

SCHEDULE 1

Regulation 5

Permitted Controlled Activities

<i>Column 1</i>	<i>Column 2</i>
<i>Activity</i>	<i>Conditions</i>
<p>1. The construction, alteration or operation of the following descriptions of weir namely :</p> <p>(a) a weir that is not associated with an abstraction;</p> <p>(b) a weir that is not capable of being operated to control the water level upstream of the weir;</p> <p>(c) a weir that is not capable of being operated so as to create a height differential between the upstream and downstream water surfaces of more than one metre.</p>	
<p>2. The abstraction of less than 10 m<sup>3</sup> of water in any one day.</p>	<p>(a) there shall be a means of demonstrating that the abstraction is less than 10 m<sup>3</sup> in any one day;</p> <p>(b) water leakage shall be kept to a minimum by ensuring all pipe work, storage tanks and other equipment associated with the abstraction and use of the water are maintained in a state of good repair;</p> <p>(c) subject to paragraphs (d) and (e) the abstraction shall not cause the entry of water of a different chemical composition into any water contained in any underground strata;</p> <p>(d) drilling fluids may be introduced into a well or borehole if necessary to facilitate the drilling of the well or borehole provided this does not result in pollution of the water environment;</p> <p>(e) potable water may be introduced into a well or borehole to test the hydraulic properties of an aquifer;</p> <p>(f) when a well or borehole is not being used for abstraction, it shall be back-filled or sealed to the extent necessary to avoid loss of any water contained in any underground strata.</p>
<p>3. The abstraction of between 10m<sup>3</sup> and 20m<sup>3</sup> of water in any one day.</p>	<p>(a) there shall be a means of demonstrating that the abstraction is less than 20m<sup>3</sup> in any one day;</p> <p>(b) the operator shall notify the Department of the location and volume of the abstraction —</p>

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<i>Activity</i>	<i>Conditions</i>
	<ul style="list-style-type: none"> <li>(i) in any case where he is carrying on that activity on the date of the coming into operation of these regulations, within 12 months of that date; and</li> <li>(ii) in all other cases, within 28 days of the date on which he commences the activity;</li> <li>(c) water leakage shall be kept to a minimum by ensuring all pipe work, storage tanks and other equipment associated with the abstraction and use of the water are maintained in a state of good repair;</li> <li>(d) subject to paragraphs (e) and (f) the abstraction shall not cause the entry of water of a different chemical composition into any water contained in any underground strata;</li> <li>(e) drilling fluids may be introduced into a well or borehole if necessary to facilitate the boring of the well or borehole provided this does not result in pollution of the water environment;</li> <li>(f) potable water may be introduced into a well or borehole to test the hydraulic properties of an aquifer;</li> <li>(g) when a well or borehole is not being used for abstraction, it shall be back-filled or sealed to the extent necessary to avoid loss of any water contained in any underground strata.</li> </ul>
<p>4. The abstraction from a borehole where the total volume of water abstracted is less than 150 m<sup>3</sup> in any period of one year and the purpose of the abstraction is either:</p> <ul style="list-style-type: none"> <li>(a) subject to paragraphs (b) and (c) the abstraction shall not cause the entry of water of a different chemical composition into any water contained in any underground strata;</li> <li>(b) to sample the water quality.</li> </ul>	<ul style="list-style-type: none"> <li>(a) to test the yield of the borehole or well or the hydraulic properties of an aquifer; or</li> </ul>

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	(b) drilling fluids may be introduced into a well or borehole if necessary to facilitate the drilling of the well or borehole provided this does not result in pollution of the water environment;
	(c) potable water may be introduced into a well or borehole to test the hydraulic properties of an aquifer;

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	(d) when the borehole is not being used for abstraction, it shall be back-filled or sealed to the extent necessary to avoid loss of any water contained in any underground strata.

SCHEDULE 2

Regulation 22(4)

Compensation for Grant of Rights

**Interpretation**

1. In this Schedule—

“the 1982 Order” means the Land Compensation (Northern Ireland) Order 1982(1);

“compensation” means compensation to which a person is entitled under regulation 22(4);

“grantor” means a person who has granted or joined in granting any rights pursuant to regulation 22(1);

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(1) S.I. 1982/712 (NI 9)

“grantee” means the person on whom a notice is served under regulation 20(2) or, in a case to which regulation 22(6) applies, the Department; and

“relevant interest” means an interest in land or waters in respect of which rights have been granted pursuant to regulation 22(1).

### **Period for making an application**

2. An application for compensation shall be made to the grantee within the period beginning with the date of the grant of the rights in respect of which compensation is claimed and ending on whichever is the later of the following dates—

- (a) 12 months after the date of the grant of those rights; or
- (b) six months after the date on which the rights were first exercised.

### **Form of application**

3.—(1) An application for compensation shall be made in writing and served on the grantee.

(2) The application shall contain, or be accompanied by—

- (a) a description of the grant of rights in respect of which the grantor is applying for compensation, and any relevant plans;
- (b) a description of the relevant interest in respect of which the grantor is applying for compensation and any relevant plans; and
- (c) a statement containing—
  - (i) the total amount of compensation sought;
  - (ii) the individual amounts sought for each description of loss and damage referred to in sub-paragraphs (a) to (e) of paragraph 4; and
  - (iii) details of how those amounts are calculated.

### **Loss and damage for which compensation payable**

4. Compensation shall be payable for loss and damage of the following descriptions—

- (a) depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the rights or the exercise of them;
- (b) loss or damage, in relation to any relevant interest to which the grantor is entitled, which—
  - (i) results from the grant of the rights or the exercise of them;
  - (ii) does not consist of depreciation in the value of that interest; and
  - (iii) is loss or damage for which the grantor would have been entitled to compensation by way of compensation for disturbance, if that interest had been acquired compulsorily under the Local Government Act (Northern Ireland) 1972(2) in pursuance of a notice of intention to vest served on the date on which the rights were granted;
- (c) damage to, or injurious affection of, any interest in land to which the grantor is entitled which is not a relevant interest, and which results from the grant of the rights or the exercise of them;
- (d) any loss or damage sustained by the grantor, other than in relation to any interest in land to which the grantor is entitled, and which results from the grant of the rights or the exercise of them; and

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(2) 1972 c.9 (NI)

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- (e) the amount of any valuation and legal expenses reasonably incurred by the grantor in granting the rights and in the preparation of the application for and the negotiation of the amount of compensation (up to the point of referral to the Lands Tribunal under paragraph 6).

#### **Basis on which compensation assessed**

5.—(1) The rules set out in Article 6 of the 1982 Order shall, so far as applicable and subject to any necessary modifications, have effect for the purposes of assessing compensation payable under regulation 22(4) as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) Where the relevant interest in respect of which compensation is to be assessed is subject to a mortgage—

- (a) the compensation shall be assessed as if the interest were not subject to the mortgage;
- (b) no compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
- (c) any compensation which is payable in respect of the interest which is subject to a mortgage shall be paid (subject to the maximum sum due thereunder) to the mortgagee or, if there is more than one mortgagee, to the first ranking mortgagee and shall, in either case, be applied by that person as if it were proceeds of sale.

#### **Payment of compensation and determination of disputes**

6.—(1) Compensation shall be payable—

- (a) where the grantee, the grantor and (if relevant) the mortgagee agree that a single payment is to be made on a specified date, on that date;
- (b) where the grantee, the grantor and (if relevant) the mortgagee agree that payment is to be made in instalments at different dates, on the date agreed as regards each instalment; or
- (c) in any other case, subject to any direction of the Lands Tribunal as soon as reasonably practicable after the amount of the compensation has been finally determined.

(2) Any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

(3) In relation to the determination of any such questions, Articles 4 and 5 of the 1982 Order (procedure on reference to the Lands Tribunal and costs) shall apply as if—

- (a) the reference in Article 4(1) of that Order to Article 3 of that Order were a reference to sub-paragraph (2) of this paragraph; and
- (b) references in Article 5 of that Order to the acquiring authority were references to the grantee.

#### **Interest and payment on account**

7.—(1) Compensation shall carry interest at the rate determined for the time being under paragraph 18 of Schedule 6 to the Local Government Act (Northern Ireland) 1972 from the date specified in sub-paragraph (2) until payment.

(2) The date specified in this sub-paragraph is—

- (a) in the case of compensation for loss and damage as described in paragraph 4(a), the date of depreciation ;

- (b) in the case of compensation for loss and damage as described in paragraph 4(b), (c) or (d), the date on which the loss is sustained or the damage done or, where injurious affection is sustained, the date of the injurious affection;
  - (c) in the case of compensation for loss and damage as described in paragraph 4(e), the date on which the expenses become payable.
- (3) If it appears to any person that he may become liable to pay to another compensation he may, if the other person requests him in writing to do so, make one or more payments on account of such compensation.
- (4) If, after a payment has been made by any person under sub-paragraph (3)—
- (a) it is agreed or determined that he is not liable to pay compensation; or
  - (b) by reason of any agreement or determination, any payment under that sub-paragraph is shown to be excessive,
- the payment or, as the case may be, excess shall be recoverable by that person.

### SCHEDULE 3

Regulation 24

#### Register

- 1.—(1) Subject to Articles 31 and 32 of the Order the register shall contain:
- (a) particulars of any application for a licence under regulation 8;
  - (b) particulars of any licence granted under regulation 10;
  - (c) particulars of any application for the modification of a licence under regulation 13(1)(b);
  - (d) particulars of any application for a transfer of a licence under regulation 14(2);
  - (e) particulars of any application for the surrender of a licence under regulation 15(3);
  - (f) particulars of any modification, transfer or surrender of a licence granted pursuant to the applications referred to in sub-paragraphs (c) to (e);
  - (g) particulars of any notices served under regulations 7, 13(4), 16(2), and 20(2);
  - (h) particulars of any advertisement published pursuant to regulation 9 and any representations made in response to the advertisement other than exempt representations;
  - (i) in the case of exempt representations, a statement by the Department that such representations have been made (but such statement shall not identify the person who made them);
  - (j) any notice of appeal received by the Department under regulation 29(3);
  - (k) any written notification of the determination by the Appeals Commission of an appeal and any report accompanying any such notification;
  - (l) information in relation to the carrying on of a controlled activity under a licence granted under regulation 10 which is—
    - (i) obtained by the Department in the exercise of its powers under Article 25 or 26 of the Order; or
    - (ii) furnished to the Department by virtue of a condition of the licence or a direction under Article 28 of the Order;
  - (m) in a case where any information referred to in sub-paragraph (l)(i) is omitted from the register by virtue of Article 31 or 32 of the Order, a statement by the Department, based on information obtained in any of the circumstances set out in that sub-paragraph, indicating

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- whether or not the conditions of the licence to which that information relates, have been complied with;
- (n) information (other than information registerable under sub-paragraph (1)(1)(ii)) furnished in compliance with a condition of a licence or a direction under Article 28 of the Order;
  - (o) particulars of any convictions for offences under these Regulations;
  - (p) particulars of any determination under regulation 4 of the Water Resources (Environmental Impact Assessment) Regulations (Northern Ireland) 2005(3);
  - (q) particulars of any environmental statement or further information furnished under regulation 6 of those Regulations.
- (2) In this paragraph “exempt representations” means representations—
- (a) made under regulation 9(4); and
  - (b) which have been excluded from the register at the request of the person who made them.
2. Where an application under regulation 8, 13(1)(b), 14(2) or 15(3) is withdrawn at any time before it is determined—
- (a) no further particulars relating to the application shall be entered on the register after the application is withdrawn; and
  - (b) all particulars relating to the application shall be removed from the register not less than 2 months and not more than 3 months after the application is withdrawn.
3. Nothing in paragraph 1 shall require the Department to keep on the register—
- (a) information obtained in the circumstances referred to in paragraph 1(1)(l) for more than 6 years from the date on which that information was entered in the register;
  - (b) information which has been superseded by later information more than 6 years after that later information was entered in the register.
4. Paragraph 3(a) shall not apply to information relating to specific impacts or classes of impacts on the water environment from controlled activities generally or from any class of controlled activities.

#### SCHEDULE 4

Regulation 30

##### Transitional provisions

1. In this Schedule—
- “existing controlled activity” means a controlled activity other than—
- (a) a controlled activity to which regulation 5 applies; or
  - (b) a controlled activity to which the Water Resources (Environmental Impact assessment) Regulations (Northern Ireland) 2005 apply,
- which—
- (i) is carried on for the period of six months ending on the relevant date; or
  - (ii) in cases where the activity is seasonal in nature, was carried on at any time during the months of May to August 2006;
- “relevant date” is the date of the coming into operation of these Regulations; and
- “relevant period” is the period of 12 months beginning with the relevant date.



2. Regulations 4 and 20(1)(b) shall not apply to an existing controlled activity—
  - (a) during the relevant period; or
  - (b) if an application is made under regulation 8 in respect of it during the relevant period, until the application is determined under regulation 10.
3. Regulations 9 and 19 shall not apply to an application made under regulation 8 during the relevant period for an existing controlled activity.