
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 482

**Water Abstraction and Impoundment
(Licensing) Regulations (Northern Ireland) 2006**

PART 5

Enforcement and other powers

Enforcement notices

- 20.**—(1) This regulation applies where it appears to the Department—
- (a) that a condition of an authorisation has not been, is not being, or is likely not to be, complied with; or
 - (b) that a person has carried on, is carrying on, or is likely to carry on a controlled activity that is not authorised under these Regulations and which in the opinion of the Department has had, is having or is likely to have a significant adverse impact on the water environment.
- (2) Where this regulation applies the Department may, without prejudice to any proceedings under regulation 25, serve a notice specifying—
- (a) the activity;
 - (b) in a case to which paragraph (1)(a) relates—
 - (i) the condition of the authorisation that has not been, is not being or is not likely to be, complied with; and
 - (ii) the steps that must be taken to remedy the non-compliance or as the case may be to prevent the anticipated non-compliance from occurring; and
 - (c) in a case to which paragraph (1)(b) relates—
 - (i) the adverse impact or the likely adverse impact on the water environment; and
 - (ii) the steps that must be taken to remedy the adverse impact or as the case may be to prevent the anticipated adverse impact from occurring.
- (3) The steps referred to in paragraph (2)(b)(ii) may include the cessation of, or as the case may be a prohibition on the commencement of, the controlled activity to which the notice relates for such period as the Department considers necessary or appropriate.
- (4) The steps referred to in paragraph (2)(c)(ii) shall include the cessation of, or as the case may be a prohibition on the commencement of, the controlled activity to which the notice relates.
- (5) A notice under paragraph (2) shall specify the period at the end of which any steps required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities.
- (6) Where a notice under paragraph (2) relates to—
- (a) an unauthorised controlled activity; or
 - (b) a permitted controlled activity

it shall be served on the operator of that activity and in all other cases it shall be served on the holder of the licence.

Power of the Department to carry out works

21.—(1) Where the Department considers that a notice should be served under regulation 20(2), it may take any such steps that may be required to be taken under that notice, or secure that those steps are taken, if—

- (a) it considers it necessary to do so forthwith; or
- (b) it appears to the Department, after reasonable inquiry, that no person can be found on whom to serve that notice.

(2) Where the Department has incurred any expenditure under paragraph (1) it may recover the amount of expenditure from the person on whom the notice would have been served but for that paragraph.

Enforcement notices – rights of entry, compensation etc

22.—(1) A notice under regulation 20(2) may require the person on whom it is served to carry out works or do other things in relation to any land notwithstanding that he is not entitled to carry out the works or do the things and any person whose consent would be required shall grant, or join in granting, such rights in relation to land as will enable the person on whom the notice is served to comply with any requirement imposed on him by that notice.

(2) Where paragraph (1) applies, the Department shall, before serving a notice under regulation 20(2), reasonably endeavour to consult such persons as appear to it to be—

- (a) the owner or occupier of any land which will be affected by the notice; and
- (b) any person who might be required under paragraph (1) to grant or join in granting any rights,

in respect of the rights which that owner, occupier, or person, may be required to grant.

(3) A notice under regulation 20(2) shall not be regarded as invalid or invalidly served by reason only of a failure to comply with paragraph (2).

(4) A person who grants, or joins in granting, any rights in accordance with paragraph (1) shall be entitled to compensation under this paragraph; and Schedule 2 shall have effect with respect to the making of applications for such compensation and with respect to the manner in which such applications shall be assessed and determined.

(5) Subject to paragraph (6), compensation payable under paragraph (4) shall be paid by the person on whom notice under regulation 20(2) was served or would have been served but for regulation 21(1).

(6) Where the person by whom compensation is payable under paragraph (5)—

- (a) cannot be found; or
- (b) has failed to make payment,

compensation under this regulation shall be payable by the Department; and the Department shall be entitled to recover any payment of compensation made by it under this paragraph from that person .

Enforcement by High Court

23. If the Department is of the opinion that proceedings for an offence under regulation 25(1)(b) would afford an ineffectual remedy against a person who has failed to comply with the requirement of any notice under regulation 20(2), it may take proceedings in the High Court for the purpose of securing compliance with that notice.