

*These notes refer to the Reservoirs Act (Northern Ireland)
2015 (c.8) which received Royal Assent on 24 July 2015*

Reservoirs Act (Northern Ireland) 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 8 – Miscellaneous

Section 109 – Power of Water Appeals Commission to award costs in an appeal

This section provides the Water Appeals Commission with the power by order to award costs to the parties to an appeal against a decision by the Department in respect of the matters listed at subsection (2). Any order made has the effect of a court order (subsection (3)) and the Taxing Master has the powers in relation to such an order as it would to an order of the high court (subsection (4)).

Section 110 – Orders as to costs: supplementary

In the circumstances where criteria at subsection (1) applies this section provides the Water Appeals Commission with the power to make an order to award costs even if a hearing is arranged and the hearing does not take place.

Section 111 – Fees in relation to appeals

This section gives the Office of the First Minister and deputy First Minister the power to make regulations to specify the fees to be paid to the Water Appeals Commission for all appeals that it hears under the Reservoirs Act.

Section 112 – Time limit for certain summary offences under Act

This section enables the Department to make provision by regulation to extend the time limit for prosecution of summary only offences provided in the Act. This would amend the time limit provided under Article 19(1)(a) of the Magistrates Courts (NI) Order 1981 for summary offences, (currently 6 months from when the offence was committed or ceased to continue).

Section 113 – National security: further provision

This section makes provision for the Secretary of State to issue a non-disclosure notice to the Department if it appears that disclosure by any other means of any information which the Department may hold or receive in relation to controlled reservoirs, would adversely affect national security. This is in addition to

the Secretary of State's power in section 9(4) to direct the Department not to include in the controlled reservoirs register any information which would adversely affect national security. The non disclosure notice may also require the Department not to give to any person any indication of the existence of such information. This section does not prevent the Department from complying with any other legal obligation to which it is subject and as listed in subsection (4).

Section 114 - Grants

This section provides powers for the Department to make provision in regulations to enable the payment of grant to reservoir managers of controlled reservoirs to assist them in complying with their obligations under this Act. Subsection (2) requires the regulations to specify the terms and conditions relating to the payment of a grant.

Section 115 – Assessment of engineers' report

This section enables the Department to make provision in regulations for the assessment of reports, written statements, recommendations and certificates prepared by reservoir engineers' as part of their duties under the Act. Subsection (2) enables the regulations to make provision for a committee consisting of members of the Institution of Civil Engineers to make this assessment and the conditions of membership of such a committee. The matters which the regulations in particular may provide for are specified in subsection (3).

Section 116 – Publication of information as regards ranges of costs of engineers' services

This section makes provision for the Department to publish information on a range of costs for services undertaken by a qualified engineer under the Reservoirs Act. This will provide reservoir managers with an indication of costs to be incurred for services such as an inspection of a reservoir by an inspecting engineer or the costs of a supervising engineer.

Section 117 – Notice to the Department of revocation of commissioning, or resignation, of engineer

Subsection (1) requires reservoir managers to notify the Department when they have revoked the commissioning of an engineer specifying the effective date of revocation. Notice of the revocation is to be given within 28 days of the revocation. An engineer commissioned by a reservoir manager may give notice of resignation to the reservoir manager specifying the effective date (subsection (2)) not later than 28 days after the resignation. The reservoir manager must give a copy of the notice to the Department within 28 days of receipt of the notice. Subsection (3) makes it an offence for a reservoir manager to fail to give the Department a notice of revocation or a copy of a resignation notice and subsection (4) sets out the maximum criminal sanctions of a reservoir manager committing an offence under this section. Subsection (5) provides a

defence to a charge in the case where a reservoir manager did not receive a notice of resignation from an engineer.

Section 118 – Form and content of notices, reports, certificates etc

This section enables the Department to make further provision in regulations about the form and content of any notice or the form of any written statement, report or certificate under the Act.

Section 119 – Electronic serving or giving of notices or other documents

This section provides for the conditions relating to the use of electronic communications for the sending of notices or other documents required under the Act. Subsection (2) requires agreement regarding the use of electronic communications and subsection (3) specifies the conditions relating to the notice or other document. Electronic communications cannot be used for the serving of a notice of the intention to enter land which is occupied (subsection (4)). Subsection (5) specifies the time and day of receipt for electronic communication. Subsection (6) requires notice to be given regarding the withdrawal of electronic communications.

Section 120 – Change to the Institution of Civil Engineers

If the Institution of Civil Engineers ceases to exist, the Department may by order amend references in the Act to the Institution and to its President.

Section 121 – Civil liability

The Reservoirs Act does not confer a right to claim damages in respect of a breach of an obligation imposed by this legislation.