

*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 9 - General

Section 122 – Crown application

This section makes provision to apply to the Crown in Northern Ireland. Subsection (2) provides that any provision made by or under this Act applies to persons in the service of the Crown as it applies to other persons.

Subsections (3) and (4) define a reference to the Crown, Crown land, Crown estate and Government Department.

Section 123 – Enforcement in relation to the Crown

Subsections (1) and (2) provide that the Crown in Northern Ireland will not be criminally liable to any contravention of the Act's provisions but allows the High Court to declare any act of the Crown in contravention of the Act's provisions unlawful, upon application by the Department.

Subsection (3) limits powers of entry to Crown land by requiring the consent of an appropriate authority to be obtained before the powers of entry can be exercised. Subsection (4) defines the term 'the appropriate authority' in relation to any land. Subsection (5) provides for the Department of Finance and Personnel or the Treasury, as appropriate, to determine any question which arises as to who is the appropriate authority in relation to any land and the determination is final.

Section 124 – Service or giving of notices or other documents: the Crown

This section provides that any notice to be served on the Crown or document given to the Crown must be served on or given to the appropriate authority. Subsection (2) states that section 24 of the Interpretation Act (Northern Ireland) 1954 does not apply to service of this notice.

Section 125 – Offences by bodies corporate and partnerships

This section provides that where an offence under the Act has been committed by a corporate body section 20(2) of the Interpretation Act (Northern Ireland)

1954 is amended as specified and the company officials or members may be liable. Subsection (2) deals with liability in the case of a partnership.

Section 126 – Supplementary, incidental, consequential etc. provision

This section enables the Department by order to amend, repeal, revoke or modify any statutory provisions made by or under this Act.

Section 127 – Orders and regulations

This section provides for the procedures or Assembly control for making orders and regulations under the Act. Subsection (3) details the orders or regulations that require a draft to be laid before and approved by a resolution of the Assembly prior to making. All other regulations made under the Act are subject to negative resolution. Subsection (4) is in usual terms and specifies that any power to make an order or regulation under this Act includes power to make such supplementary, incidental, consequential, transitional, transitory and saving provision as the Department considers appropriate.

Section 128 - Definitions

Subsection (2) introduces Schedule 2, which sets out in a table, key terms used in the Act where they are given their meaning.

Section 129 – Minor and consequential amendments and repeals

This introduces Schedule 3 and Schedule 4 in which amendments of the Water and Sewerage Services (Northern Ireland) Order 2006, in relation to the Water Appeals Commission, and a repeal of Article 297 are set out.

Section 130 – Commencement

Subsection (1) sets out the sections within the Act which would come into operation on the day after Royal Assent. Subsection (2) enables the Department by commencement order to commence the other provisions of the Act on appointed days. Subsection (3) provides that no order may be made under subsection (2) for the provisions listed unless a draft of the order has been laid before and approved by a resolution of, the Assembly. A commencement order may contain such transitional, transitory or saving provision as considered necessary by the Department including such transitional or transitory modifications to this Act as required to ensure that commencement of provisions are possible under subsection (3).

Section 131 – Duty to report on operation of this Act

This section places a duty on the Department to publish a report on the operation of this Act within three years of Royal Assent and to lay the report before the Assembly.

***Schedule 1 – Pre-commencement inspection reports – review of decision
under section 33(2)***

This Schedule sets out the procedure to be used by the reservoir manager when seeking a review of the Department’s decision regarding a document being a pre-commencement inspection report. Paragraph 3 provides that the Department may commission an appropriate panel engineer when undertaking a review and specifies the matters that the Department must take into account when considering an application for review. Paragraph 5 requires the Department to notify the reservoir manager of its decision and specifies what is to be included in any notice. Paragraph 6 provides powers for the Department to make further provision by regulations in relation to applications for reviews, and reviews, under this Schedule.