

WATER AND SEWERAGE SERVICES (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 2006

S.I. 2006 1946

EXPLANATORY MEMORANDUM

ABSTRACTION AND IMPOUNDING OF WATER (ARTICLE 5)

Background and Policy Objectives

15. DOE is introducing legislation to control the abstraction and impoundment of water in order to meet European obligations.
16. The Habitats Directive ([92/43/EEC](#)) does not explicitly require Member States to introduce a licensing regime for water abstraction, but it does require that any plan or project, either alone or in combination with other projects, that might have a significant impact on a protected site must be subject to appropriate assessment before it receives consent to proceed. The absence of any legislative framework within which to incorporate the appropriate assessment required under the Habitats Directive has necessitated the introduction of a licensing scheme for the abstraction and impoundment of water as a means of identifying the effects of such activities on protected sites. In response to a current infraction case under that Directive DOE, as part of the overall UK response, has given a commitment to having an abstraction control scheme in place by 31 December 2006.
17. [Article 11](#) of the Water Framework Directive ([2000/60/EC](#)) (the WFD) requires that the programme of measures established for river basin districts should include controls over abstraction and impoundment. While the programme of measures does not have to be established until 2009, or become operational until 2012, the introduction of the scheme now will provide valuable information for the river basin planning process and enable business and DOE to plan ahead to meet the required WFD standards.
18. DOE currently has powers under Article 20 of the 1999 Order to introduce controls over water abstraction and impoundment by means of regulations. Article 5 of the Order extends the purposes for which such regulations may be made and makes other amendments to the 1999 Order to ensure the controls are sufficient to meet European obligations and to make provision for effective enforcement.
19. The regulations to be made under the amended Article 20 will make it unlawful to abstract or impound water unless authorised under the regulations. Two levels of authorisation are envisaged:-
 - **Permitted Controlled Activities** - are low risk activities such as abstractions below a certain volume i.e. 20 cubic metres per day which would be authorised under the regulations without the need for a licence; and
 - **Licences** - these would be either Simple Licences – where environmental impacts are predictable but where cumulative impacts are likely or Full Licences – to control those activities posing the greatest risk to the environment and where site specific conditions would apply.

This Explanatory Memorandum refers to the Water and Sewerage Services (Miscellaneous Provisions) (Northern Ireland) Order 20061946

20. The Environment and Heritage Service (EHS) of DOE will have the responsibility for the implementation and enforcement of this new legislation. Detailed guidance will be produced by EHS and will be provided to all applicants.
21. DOE published The Draft Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 (“the draft Regulations”) for consultation on 8 May 2006. In order to meet the infraction commitment it is intended, subject to Parliamentary approval of the draft Order, to bring the regulations into operation by 31 December 2006.