
DRAFT STATUTORY INSTRUMENTS

1999 No.

Water (Northern Ireland) Order 1999

PART III

**POWERS OF DEPARTMENT OF AGRICULTURE
IN RELATION TO WATERWAYS**

Supplementary provisions

Powers of entry and inspection

- 51.**—(1) Any person duly authorised by the Department may at any reasonable time—
- (a) enter any premises for the purpose of performing, whether in relation to those premises or not, any functions conferred on the Department under this Part;
 - (b) for the purpose of determining whether, and if so in what manner, any such functions are to be performed in relation to any premises, enter any premises and inspect or survey the premises and inspect any article thereon;
 - (c) for the purpose of ascertaining whether any provision of an order made under Article 49 is being or has been contravened, enter any premises and inspect or survey the premises and inspect any article thereon.
- (2) Any person duly authorised by the Department may—
- (a) stop, if necessary, and enter and search any vessel for the purpose of ascertaining whether any provision of an order made under Article 49 is being or has been contravened;
 - (b) carry out inspections, measurements and tests on any vessel entered by that person or of any articles found on any such vessel.
- (3) If it is shown to the satisfaction of a justice of the peace on sworn complaint in writing—
- (a) that admission to any premises which any person is entitled to enter under paragraph (1) or (2) has been refused to that person, or that refusal is apprehended, or that the premises are unoccupied or that the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and
 - (b) that there is reasonable ground for entry upon the premises for the purpose for which entry is required;

the justice may by warrant under his hand authorise that person to enter the premises, if need be by force.

(4) A warrant granted under paragraph (3) shall continue in force until the purpose for which entry is required has been satisfied.

(5) The power conferred by paragraph (1) to survey premises includes power to sink boreholes.

(6) The power conferred by paragraphs (1)(b) and (c) and (2)(b) shall be exercisable for the purpose of inspecting any documents in the possession of any body relating to the functions of the

body, and the person carrying out any such inspection may take copies of, or extracts from, any such documents.

Supplementary provisions as to powers of entry and inspection

52.—(1) A person authorised under Article 51 to enter any premises shall, if so required, produce evidence of his authority before so entering.

(2) A person so authorised may take with him onto the premises in question such other persons, and such equipment, as may be necessary.

(3) Admission to any land used for residential purposes, and admission with heavy equipment to any other land, shall not except in an emergency be demanded under Article 51 unless 7 days' notice in writing of the intended entry has been given to the occupier.

(4) Any person who, in the exercise of his powers under Article 51, enters any premises which are unoccupied or the occupier of which is temporarily absent, shall leave the premises as effectually secured against trespassers as he found them.

(5) Any person who intentionally obstructs a person acting in the exercise of his powers under Article 51 shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) If any person assaults a person acting in the exercise of his powers under Article 51 he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 6 months or to both such fine and such imprisonment.

(7) Where in the exercise of any power conferred by Article 51 any damage is caused to land or to chattels, any person interested in the land or chattels shall be entitled to compensation in respect of the damage from the Department.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7) or the amount of it shall be determined by the Lands Tribunal.

Prosecutions

53. No proceedings shall be instituted for an offence under this Part or under an order made in accordance with Article 49 except by the Department or by or with the consent of the Attorney General.

Power to give effect to Community obligations, etc.

54.—(1) Regulations may provide that the provisions of this Part shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any Community obligation or exercise any related right.

(2) In this Article "related right", in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.

Financial provision

55. Any sum received by the Department under this Part shall be appropriated in aid of the expenses incurred by the Department under this Part or in the payment of any contributions or grants under this Part.

Repeal, amendment and adaptation of local enactments

56.—(1) If it appears to the Department that any local or private Act passed before the making of this Order—

- (a) is inconsistent with any of the provisions of this Part or of any regulations or order made under this Part, or with anything done in the performance of any functions under this Part; or
- (b) requires to be amended or adapted, having regard to any of those provisions or to anything done in the performance of any of those functions,

it may by order made subject to affirmative resolution repeal, amend or adapt that Act to such extent, or in such manner, as it considers appropriate.

- (2) In this Article “Act” includes an Act of the Parliament of the United Kingdom.