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STATUTORY INSTRUMENTS

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**1999 No. 662**

**The Water (Northern Ireland) Order 1999**

**PART II**

**FUNCTIONS OF THE DEPARTMENT OF THE ENVIRONMENT  
IN RELATION TO MATTERS AFFECTING WATER**

*Anti-pollution works*

**Notices requiring persons to carry out anti-pollution works and operations**

17.—(1) Subject to the following provisions of this Article, where it appears to the Department that any poisonous, noxious or polluting matter is likely to enter, or to be or have been present in, any waterway or water contained in underground strata ( “relevant waters”), the Department shall be entitled to serve a works notice on any person who, as the case may be,—

- (a) caused or permitted, whether knowingly or otherwise, the matter in question to be present at the place from which it is likely, in the opinion of the Department, to enter any relevant waters; or
- (b) caused or permitted, whether knowingly or otherwise, the matter in question to be present in any relevant waters.

(2) For the purposes of this Part, a “works notice” is a notice requiring the person on whom it is served to carry out such of the following works or operations as may be specified in the notice, that is to say—

- (a) in a case where the matter in question appears likely to enter any relevant waters, works or operations for the purpose of preventing it from doing so; or
- (b) in a case where it appears that the matter appears to be or have been present in any relevant waters, works or operations for the purpose—
  - (i) of removing or disposing of the matter;
  - (ii) of remedying or mitigating any pollution caused by its presence in the waters; or
  - (iii) so far as it is reasonably practicable to do so, of restoring the waters (including the fauna and flora [<sup>F1</sup>dependent on the aquatic environment of the waters] ) to their state immediately before the matter became present in the waters.

(3) A works notice—

- (a) must specify the periods within which the person on whom it is served is required to do each of the things specified in the notice; and
- (b) is without prejudice to the powers of the Department by virtue of Article 16(2)(a).

(4) Before serving a works notice on any person, the Department shall reasonably endeavour to consult that person concerning the works or operations which are to be specified in the notice.

(5) The Department may by regulations make provision for or in connection with—

- (a) the form or content of works notices;
  - (b) requirements for consultation, before the service of a works notice, with persons other than the person on whom that notice is to be served;
  - (c) steps to be taken for the purposes of any consultation required under paragraph (4) or regulations made by virtue of sub-paragraph (b); or
  - (d) any other steps of a procedural nature which are to be taken in connection with, or in consequence of, the service of a works notice.
- (6) A works notice shall not be regarded as invalid, or as invalidly served, by reason only of any failure to comply with the requirements of paragraph (4) or of regulations made by virtue of paragraph (5)(b).
- (7) A person on whom a works notice is served may, within the period of 21 days beginning with the day on which the notice is served, appeal against the notice to the Appeals Commission.
- (8) Nothing in paragraph (1) shall entitle the Department to require the carrying out of any works or operations which would impede or prevent the making of any discharge in pursuance of a discharge consent.
- (9) Where the Department—
- (a) carries out any such investigations as are mentioned in Article 16(1), and
  - (b) serves a works notice on a person in connection with the matter to which the investigations relate,

it shall (unless the notice is quashed or withdrawn) be entitled to recover the costs or expenses reasonably incurred in carrying out those investigations from that person.

**F1** Words in art. 17(2)(b)(iii) substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), **283(2)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2)

**Changes to legislation:**

There are currently no known outstanding effects for the The Water (Northern Ireland) Order 1999, Section 17.