

**F40** functions transf. by SR 1999/481

### Intimation of decision

**25**<sup>F41</sup>.—(1) The Ministry shall intimate its decision under Article 24, and the reasons therefor, to the owner and occupier or prospective occupier of the trade premises in question.

(2) An intimation of a decision under this Article shall—

- (a) draw attention to the effect of Article 24(3);
- (b) refer to the applicant's right of appeal against, and the power of review of, the decision under this Part.

**F41** functions transf. by SR 1999/481

### Appeals

**26**<sup>F42</sup>. Where an applicant for consent under Article 22 is aggrieved by the decision of the Ministry under Article 24, he may<sup>F43</sup>, except in so far as the decision relates to charges,] appeal to the Appeals Commission within twenty-eight days from the date on which he receives an intimation of the decision.

**F42** functions transf. by SR 1999/481

**F43** 1993 NI 16

### Information relating to new discharges of trade effluents

**26A**<sup>F44</sup>.—(1) The Department may require the owner or occupier of premises from which a new discharge is being made to furnish in writing such information to the Department concerning the discharge as an applicant for consent to such a discharge is required to furnish in a trade effluent notice under Article 23(2).

(2) Any person who, having been required by the Department to furnish information to it under this Article, fails to furnish that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

**F44** functions transf. by SR 1999/481

### Review of consents etc.

**27**<sup>F45</sup>.—(1) The Ministry may review a decision made by it under Article 24 at intervals of not less than two years from the giving of the decision or the last review of the decision or at any time on the application of the person making the discharge in question.

(2) Before reviewing a decision under this Article the Ministry shall intimate to the owner and occupier of the premises in question that it proposes to do so, and its reason therefor, and inform them that they may, within twenty-eight days of that intimation, make representations to the Ministry in respect of the proposal.

(3) Before reviewing a decision under this Article, the Ministry shall take into account any representations made to it under paragraph (2).

(4) Where a decision is reviewed under this Article, the occupier of the premises to which it relates may<sup>F46</sup> except in so far as the decision reviewed relates to charges,] appeal to the Appeals Commission against the review within twenty-eight days from the date of the review.

(5) A review under this Article shall take effect from a date specified therein but not earlier than three months after the date of the review.

**F45** functions transf. by SR 1999/481

**F46** 1993 NI 16

## CONTROL OF EXISTING DISCHARGES

### Meaning of existing discharge

**28**<sup>F47</sup>.—(1) In this Part, existing discharge means a discharge of trade effluent from trade premises into the sewers or sewage treatment works of a local authority which was lawfully made within the period of two years ending on 1st October 1973.

(2) Where before 1st October 1973 a local authority and the person making the discharge have agreed that after that date the nature or composition of the discharge may be altered or the temperature, volume or rate of discharge may be increased, any discharge made in accordance with such agreement shall be treated for the purposes of this Part as an existing discharge.

(3) Any dispute between the Ministry and the person making the discharge as to whether the discharge is an existing discharge shall be determined by the county court whose decision in the matter shall be final, except on a point of law.

**F47** functions transf. by SR 1999/481

### Right to continue existing discharge

**29**<sup>F48</sup>. Subject to this Part, and except where the Ministry and the person making the discharge otherwise agree, an existing discharge shall be allowed to continue.

**F48** functions transf. by SR 1999/481

### Information relating to existing discharges

**30**<sup>F49</sup>.—<sup>F50</sup>(1) <sup>F50</sup>The Department may require the owner or occupier of premises from which an existing discharge is being made to furnish in writing] such information to the Ministry concerning

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the discharge as an applicant for consent to a new discharge is required to furnish in a trade effluent notice under Article 23(2), and information concerning the period for which the discharge has continued.

[<sup>F50</sup>(2) Any person who, having been required by the Department to furnish information to it under this Article, fails to furnish that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.]

**F49** functions transf. by SR 1999/481

**F50** 1993 NI 16

### Review of existing discharges

**31** <sup>F51</sup>.—(1) The Ministry may, and when requested by the person making the discharge shall, review the making of an existing discharge and may direct that any continuation of the discharge shall be either unconditional or subject to such conditions (including conditions as to charges) as it may think fit to impose.

(2) The Ministry may review a direction under paragraph (1) at intervals of not less than two years from the direction or last review of the direction or at any time on the application of the person making the discharge in question.

(3) Before a direction is made under paragraph (1) or is reviewed under paragraph (2), the Ministry shall intimate to the person making the discharge in question that it proposes to do so, and its reasons therefor, and inform him that he may, within twenty-eight days of that intimation, make representations to the Ministry in respect of the proposal.

(4) Before a direction is made under paragraph (1) or is reviewed under paragraph (2), the Ministry shall take into account any representations made to it under paragraph (3).

(5) Where a direction is made under paragraph (1) or is reviewed under paragraph (2), the person making the discharge may [<sup>F52</sup>, except in so far as the direction or review relates to charges,] appeal to the Appeals Commission against that direction or review, within twenty-eight days from the date of that direction or review.

(6) A direction made under paragraph (1) or reviewed under paragraph (2) shall take effect from a date specified therein but not earlier than three months after the date of that direction or review as the case may be.

**F51** functions transf. by SR 1999/481

**F52** 1993 NI 16

## AGREEMENTS IN LIEU OF APPLICATIONS FOR CONSENT

### Agreements as respects trade premises

**32** <sup>F53</sup>.—(1) The Ministry may enter into an agreement with the owner or occupier of any trade premises for the reception, treatment or disposal by the Ministry of any trade effluent produced on those premises.

(2) The reference in paragraph (1) to an agreement includes a reference to an agreement varying or renewing an existing agreement, whether that existing agreement was entered into before or after 1st October 1973.

(3) Where the Ministry proposes to enter into an agreement under this Article with an occupier who is not also the owner of trade premises, the Ministry shall intimate the proposal to the owner who may, within twenty-eight days of receipt of the intimation, make representations in respect of the proposal.

(4) Before the Ministry and such an occupier as is mentioned in paragraph (3) enter into an agreement under this Article, the Ministry shall take into account any representations made by the owner of the premises in question in pursuance of that paragraph.

(5) A discharge of trade effluent which is made in accordance with an agreement under this Article—

(a) shall not otherwise require the consent of the Ministry; and

(b) shall not be reviewed by the direction of the Ministry;

and accordingly Articles 22 to 27 and Article 31 shall not apply to such a discharge.

(6) If the parties to an agreement under this Article have failed to renew the agreement, with or without variation, on or before the date of its expiry, the Ministry may, and if requested by the person making the discharge shall, review the making of the discharge by direction; and Article 27(2) to (5) shall, with any necessary modifications, apply to a direction under this paragraph.

(7) Until a direction has been made under paragraph (6) in respect of an agreement, a discharge may continue to be made in accordance with the agreement.

(8) Any reference in this Article to an occupier includes a reference to a prospective occupier.

**F53** functions transf. by SR 1999/481

## SUPPLEMENTARY

### Power to extend Part V to other effluents

**33**<sup>F54</sup>. The Ministry may, by order made subject to affirmative resolution, provide that this Part shall apply in relation to liquid or other matter of any description specified in the order which is discharged from any premises into the sewers or sewage treatment works of the Ministry as it applies in relation to trade effluent, but subject to such modifications, if any, as may be specified in the order, and in particular subject to any modification of the definition of trade premises in this Order which may be so specified.

**F54** functions transf. by SR 1999/481

## PART VI

### MISCELLANEOUS (WATER)

#### Pollution of water belonging to the Ministry

**34**<sup>F55</sup>.—(1) If any person commits an act whereby any water belonging to the Ministry or which the Ministry is authorised to take, is polluted, he shall be guilty of an offence.

(2) Where a person is charged with an offence under this Article, it shall be a defence to prove that he exercised all reasonable care to prevent the act whereby the water in question was polluted.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED). (See end of Document for details)*

(3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding<sup>F56</sup> [level 5 on the standard scale] and to a further fine not exceeding £40 for every day during which the offence is continued after conviction or, on conviction on indictment, to a fine.

**F55** functions transf. by SR 1999/481  
**F56** 1984 NI 3

### Water for fire fighting

**35**<sup>F57</sup>.—(1) The Ministry may enter into an agreement with the Fire Authority for Northern Ireland for the provision of adequate facilities for making water available for the purpose of fighting fires.

(2) The Ministry shall not make a charge for any water made available by it to any person for the purpose of fighting fires.

**F57** functions transf. by SR 1999/481

### Water shortages

**36**<sup>F58</sup>.—(1) Where the Ministry is satisfied that a serious deficiency of supplies of water in any area exists or is threatened, it may, subject to this Article, make an order—

- (a) enabling water to be taken from any specified source for a period not exceeding six months;
- (b) suspending or modifying for a period not exceeding six months—
  - (i) any restriction governing the taking of water from any source;
  - (ii) any obligation governing the discharge of compensation water;
- <sup>F59</sup>(c) providing for the conveyance of water by any means specified in the order;
- (d) prohibiting or restricting the use of water for any purpose;
- (e) prohibiting or restricting the means by which water is used for any purpose].

<sup>F60</sup>(1A) An order under paragraph (1)( c) may provide that Article 13(2) and (3) shall not apply to any works carried out for the purposes of the order.]

(2) Any person who suffers loss or damage as a result of an order made under paragraph (1)( a) or ( b) shall be entitled to compensation from the Ministry.

(3) Any dispute as to the amount of compensation under paragraph (2) shall be referred to and determined by the Lands Tribunal.

**F58** functions transf. by SR 1999/481  
**F59** 1978 NI 19  
**F60** 1978 NI 19

## PART VII

### MISCELLANEOUS (SEWERAGE)

#### Emptying of septic tanks

**37**<sup>F61</sup>. The Ministry may agree to empty any septic tank, subject to such conditions (including conditions as to charges) as it may think fit.

**F61** functions transf. by SR 1999/481

#### Ministry's rights as to sewage

- 38**<sup>F62</sup>. The Ministry—
- (a) shall be entitled to all sewage discharged into its sewers or sewage treatment works and to the contents of any septic tank emptied by it under Article 37; and
  - (b) may process, sell or otherwise dispose of such sewage or contents.

**F62** functions transf. by SR 1999/481

#### Certain matter not to be passed into sewerage system

**39**<sup>F63</sup>.—(1) Without prejudice to Part V, no person shall pass or permit to be passed into, or into a drain connecting with, a sewer or sewage treatment works of the Ministry any matter or substance which, either alone or in combination with any matter or substance with which it is likely to come into contact while passing through any sewer or works, is likely to injure the sewer or works, or to interfere with the free flow of their contents, or to affect prejudicially the treatment or disposal of their contents or to be prejudicial to health.

(2) Where a person is charged with an offence under this Article it shall be a defence to prove that at the time he so passed or permitted to be passed the matter or substance in question he did not know, and could not reasonably be expected to know, that it would be likely to have the effects mentioned in paragraph (1).

- (3) A person who contravenes this Article shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction to a fine not exceeding<sup>F64</sup> level 5 on the standard scale] and a further fine not exceeding £40 for each day on which the offence continues after conviction thereof.

**F63** functions transf. by SR 1999/481

**F64** 1984 NI 3

## PART VIII

### GENERAL

#### MISCELLANEOUS

#### Regulations as to water and sewerage services

**40** <sup>F65</sup>.—(1) The Ministry may make regulations with respect to the proper provision and maintenance of water and sewerage services under this Order.

(2) Without prejudice to the generality of paragraph (1), regulations made under that paragraph may include provisions for—

- (a) the prevention of waste or of the misuse or contamination of water supplied by the Ministry;
- (b) the provision of adequate drains, sewers, sewage disposal facilities, service pipes and water fittings for any premises;
- (c) the protection against pollution of any water, whether on the surface or underground, belonging to the Ministry or which the Ministry is authorised to take.

(3) Where any instrument which is in force on 30th September 1973 made under a transferred provision relates to a matter with respect to which regulations may be made under paragraph (1), the instrument shall, until it is revoked under paragraph (1), have effect, with any necessary modifications, as if it had been made under paragraph (1).

**F65** functions transf. by SR 1999/481

#### Offences of contaminating, wasting and misusing water, etc.

**40A** <sup>F66</sup>.—(1) If any person who is the owner or occupier of any premises to which a supply of water is provided by the Department intentionally or negligently causes or suffers any water fittings for which he is responsible to be or remain so out of order, so in need of repair or so constructed or adapted, or to be so used—

- (a) that water in a main or other pipe of the Department or in a pipe connected with such a main or pipe is or is likely to be contaminated by the return of any substance from those premises to that main or pipe;
- (b) that water that has been supplied by the Department to those premises is or is likely to be contaminated before it is used; or
- (c) that water so supplied is or is likely to be wasted or, having regard to the purposes for which it is supplied, misused,

that person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person who uses any water supplied to any premises by the Department for a purpose other than one for which it is supplied to those premises shall, unless the other purpose is the extinguishment of a fire, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where a person is convicted of an offence under paragraph (2) the Department may recover such amount as may be reasonable in respect of any water wasted or misused in consequence of the commission of the offence from that person summarily as a civil debt.



(4) For the purposes of this Article the owner or occupier of any premises shall be regarded as responsible for every water fitting serving those premises which is not a water fitting which the Department is liable to maintain.

(5) Where a person is convicted of an offence under paragraph (1)(a) or (b), the Department may recover from him the expenses reasonably incurred by it in carrying out works of repair or reinstatement necessitated by his action.

(6) Nothing in this Article, in so far as it relates to the construction or installation of any water fitting, shall apply to any water fitting installed in any premises before the coming into operation of this Article.

**F66** functions transf. by SR 1999/481

### Regulations for preventing contamination, waste, etc., and with respect to water fittings

**40B**<sup>F67</sup>.—(1) Without prejudice to Article 40(1) and (2) (regulations as to water and sewerage services), the Department may make regulations—

- (a) for securing that water in a main or other pipe of the Department is not contaminated, and that its quality and suitability for particular purposes is not prejudiced, by the return of any substance from any premises to that main or pipe;
  - (b) for securing that water which is in any pipe connected with any such main or other pipe or which has been supplied by the Department to any premises is not contaminated, and that its quality and suitability for particular purposes is not prejudiced, before it is used;
  - (c) for securing that water fittings installed and used by persons to whom water is or is to be supplied by the Department are safe and do not cause or contribute to the erroneous measurement of any water or the reverberation of any pipes.
- (2) Without prejudice to the generality of paragraph (1), regulations under that paragraph may—
- (a) prohibit the installation, connection or use of the fittings if they have not been approved under the regulations or if they contravene the regulations;
  - (b) require the fittings, for the purposes of provision made by virtue of sub-paragraph (a), to be of such a size, nature, strength or workmanship, to be made of such materials or in such a manner or to conform to such standards as may be prescribed by or approved under the regulations;
  - (c) impose such other requirements as may be prescribed with respect to the installation, arrangement, connection, testing, disconnection, alteration and repair of the fittings and with respect to the materials used in their manufacture, installation or use;
  - (d) make provision enabling the Department to disconnect a service pipe or otherwise cut off the supply of water to premises where the Department has reason for believing—
    - (i) that damage to persons or property is being or is likely to be caused by any damage to, or defect in, any water fittings used in connection with the supply of water to those premises which are not water fittings of the Department;
    - (ii) that water in a main or other pipe of the Department is being or is likely to be contaminated by the return of any substance from those premises to that main or pipe;
    - (iii) that water which is in any pipe connected with any main or other pipe of the Department or which has been supplied by the Department to those premises is being or is likely to be contaminated before it is used; or
    - (iv) that water which has been or is to be so supplied is being or is likely to be wasted or, having regard to the purposes for which it is supplied, misused;

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED). (See end of Document for details)*

and with respect to the procedure for requiring owners or occupiers to carry out remedial work before a supply of water is restored by the Department, including provision for the Department to undertake such work and recover the costs from such owners or occupiers.

(3) In this Article safe has the same meaning as in Part II of the Consumer Protection Act 1987.

**F67** functions transf. by SR 1999/481

#### **Alteration of or interference with Ministry's works**

**41** <sup>F68</sup>.—<sup>F69</sup>(1) Any person who, wilfully and without the consent of the Ministry, alters or interferes with any works vested in the Ministry for the purposes of this Order shall be guilty of an offence and shall be liable<sup>F69</sup>

<sup>F69</sup>(a) on conviction on indictment to imprisonment for a term not exceeding five years or to a fine or to both<sup>F69</sup>; and]

<sup>F69</sup>(b) on summary conviction, to a fine not exceeding the statutory maximum.]

<sup>F69</sup>(2) Where a person is convicted of an offence under this Article, the Department may recover from him the expenses reasonably incurred by it in carrying out work of repair or re-instatement necessitated by his action.]

**F68** functions transf. by SR 1999/481

**F69** 1993 NI 16

#### **Facilities for recreational use of certain land**

**42** <sup>F70</sup>.—(1) The Ministry may provide facilities for recreation on any land vested in it for the purposes of this Order and may make charges for the use of those facilities.

(2) The Ministry may make regulations as to the use, for recreational purposes, of any such land or facilities on such land.

**F70** functions transf. by SR 1999/481

#### **Safety of reservoirs**

**43** <sup>F71</sup>.—(1) The Ministry may make regulations with respect to the construction, inspection, maintenance and repair of reservoirs and dams.

(2) Regulations under paragraph (1) shall be subject to affirmative resolution.

**F71** functions transf. by SR 1999/481

#### **Supply of water fittings**

**44** <sup>F72</sup>.—(1) The Ministry may—

(a) on the request of any person, supply to him, by way either of sale or hire, any water fittings; and

- (b) on such request, install, repair or alter (but not manufacture) any water fittings, whether supplied by it or not; and
  - (c) provide any materials and do any work required in connection with such installation, repair or alteration of water fittings.
- (2) The Ministry—
- (a) may make reasonable charges for any fitting supplied, or any materials provided or work done, under this Article; and
  - (b) may recover those charges summarily as civil debts.
- (3) If any fittings let for hire by the Ministry bear either a distinguishing metal plate affixed thereto, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the Ministry as the actual owner of the fittings, those fittings—
- (a) shall, notwithstanding that they are fixed to some part of the premises in which they are situated or be laid in the soil thereunder, continue to be the property of, and removable by, the Ministry; and
  - (b) shall not be liable to be taken under [<sup>F73</sup> the Judgments Enforcement (Northern Ireland) Order 1981 ] or in any proceedings in bankruptcy against the persons in whose possession they may be;

but nothing in this paragraph shall affect the valuation for rating of any rateable hereditament.

- (4) If any person wilfully or negligently injures or suffers to be injured any water fitting belonging to the Ministry—
- (a) he shall be liable on summary conviction to a fine not exceeding<sup>F74</sup> level 3 on the standard scale]; and
  - (b) the Ministry—
    - (i) may do all such work as is necessary for repairing any injury done; and
    - (ii) may recover the expenses reasonably incurred by it in doing so from the offender summarily as a civil debt.

**F72** functions transf. by SR 1999/481

**F73** 1981 NI 6

**F74** 1984 NI 3

## Obstruction

**45.** Any person who wilfully obstructs an authorised officer of the Ministry in the execution of any functions under this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding<sup>F75</sup> level 3 on the standard scale].

**F75** 1984 NI 3

## INFORMATION ETC.

### Information as to ownership etc. of premises

**46**<sup>F76</sup>.—(1) The Ministry may, for the purpose of enabling it to perform any of its functions under this Order, require the occupier or owner of any premises to state in writing—

- (a) the nature of his own estate therein; and

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*Changes to legislation: There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED). (See end of Document for details)*

(b) the name and address of any other person known to him as having an estate therein, whether as owner, tenant, or otherwise.

(2) Any person who, having been required by the Ministry to give information to it in pursuance of this Article, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and liable on summary conviction to a fine not exceeding<sup>F77</sup> level 2 on the standard scale].

**F76** functions transf. so far as relating to functions under f009

**F77** 1984 NI 3

### Production of plans and furnishing of information

**47**<sup>F78</sup>.—(1) [<sup>F79</sup>The Department may require] the owner or occupier of any land on or under which is situated any drain used or intended to be used for discharging any sewage into a sewer or sewage treatment works of the Ministry or pipe<sup>F79</sup> used or intended to be used] for connecting with any main<sup>F79</sup> . . .

(a) [<sup>F79</sup>to] produce to the Ministry all such plans of the drain or pipe as the owner or occupier, as the case may be, possesses or is able without unreasonable expense to obtain, and allow copies of the plans so produced by him to be made by, or under the direction of, the Ministry, and

(b) [<sup>F79</sup>to furnish in writing] to the Ministry all such information as the owner or occupier, as the case may be, can reasonably be expected to supply with respect to the drain and any sewage discharged therefrom or with respect to the pipe.

(2) A person who fails to comply with this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding<sup>F80</sup> level 2 on the standard scale].

**F78** functions transf. by SR 1999/481

**F79** 1993 NI 16

**F80** 1984 NI 3

### Maps of sewers and mains

**48**<sup>F81</sup>.—(1) The Ministry shall cause to be prepared, for inspection and copying by any person at all reasonable hours free of charge, a map showing and distinguishing so far as is reasonably practicable all mains and sewers which are vested in the Ministry.

(2) Where some of the sewers vested in the Ministry are reserved for foul water only or for surface water only, the map shall show also the purposes which each such sewer is intended to serve.

**F81** functions transf. by SR 1999/481

### Research and publicity

**49**<sup>F82</sup>. The Ministry may—

(a) undertake, or contribute towards the cost of, investigations and research relevant to the problems of water supplies, sewerage and sewage treatment; and

(b) arrange for the publication of information on those problems.

**F82** functions transf. so far as relating to functions under f009

### **Powers of entry**

**50** <sup>F83</sup>.—(1) Subject to this Article, an authorised officer of the Ministry shall, on producing if so required some duly authenticated document showing his authority, have a right to enter any land or premises at all reasonable hours for the purpose of—

- (a) surveying land or boring or carrying out other works in order to ascertain the suitability of the land for the execution of works under this Order;
- (b) inspecting, repairing, altering, renewing or removing any works executed under this Order in or on the land;
- (c) ascertaining whether there is or has been on or in connection with the land or premises any contravention of this Order or of any conditions imposed under it;
- (d) ascertaining whether or not circumstances exist which would authorise the Ministry to take any action or execute any work under this Order;
- (e) taking any action or executing any work authorised or required by this Order to be taken or executed by the Ministry;
- (f) inspecting any records and other documents and apparatus which the Ministry may reasonably require to inspect for the purpose of exercising any of its functions under this Order;
- (g) taking away for analysis samples of sewage or any other matter or substance which is passing from the premises into the sewers or sewage treatment works of the Ministry;
- <sup>F84</sup>(h) taking away for analysis samples of water].

(2) Admission to any land with heavy equipment shall not, except in a case of emergency, be demanded under paragraph (1) unless at least seven days' notice of the intended entry has been given to the occupier.

(3) A person carrying out an inspection of documents under paragraph (1)(f) shall have a right to take copies or extracts from the documents.

(4) Where notice of intended entry for a particular purpose has been given as respects the first occasion on which the right of entry is exercised, no further notice shall be required before entering the land or premises on a subsequent occasion in connection with that purpose.

(5) If it is shown to the satisfaction of a justice of the peace on a sworn information in writing—

- (a) that admission to land or premises which any person is entitled to enter by virtue of this Article has been refused to that person, or that refusal is apprehended, or that the land or premises are unoccupied, or the occupier is temporarily absent, or that the case is one of urgency, or that the application for admission would defeat the object of the entry, and
- (b) that there is reasonable ground for entry to the land or premises for any purpose for which entry is required,

the justice may by warrant under his hand authorise that person to enter the land or premises if need be by force.

(6) Any person entitled to enter any land or premises, by virtue of a right of entry or of a warrant issued under this Article—

- (a) may take with him such other persons and such equipment as may be necessary; and
- (b) on leaving any unoccupied land or premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED). (See end of Document for details)*

(7) Every warrant granted under this Article shall continue in force until the purpose for which the entry is necessary has been satisfied.

(8) A person who wilfully obstructs any person upon whom a right of entry has been conferred by this Article or by a warrant issued thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding<sup>[F85]</sup> level 3 on the standard scale].

(9) Where work has been carried out on land in pursuance of this Article the Ministry shall, as soon as possible, reinstate the land.

(10) In determining whether an hour is a reasonable one for the purposes of paragraph (1), regard shall be had to whether there is an emergency or not.

**F83** functions transf. so far as relating to functions under f009  
**F84** 1978 NI 19  
**F85** 1984 NI 3

### Admissibility of samples as evidence

**51.**—(1) The result of any analysis of a sample taken under Article 50 <sup>[F86]</sup> (other than a sample taken under paragraph (1)( *h*) of that Article)] shall not be admissible as evidence in any legal proceedings in respect of any sewage, matter or substance discharged from any premises or of any water in, on or under any land unless the person taking the sample—

- (a) takes all reasonable steps to notify to the occupier of the premises or land his intention to have it analysed; and
- (b) there and then divides the sample into three parts and causes each part to be placed in a container which is sealed and marked; and
- (c) takes all reasonable steps to deliver one part to the occupier of the premises or land, retains one part for future comparison, and has one part analysed by a competent person.

(2) In this Article any reference to an analysis includes a reference to any test of whatever kind.

**F86** 1978 NI 19

### Restriction on disclosure of information

**52.** If any person who, under Article 50 is admitted to any factory, workshop or workplace discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless the disclosure is made in the performance of his duty, be guilty of an offence under this Article and liable on summary conviction to a fine not exceeding<sup>[F87]</sup> level 3 on the standard scale], or to imprisonment for a term not exceeding three months, or to both.

**F87** 1984 NI 3

## FINANCIAL

### Charges for services

**53** <sup>F88</sup>.—(1) The Ministry may charge the owners or occupiers of premises connected with a main or sewer of the Ministry such sums as it considers appropriate for the purpose of defraying the expenses of the Ministry under this Order and the<sup>[F89]</sup> Water (Northern Ireland) Order 1999].

(2) Without prejudice to the generality of paragraph (1), sums charged under that paragraph may be calculated by reference to—

- (a) the quantity of water consumed;
- (b) the cost of treating and disposing of any trade effluent discharged from the premises in question;
- (c) the net annual value of the premises.

(3) The Ministry, with the approval of the Ministry of Finance, may make such regulations as it considers necessary for the purpose of levying charges under paragraph (1).

(4) Regulations made under paragraph (3) shall be subject to affirmative resolution.

(5) Where a person fails to pay a sum recoverable under this Article, the Ministry may disconnect the premises owned or occupied by him from the mains or sewers of the Ministry.

**F88** functions transf. by SR 1999/481  
**F89** 1999 NI 6

### Recovery of expenses

**54**<sup>F90</sup>. Where the Ministry has incurred expenses for the repayment of which the owner<sup>F91</sup> or occupier] of the premises in respect of which the expenses were incurred is liable under this Order, or by agreement with the Ministry, the Ministry may recover those expenses from him summarily as a civil debt.

**F90** functions transf. by SR 1999/481  
**F91** 1993 NI 16

### Compensation etc. in respect of execution of works

**55**<sup>F92</sup>.—(1) In executing any works under this Order, the Ministry shall—

- (a) cause as little detriment and inconvenience and do as little damage as possible;
- (b) make good, or pay compensation for, any damage<sup>F93</sup> to the property of any person] caused by, or in consequence of, the execution of the works<sup>F93</sup> in relation to a matter as to which he has not himself been in default].

(2) Subsections (2) to (6) of section 38 of the Mineral Development Act (Northern Ireland) 1969 shall have effect for the purposes of any claim for compensation under this Article as if, in those subsections, any reference to that section, that Act or the Ministry of Commerce were a reference to, respectively, this Article, this Order or the Ministry.

**F92** functions transf. by SR 1999/481  
**F93** 1993 NI 16

### Financial provision

**56.**—(1) Any expenses incurred by the Ministry under this Order shall be defrayed either out of moneys hereafter appropriated for the purposes of defraying such expenses or, if the Ministry of Finance so directs, by means of sums charged on and issued out of the Consolidated Fund.

(2) The Ministry of Finance may borrow moneys for the purpose of providing money for issues out of the Consolidated Fund under paragraph (1).

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED). (See end of Document for details)*

(3) Any moneys borrowed under paragraph (2) shall be repaid within any period or periods not exceeding twenty-five years from the date of borrowing, and provision for such payment may be made out of moneys thereafter appropriated for that purpose.

(4) The aggregate of the sums charged on and issued out of the Consolidated Fund under paragraph (1) in relation to expenses for capital purposes shall not, unless and until Parliament otherwise determines, exceed one hundred million pounds.

### **Legal proceedings**

**56A.**—(1) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981, summary proceedings for an offence under Articles 17(6), 26A(2), 30(2), 34(3), 44(4), 46(2) and 52 or under regulations or orders made under this Order may be brought at any time within 6 months from the date on which evidence sufficient in the opinion of the Department to warrant the proceedings comes to the knowledge of the Department; but no such proceedings shall be brought by virtue of this Article more than 2 years after the commission of the offence.

(2) For the purposes of this Article a certificate signed on behalf of the Department and stating the date on which such evidence as aforesaid came to the knowledge of the Department shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed by the secretary of, or other officer authorised by, the Department shall be deemed to be so signed unless the contrary is proved.

### **Power to give effect to international obligations**

**56B.**—(1) Regulations may make such modifications of the provisions of this Order<sup>F94</sup> . . . as are considered necessary or expedient for the purpose of enabling effect to be given—

- (a) to any Community obligations; or
- (b) to any international agreement to which the government of the United Kingdom is for the time being a party.

(2) In this Article regulations

- (a) in relation to any Community obligations, means regulations made by the Department; and
- (b) in relation to any international agreement, means regulations made by the Secretary of State.

(3) Regulations under this Article made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(4) In this Article modifications includes additions, alterations and omissions.

**F94** 1999 NI 6

## *SUPPLEMENTARY*

### **Regulations and orders**

**57.**—(1) Unless the contrary is expressly provided, any regulations or orders made under this Order by the Ministry, other than a vesting order made under Article 10, shall be subject to negative resolution.

(2) Regulations or orders may provide that persons contravening the regulations or orders shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding an amount specified in the regulations or orders.



(3) The amount which may be specified in regulations or orders as mentioned in paragraph (2) shall not exceed £400.

### Civil liability of Department for escapes of water

**57A.**—(1) Where an escape of water onto agricultural land or forestry land, however caused, from a main or from a service pipe (within the meaning of paragraph (7)) causes loss or damage, the Department shall be liable, except as otherwise provided by this Article, for the loss or damage.

(2) The Department shall not incur any liability under paragraph (1) if the escape was due wholly to the fault of the person who suffered the loss or damage or of any servant, agent or contractor of his.

(3) The Department shall not incur any liability under paragraph (1) in respect of any loss or damage suffered by—

(a) any person authorised by any statutory provision to carry on any railway or road transport undertaking<sup>F95</sup>. . . ; or

(b) any person to whom the<sup>F96</sup> electronic communications code] applies falling within section 10(1)(a) of the Telecommunications Act 1984 (persons authorised by licence to run<sup>F96</sup> an electronic communications network] ); or

<sup>F97</sup>(bb) any holder of a licence under Article 10(1) of the Electricity (Northern Ireland) Order 1992]

<sup>F95</sup>(bbb) any holder of a licence under Article 8(1) of the Gas (Northern Ireland) Order 1996.]

(c) the Post Office;

if the Department would not be liable for that loss or damage apart from paragraph (1).

(4) The Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948,<sup>F98</sup> the Limitation (Northern Ireland) Order 1989] and the Fatal Accidents (Northern Ireland) Order 1977 shall apply in relation to any loss or damage for which the Department is liable under this Article, but which is not due to the fault of the Department, as if it were due to the fault of the Department.

(5) Nothing in paragraph (1) affects any entitlement which the Department may have to recover contribution under the Civil Liability (Contribution) Act 1978; and for the purposes of that Act, any loss for which the Department is liable under that paragraph shall be treated as if it were damage.

(6) Where the Department is liable under any agreement or statutory provision made (in either case) before the commencement of the Water and Sewerage Services (Amendment) (Northern Ireland) Order 1985 to make a payment in respect of any loss or damage, the Department shall not incur any liability under paragraph (1) in respect of the same loss or damage.

(7) In this Article—

agricultural land means land used for agriculture for the purposes of a trade or business, and agriculture includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes;

damage includes the death of, or injury to, any person (including any disease and any impairment of physical or mental condition);

fault has the same meaning as in the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948;

forestry land means land used for forestry for the purposes of a trade or business, and forestry means the growing of woods and forests for the production of timber and other forest products and the growing of trees for planting in such woods and forests;

land does not include any house or other building;

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service pipe means so much of a service pipe as is vested in the Department.

**F95** 1996 NI 2  
**F96** 2003 c. 21  
**F97** 1992 NI 1  
**F98** 1989 NI 11

### Protection for telegraph and telephone lines

**58**<sup>F99</sup>.—(1) The Ministry shall take all reasonable precautions in executing any works under this Order so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of<sup>F100</sup> [electronic communications] or electrical control of railways or the currents in that wire or line.

(2) Any question arising under paragraph (1) as to whether the working of a wire or line is or is not injuriously affected shall, in default of agreement, be determined by arbitration.

(3) An arbitrator under paragraph (2) may direct the Ministry to make any alterations in, or additions to, its works, so as to comply with this Article.

(4) If the Ministry contravenes this Article, it shall make full compensation to the owner for any loss or damage incurred by him in consequence of the contravention.

**F99** functions transf. by SR 1999/481  
**F100** 2003 c. 21

*Art. 59 rep. by SLR 1980*

*Art. 60(1), with Schedule 3, effects amendments; paras. (2) (3), with Schedule 4, effect repeals*

### Savings

**61.** The administrative powers conferred by this Order on the Ministry shall not be taken to authorise any matter or thing to be done without the consent of the Secretary of State or the Board of Trade and if the case so requires of the Crown Estate Commissioners, where that consent is required to be obtained under section 9(2) of the Northern Ireland (Miscellaneous Provisions) Act 1932.

## SCHEDULES

### SCHEDULE 1

Article 7(2).

#### CONSTITUTION AND STAFF OF WATER APPEALS COMMISSION FOR NORTHERN IRELAND

**1** <sup>F101</sup>.—(1 <sup>F101</sup> The Appeals Commission shall consist of the following persons appointed by the <sup>F102</sup> First Minister and deputy First Minister acting jointly], that is to say a Chief Commissioner and such number, if any, of other Commissioners as <sup>F103</sup> the Office of the First Minister and deputy First Minister] may, with the consent of the Ministry of Finance <sup>F104</sup>, determine.

(2) A Commissioner shall not engage, whether directly or indirectly, or be a partner of any person who engages, in a gainful profession, occupation or business if to do so would in any way be incompatible with his functions under this Order.

(3) There shall be paid to a Commissioner or in respect of his service such remuneration and allowances and such pension, allowances or benefits as the Ministry may determine with the approval of the Ministry of Finance <sup>F104</sup>.

*Sub-para.(4) rep. by 1975 c. 25*

**F101** functions transf. by SR 2001/229

**F102** SI 1999/663

**F103** SR 2001/229

**F104** Now D/CS, SR 1976/281

**2** <sup>F105</sup>.—(1) The Ministry may appoint persons to assist the Appeals Commission in the performance of its functions.

(2) There shall be paid to persons appointed under sub-paragraph (1) such remuneration and allowances and to, or in respect of the service of, those persons such pension, allowances or benefits as the Ministry may determine with the approval of the Ministry of Finance <sup>F106</sup>.

**F105** functions transf. by SR 2001/229

**F106** Now D/CS, SR 1976/281

### SCHEDULE 2

Article 10(3).

#### MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 10

**1.** References to the Ministry or to the Council shall be construed as references to the Ministry within the meaning of this Order.

**Status:** Point in time view as at 01/01/2006.

**Changes to legislation:** There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED). (See end of Document for details)

2. References to Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall be construed as references to that Schedule as modified by this Schedule.
3. Omit paragraph 1 of that Schedule.
4. In paragraph 2 of that Schedule—
  - (a) omit the words in such form and manner as the Ministry directs;
  - (b) in sub-paragraph ( c) for the words as may be prescribed substitute the words as the Ministry considers fit.
5. In paragraph 4 omit the words from and may provide onwards.
6. In paragraph 5—
  - (a) in sub-paragraph (1)( a) omit the words in the prescribed form and manner;
  - (b) in sub-paragraph (1)( b) the two references to the said Act of 1972 shall be construed as references to this Order;
  - (c) in sub-paragraph (1)( d) omit the words in the prescribed form;
  - (d) in sub-paragraph (2) for the words as may be prescribed substitute the words as the Ministry considers fit.
7. In paragraph 6(2) for the words fund out of which the expenses of the Council in acquiring the land are to be defrayed substitute the words Consolidated Fund and for the words out of the Compensation Fund there shall be substituted the words made by the Ministry.
8. In paragraph 11(3) omit the words in the prescribed form.
9. In paragraph 12—
  - (a) in sub-paragraph (1) omit the words such and as may be prescribed;
  - (b) in sub-paragraph (2) for the words from clerk to directs substitute the words Ministry as correct, and publish.
10. In paragraph 14(1) omit the words in the prescribed form.
11. In paragraph 15(1) for the words in the prescribed form substitute the words in such form as may be approved by the Ministry.
12. Omit paragraph 19.
13. Omit paragraph 20(2).

*Schedule 3—Amendments*

*Schedule 4—Repeals*

**Status:**

Point in time view as at 01/01/2006.

**Changes to legislation:**

There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED).