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STATUTORY RULES OF NORTHERN IRELAND

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**2006 No. 482**

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

**PART 4**

**Licences**

**Form and content of application for licence**

**8.** An application to the Department for a licence shall be made on a form provided by the Department for the purpose and accompanied by such information in such form as the Department may reasonably require.

**Advertisement of application**

**9.—(1)** Where the Department receives an application under regulation 8 it may, where it considers that the controlled activity is likely to have a significant adverse impact on the water environment, require the application to be advertised in accordance with this regulation.

(2) The Department shall serve notice requiring the applicant to advertise the application within 28 days beginning with the date on which the notice was served.

(3) The Department shall specify in a notice under paragraph (2)—

- (a) the form of the advertisement;
- (b) the text to be included in the advertisement;
- (c) the publications or locations in which the advertisement should be placed; and
- (d) the dates between which the advertisement should be placed.

(4) Any person affected or likely to be affected by, or having an interest in, the application may make representations to the Department in writing within 28 days beginning with the date of the advertisement.

(5) The requirements of this regulation shall not apply insofar as they would require the advertisement of information which is not required to be included in the register by virtue of Article 31 or 32 of the Order.

(6) This regulation shall not apply to an application to which the Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005(1) apply.

**Consideration and determination of application for licence**

**10.—(1)** An application under regulation 8 shall be determined in accordance with this regulation.

(2) In deciding whether to grant a licence the Department—

- (a) shall have regard to all controlled activities being carried on or likely to be carried on in the area of the water environment likely to be affected by the controlled activity to which the application relates;
  - (b) shall have regard to any representations received pursuant to regulation 9(4); and
  - (c) may have regard to any agreement reached between different persons concerning controlled activities carried on in the area of the water environment likely to be affected by the controlled activity to which the application relates.
- (3) The Department may grant a licence unconditionally or subject to conditions or it may refuse to grant a licence.
- (4) The Department shall notify the applicant of its decision and, in the case of a refusal, the reasons for that decision.
- (5) This regulation has effect subject to regulation 11.

### **Applications affecting certain sites**

**11.**—(1) Subject to paragraph (2), regulations 43, 44 and 48 of the 1995 Regulations (requirement to consider effect on certain sites) apply with the necessary modifications to the granting or modification of a licence under these Regulations as they apply to the matters specified in regulations 49 to 64 of the 1995 Regulations but as if—

- (a) references to the competent authority were references to the Department;
- (b) references to any consent, permission or other authorisation were references to a licence under these Regulations;
- (c) references to any plan or project were references to any controlled activity; and
- (d) regulations 43(3) and 44(3),(4), (5) and (6) were omitted.

(2) Nothing in paragraph (1) shall require the making of an appropriate assessment in connection with a controlled activity where such an assessment has already been carried out in connection with that activity under any other statutory provision.

(3) In this regulation “appropriate assessment” has the same meaning as in the 1995 Regulations.

### **Review of licence**

**12.**—(1) The Department shall periodically review a licence and may do so at any time.

(2) Without prejudice to the generality of paragraph (1), regulations 45, 46 and 48 of the 1995 Regulations (requirement to review existing decisions and consents, etc.) apply with the necessary modifications to a licence granted under these Regulations as they apply to the matters specified in regulations 49 to 64 of the 1995 Regulations but as if—

- (a) references to the competent authority were references to the Department;
- (b) references to any consent, permission or other authorisation were references to a licence under these Regulations;
- (c) references to any plan or project were references to any controlled activity;
- (d) in regulation 45(1) the words “or if later, the commencement of these Regulations” were omitted;
- (e) in regulation 45(2) for the words “regulation 43(2) to (4)” there were substituted the words “regulation 43(2) and (4)”; and
- (f) regulation 46(4) was omitted.

## **Modification of licence**

**13.—**(1) The Department may—

- (a) on its own initiative and whether as a result of a review under regulation 12 or otherwise; or
- (b) upon application of the holder of a licence,

modify a licence.

(2) An application under paragraph (1)(b) shall be made on a form provided by the Department for the purpose and accompanied by such information in such form as the Department may reasonably require.

(3) Regulations 9 and 10(2) apply with the necessary modifications to an application under paragraph (1)(b) as they apply to an application under regulation 8.

(4) Any modification of a licence under this regulation shall be effected by notice served on the holder of the licence and the notice shall state the time at which the modification is to take effect which in the case of a modification under paragraph (1)(a) shall be not less than 3 months from the date on which the notice was served.

## **Transfer of licence**

**14.—**(1) A licence may be transferred to another person in accordance with paragraphs (2) to (5).

(2) Where the holder of a licence desires that the licence be transferred to another person (“the proposed transferee”) the licence holder and the proposed transferee shall jointly make an application to the Department for a transfer of the licence.

(3) An application under paragraph (2) shall be made on a form provided by the Department for the purpose and accompanied by such information in such form as the Department may reasonably require.

(4) The Department may effect a transfer of a licence or refuse to effect a transfer and where it refuses to do so it shall notify the applicants of the reasons for its decision.

(5) The Department may effect a transfer under this regulation by causing the licence to be endorsed with the name and other particulars of the proposed transferee as the holder of the licence from such date specified in the endorsement as may be agreed with the applicants.

## **Surrender of licence**

**15.—**(1) A licence may be surrendered by its holder to the Department in accordance with this regulation.

(2) A licence may only be surrendered if the Department accepts it.

(3) Where the holder of a licence desires to surrender it, he shall make an application to the Department on a form provided by the Department for the purpose and accompanied by such information in such form as the Department may reasonably require.

(4) On receiving an application under paragraph (3) the Department shall determine whether the cessation of the activity to which the licence relates is likely to have a significant adverse impact on the water environment.

(5) Regulation 9 applies with the necessary modifications to an application under paragraph (3) as it applies to an application under regulation 8.

(6) If the Department is satisfied that the cessation of the controlled activity to which the application relates is unlikely to have a significant adverse impact on the water environment, the Department shall accept the surrender of the licence; but otherwise the Department shall refuse to accept it.

(7) Where the surrender of a licence is accepted under this regulation the Department shall issue to the applicant, with the notice of its determination, a certificate stating that it is satisfied as mentioned in paragraph (6) and, on the issue of that certificate, the licence shall cease to have effect.

### **Revocation of licence**

**16.—**(1) The Department may revoke (in whole or in part) a licence—

(a) where it is satisfied that—

(i) the revocation is necessary in order to protect the water environment from serious damage; and

(ii) the damage cannot be avoided by modifying the conditions of the licence; or

(b) under regulation 45 of the 1995 Regulations as applied by regulation 12 of these Regulations.

(2) Any revocation of a licence under paragraph (1)(a) or (b) shall be effected by notice served on the holder of the licence.

(3) A notice under paragraph (2) shall specify—

(a) in the case of a partial revocation, the extent to which the licence is revoked;

(b) the date on which the revocation shall take effect which shall be at least 28 days after the date on which the notice under paragraph (2) was served; and

(c) the reasons for the revocation.

### **Public inquiries**

**17.—**(1) For the purpose of considering representations made under regulation 9 and under that regulation as applied by regulations 13 and 15, the Department may direct the Appeals Commission to hold a public local inquiry.

(2) The Department shall give notice of any direction made under paragraph (1) to the applicant.

(3) Schedule A1 to the Interpretation Act (Northern Ireland) 1954<sup>(2)</sup> applies in relation to a public local inquiry held by the Appeals Commission under this regulation as it applies to a local inquiry held under an enactment passed or made as mentioned in section 23 of that Act.

(4) Where the Department makes a direction under paragraph (1) it shall, in determining the application to which the direction relates, consider the report on the public local inquiry held by the Appeals Commission.

### **Further information**

**18.—**(1) The Department may, by notice in writing to the applicant, request such additional information in relation to any application under regulation 8, 13(1)(b), 14(2) or 15(3) as it reasonably requires.

(2) The Department may request such additional information within such period as it may specify or agree with the applicant in writing.

(3) Where an applicant fails to provide the Department with any information requested under paragraph (1) the Department may refuse to proceed with the application to which it relates or refuse to proceed with it until the information is provided.

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(2) 1954 c.33 (N.I.)

### **Time limits for determining applications**

**19.**—(1) Subject to paragraphs (2) and (3), the Department shall determine an application under regulation 8, 13(1)(b), 14(2) or 15(3) within 4 months beginning with the date on which it receives the application or shall determine it within such later period as may be agreed in writing with the applicant.

(2) Paragraph (1) shall not have effect in any case where, under regulation 18(3), the Department refuses to proceed with the application in question.

(3) For the purpose of calculating the periods mentioned in paragraph (1) the following periods shall be disregarded, namely—

- (a) the period beginning with the date on which notice is served on the applicant under regulation 18(1) and ending on the date of receipt by the Department of the information to which the notice relates;
- (b) the period beginning with the date on which the Department makes a direction to the Appeals Commission under regulation 17 and ending on the date of receipt by the Department of the report of the Appeals Commission on the public local inquiry to which the direction relates; and
- (c) any period of time determined under regulation 14(5)(b) of the Water Resources (Environmental Impact Assessment) Regulations (NI) 2005

(4) Where the Department fails to determine the application within the period provided for under this regulation the application shall be deemed to have been refused.