

SCHEDULES

SCHEDULE 1

DISCHARGE CONSENTS

Revocation of consents and alteration and imposition of conditions

5.—(1) The Department may from time to time review any discharge consent given under paragraph 2 or 4 and the conditions (if any) to which the consent is subject.

(2) Subject to such restrictions on the exercise of the power conferred by this sub-paragraph as are imposed under paragraph 6, where the Department has reviewed a discharge consent under this paragraph, it may by a notice served on the person making a discharge in pursuance of the consent—

- (a) revoke the consent;
- (b) make modifications of the conditions of the consent; or
- (c) in the case of an unconditional consent, provide that it shall be subject to such conditions as may be specified in the notice.

(3) If on a review under sub-paragraph (1) it appears to the Department that no discharge has been made in pursuance of the discharge consent to which the review relates at any time during the preceding 12 months, the Department may revoke the discharge consent by a notice served on the holder of the consent.

(4) If it appears to the Department appropriate to do so—

- (a) for the purposes of enabling Her Majesty's Government in the United Kingdom to give effect to any Community obligation or to any international agreement to which the United Kingdom is for the time being a party;
- (b) for the protection of public health or of flora and fauna dependent on an aquatic environment; or
- (c) in consequence of any representations made to it or otherwise,

the Department may, subject to such restrictions on the exercise of the power conferred by virtue of paragraph (c) as are imposed under paragraph 6, at any time, in relation to a discharge consent given under paragraph 2 or 4, by a notice served on the person making a discharge in pursuance of the consent, do anything mentioned in sub-paragraph (2)(a) to (c).

(5) Where the Department, in relation to a discharge consent given under paragraph 2 or 4, has served a notice on any person by virtue of sub-paragraph (2) or (4) (except a notice which only revokes a consent), the Department shall give notice stating the effect of the first-mentioned notice on—

- (a) the Foyle Fisheries Commission where the discharge to which the notice relates is made or to be made in the Londonderry Area;
- (b) the Fisheries Conservancy Board for Northern Ireland where the discharge to which the notice relates is made or to be made outside that area.

(6) The Department shall be liable to pay compensation to any person in respect of any loss or damage sustained by that person as a result of action taken by the Department in relation to any discharge consent by virtue of sub-paragraph (4)(b) if—

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Water (Northern Ireland) Order 1999 No. 662

- (a) in taking that action the Department does anything which, apart from sub-paragraph (4), it would be precluded from doing by a restriction imposed under paragraph 6; and
 - (b) the action is not shown to have been taken in consequence of—
 - (i) a change of circumstances which could not reasonably have been foreseen at the beginning of the period to which the restriction relates; or
 - (ii) consideration by the Department of material information which was not reasonably available to the Department at the beginning of that period.
- (7) For the purposes of sub-paragraph (6) information is material, in relation to a discharge consent, if it relates to any discharge made or to be made by virtue of the consent, to the interaction of any such discharge with any other discharge or to the combined effect of the matter discharged and any other matter.