

SCHEDULES

SCHEDULE 1

Section 33(6).

PRE-COMMENCEMENT INSPECTION REPORTS: REVIEW OF DECISION UNDER SECTION 33(2)

1. A reservoir manager of a high-consequence or medium-consequence reservoir on whom notice is served under subsection (5) of section 33 may apply to the Department for a review by it of its decision under subsection (2) of that section (that it is satisfied that a document provided in pursuance of subsection (1) is not a pre-commencement inspection report).
2. Any such application must be made in writing before the end of the period of 90 days beginning with the date on which the notice was served.
3. In considering an application under paragraph 1, the Department—
 - (a) may commission to make recommendations to it about the document which was the subject of the decision (“the document”) an engineer who—
 - (i) is a member of a panel of reservoir engineers established under section 102 who may (by virtue of an order under that section) be commissioned under this paragraph in relation to the reservoir,
 - (ii) is not disqualified by virtue of paragraph 4 from being so commissioned in relation to the reservoir,
 - (b) must take into account—
 - (i) a recommendation by an engineer commissioned by it under paragraph (a),
 - (ii) any representations made to it by or on behalf of the reservoir manager in relation to the application.
4. An engineer is disqualified from being commissioned under paragraph 3 in relation to a high-consequence or medium-consequence reservoir if the engineer—
 - (a) was commissioned under section 33(2) in relation to the making of the decision which is the subject of the review,
 - (b) prepared the document,
 - (c) is, or has previously been an employee of any person who is, or has previously been, a reservoir manager of the reservoir.
5. The Department must notify the reservoir manager of its decision in the review by serving on the reservoir manager notice—

- (a) specifying whether it confirms the decision or has decided that the document is a pre-commencement inspection report,
- (b) where it has confirmed its decision, specifying the reasons for doing so.

6. The Department may by regulations make further provision in relation to applications for review, and reviews, under this Schedule.

SCHEDULE 2

Section 128(2).

INDEX OF DEFINED EXPRESSIONS

<i>Expression</i>	<i>Interpretation provision</i>
construction certificate	section 48
construction engineer	section 43(3)
controlled reservoir	sections 1, 2 and 5
controlled reservoir being abandoned	section 41(7)(d) (see also section 41(6))
controlled reservoir being subject to alteration	section 41(7)(a) (see also section 41(4) to (6))
controlled reservoir being constructed	section 41(7)(a) (see also section 41(3))
controlled reservoir being discontinued	section 41(7)(c) (see also section 41(5))
controlled reservoir being restored to use	section 41(7)(b) (see also section 41(3))
controlled reservoirs register	section 9
the Department	section 128(1)
enforcement undertaking	section 81(1) and (3)
final certificate	section 49
fixed monetary penalty	section 83(1) and (3)
flood plan	section 57
high-consequence reservoir	section 24
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inspection compliance certificate	section 36(5) and (7)
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<i>Expression</i>	<i>Interpretation provision</i>
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other qualified engineer	sections 35(7) and 36(2)(a)
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periodic re-assessment of reservoir designation	section 18
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supervising engineer	section 25(3) (see also section 26(7) (a) and (10) in relation to nominated representative of supervising engineer)
the 1975 Act	section 128(1)
variable monetary penalty	section 86(1) and (3)
the Water Appeals Commission	section 128(1).

SCHEDULE 3

Section 119(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

The Water and Sewerage Services (Northern Ireland) Order 2006 (NI 21)

1. The Water and Sewerage Services (Northern Ireland) Order 2006 is amended as follows.

2. In Article 293 (procedure of the Water Appeals Commission)—

- (a) in paragraph (6), for “(9) or (10)” substitute “(9), (10) or (10A)”,
- (b) after paragraph (10), insert—

“(10A) This paragraph applies to a decision by the Appeals Commission on an appeal falling within any of the following sub-paragraphs—

- (a) an appeal (under section 21 of the Reservoirs Act (Northern Ireland) 2015) against a decision in a review of a reservoir designation of a controlled reservoir,
- (b) an appeal (made by virtue of regulations made under section 27(1) of that Act) against a decision as to whether a high-consequence or medium-consequence reservoir is of an acceptable standard as regards how it is being maintained: frequency of visits by supervising engineer,
- (c) an appeal (made by virtue of regulations made under section 57(1) of that Act) against a decision as to recovery of costs in relation to a flood plan,
- (d) an appeal (under section 76 of that Act) against a decision as to recovery of costs under section 69, 71, 73 or 75 of that Act,
- (e) an appeal (made by virtue of regulations under section 77(1) of that Act) against any of the following—
 - (i) a decision to serve a stop notice,
 - (ii) a decision not to give a completion certificate,
 - (iii) a decision not to award compensation or as to the amount of compensation,
 - (iv) a decision as to recovery of costs in relation to the serving of the stop notice,
- (f) an appeal (made by virtue of regulations under section 81(1) of that Act) against any of the following—
 - (i) a decision in a review of refusal to give certification that an enforcement undertaking has been complied with,
 - (ii) a decision as to recovery of costs in relation to the acceptance of the undertaking,
- (g) an appeal (made by virtue of regulations under section 83(1) of that Act) against a decision to impose a fixed monetary penalty,
- (h) an appeal (made by virtue of regulations under section 86(1) of that Act) against any of the following—
 - (i) a decision to impose a variable monetary penalty,

Status: This is the original version (as it was originally enacted).

- (ii) a decision as to recovery of costs in relation to the imposition of the penalty,
- (i) an appeal (made by virtue of regulations under that section) against a notice imposing a non-compliance penalty for failure to comply with an undertaking referred to in section 87(5) of that Act.”.

3. Article 297 (regulations by the Department for Regional Development as to safety of reservoirs) is omitted.

4. In Article 300 (regulations), in paragraph (1)(b), the words “or 297” are omitted.

SCHEDULE 4

Section 119(2).

REPEALS

Short Title	Extent of repeal
The Water and Sewerage Services (Northern Ireland) Order 2006 (NI 21)	Article 297. In Article 300(1)(b), the words “or 297”.