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STATUTORY INSTRUMENTS

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**1973 No. 70**

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Ireland) Order 1973 (REPEALED)**

**PART III**

**WORKS AND LAND**

**Acquisition of land**

**10**<sup>F1</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objecting to the proposal to make the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal to make the vesting order has been approved by a resolution of each House of Parliament.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>F2</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>F3</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.

**F1** functions transf. by SR 1999/481

**F2** Now D/Env., SR 1976/80

**F3** [1995 NI 9](#)

## Acquisition of water rights

**11**<sup>F4</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>F5</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>F6</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 the Ministry informs him of the proposal under paragraph (2)( a), ( b) or ( c) or public notice of it [<sup>F5</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.

- F4 functions transf. by SR 1999/481
- F5 1978 NI 19
- F6 1999 NI 6

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

12<sup>F7</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.

- F7 functions transf. by SR 1999/481

### Execution of works

13<sup>F8</sup>.—<sup>F9</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

*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), PART III. (See end of Document for details)*

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.

**F8** functions transf. by SR 1999/481  
**F9** 1978 NI 19

### Closing etc. of facilities

**14** <sup>F10</sup>.—<sup>F11</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.

**F10** functions transf. by SR 1999/481  
**F11** 1978 NI 19

### Notice of certain works

**15** <sup>F12</sup>. <sup>F13</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.

**F12** functions transf. by SR 1999/481  
**F13** 1978 NI 19

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

**16** <sup>F14</sup>. <sup>F15</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

**F14** functions transf. by SR 1999/481  
**F15** 1978 NI 19

**Status:**

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**Changes to legislation:**

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