
STATUTORY INSTRUMENTS

1973 No. 70

**Water and Sewerage Services (Northern
Ireland) Order 1973 (REPEALED)**

PART II

WATER AND SEWERAGE SERVICES

Ministry's duty to provide water and sewerage services

- 3**^{F1}.—(1) Subject to this Order, the Ministry shall—
- (a) supply and distribute water;
 - (b)^{F2} provide and maintain sewers for draining domestic sewage, surface water and trade effluent; and
 - (c)^{F2} make provision for effectually dealing with the contents of its sewers.

Para. (2) rep. by 1993 NI 16

F1 functions transf. by SR 1999/481

F2 mod. by SR 1995/12

Water quality

- 3A**^{F3}.—(1) The Department shall—
- (a) when supplying water to any premises for domestic or food production purposes, supply only water which is wholesome at the time of supply; and
 - (b) so far as reasonably practicable, ensure, in relation to each source or combination of sources from which the Department supplies water to premises for domestic or food production purposes, that there is, in general, no deterioration in the quality of the water which is supplied from that source or combination of sources.
- (2) For the purpose of this Article and Article 3B and subject to paragraph (3), water supplied by the Department to any premises shall not be regarded as unwholesome at the time of supply where it has ceased to be wholesome only after leaving the pipes of the Department.
- (3) For the purposes of this Article where water supplied by the Department to any premises would not otherwise be regarded as unwholesome at the time of supply, that water shall be regarded as unwholesome at that time if—
- (a) it has ceased to be wholesome after leaving the pipes of the Department but while in a pipe which is subject to water pressure from a main or which would be so subject but for the closing of some valve; and
 - (b) it has so ceased in consequence of the failure of the Department, before supplying the water, to take such steps as may be prescribed for the purpose of securing the elimination,

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Changes to legislation: There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED), PART II. (See end of Document for details)

or reduction to a minimum, of any prescribed risk that the water would cease to be wholesome after leaving the pipes of the Department.

F3 functions transf. by SR 1999/481

Regulations for preserving water quality

3B.—(1) The Department may make regulations prescribing the steps required to be taken to secure compliance with Article 3A; and without prejudice to the foregoing, regulations under this paragraph may—

- (a) prescribe the steps to be taken for monitoring and recording whether the water which is supplied to premises for domestic or food production purposes is wholesome at the time of supply;
- (b) prescribe the steps to be taken for monitoring and recording the quality of the water from any source, or combination of sources, which is used or is proposed to be used for supplying water to any premises for domestic or food production purposes;
- (c) make provision for ensuring that a source which is used or proposed to be used for supplying water for domestic or food production purposes is not so used until prescribed requirements for establishing the quality of water which may be supplied from that source have been complied with;
- (d) make provision for the keeping of records of the localities within which all the premises supplied with water for domestic or food production purposes are normally supplied from the same source or combination of sources;
- (e) prescribe requirements with respect to the analysis of water samples.

(2) Without prejudice to paragraph (1), the Department may make regulations with respect to the use in connection with the preparation of water for supply to any premises for domestic or food production purposes, of such processes and substances, and of products that contain or are made with such substances or materials, as the Department considers might affect the quality of any water; and, without prejudice to the generality of the foregoing, regulations under this paragraph may—

- (a) regulate such use of processes, substances and products;
 - (b) for the purposes of provision made under sub-paragraph (a), require processes, substances and products so used to conform to such standards as may be prescribed by the regulations;
 - (c) impose such other conditions as may be prescribed with respect to such use of prescribed processes, substances and products and for the modification and revocation of any such condition;
 - (d) provide for the circumstances in which the Department shall consult prescribed persons for advice on such use of certain processes, substances and products;
 - (e) without prejudice to Article 57(2), provide that persons contravening the regulations shall be guilty of an offence and shall be liable—
 - (i) on summary conviction, to a fine not exceeding the statutory maximum; and
 - (ii) on conviction on indictment, to a fine;
 - (f) make provision for the recovery from a person convicted of an offence under the regulations of expenses reasonably incurred by the Department in carrying out works of repair or reinstatement necessitated by his action.
- (3) The Department may by regulations make provision for—
- (a) the publication of information about the quality of water supplied for domestic or food production purposes to any premises; and

- (b) the provision of information about the quality of water so supplied.
- (4) Regulations under paragraph (3)—
 - (a) may prescribe both the information which is to be published or provided under the regulations and the manner and circumstances in which it is to be published or provided;
 - (b) may authorise the provision of information to any person on payment of such charge as the Department may determine; and
 - (c) may impose such other conditions on the provision of information to any person as may be prescribed.

Standards of wholesomeness

3C.—(1) The Department may by regulations make provision that water that is supplied to any premises is or is not to be regarded as wholesome for the purposes of this Order if it satisfies or, as the case may be, fails to satisfy such requirements as may be prescribed.

(2) Without prejudice to the generality of paragraph (1), regulations under this Article may, for the purpose of determining the wholesomeness of water supplied for domestic or food production purposes,—

- (a) prescribe specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;
- (b) prescribe specific requirements as to other characteristics of the water;
- (c) provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed; and
- (d) provide for, or enable the Department to authorise, such relaxations of and departures from the prescribed requirements (or from any of them) as may be prescribed, to make any such authorisations subject to such conditions as may be prescribed and to modify or revoke any such authorisation or condition.

Private water supplies

Functions of Department in relation to water quality of private supplies

3D.—(1) The Department shall—

- (a) take all such steps as it considers appropriate for keeping itself informed about the wholesomeness and sufficiency of private supplies; and
- (b) maintain a register of private supplies used for domestic or food production purposes.

(2) Where the Department is satisfied—

- (a) that any private supply used for domestic or food production purposes to any premises is, has been or is likely to become unwholesome or (so far as any such premises are concerned) insufficient for domestic and sanitary purposes; and
- (b) that the unwholesomeness or insufficiency of any such supply is, was or is likely to be such as to cause a danger to life or health;

the Department shall notify—

- (i) the district council for the district; and
- (ii) the Health and Social Services Board for the area;

in which the premises are, and the supply is, situated.

- (3) The Department may by regulations make such provision, supplementing the provisions of this Article, as the Department considers appropriate for—
- (a) obtaining information about the quality and sufficiency of private supplies, including information as to the source of the supplies and the premises supplied by such supplies;
 - (b) regulating the performance of any function under this Article; and
 - (c) prescribing the particulars in respect of each private supply to be recorded in the register maintained under paragraph (1)(b).
- (4) Without prejudice to the generality of paragraph (3), regulations under that paragraph may—
- (a) prescribe the matters to be taken into account in determining, for the purposes of paragraph (1), what is appropriate;
 - (b) provide, for the purposes of this Article, for such samples of water to be taken and analysed at such times and in such manner as may be prescribed;
 - (c) provide for functions under this Article to be carried out by prescribed persons;
 - (d) provide for the recovery by the Department from prescribed persons of such amounts as may be prescribed in respect of expenses reasonably incurred by the Department under this Article.

Remedial functions of Department in relation to private supplies

3E.—(1) Subject to the following provisions of this Article, where the Department is satisfied in relation to any premises which are supplied with water for domestic or food production purposes by means of a private supply—

- (a) that any water which is being, has been or is likely to be supplied for domestic or food production purposes to those premises by means of that private supply is not, was not or, as the case may be, is likely not to be, wholesome; or
- (b) that that private supply is failing, has failed or is likely to fail to provide to any house on those premises such a supply of wholesome water as (so far as that house is concerned) is sufficient for domestic and sanitary purposes,

the Department may serve a notice in relation to that private supply on one or more of the relevant persons.

- (2) A notice under paragraph (1) in relation to a private supply to any premises shall—
- (a) give particulars of the matters mentioned in paragraph (1) in respect of which the notice is served; and
 - (b) specify the steps which, in the opinion of the Department, are required to be taken for ensuring that there is a supply of water to those premises which is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic and sanitary purposes;

and the person on whom the notice is served may, within 28 days from the date of the service of the notice, appeal to the Appeals Commission.

(3) Where the Department serves a notice under paragraph (1) on any relevant person it may do one or more of the following, that is to say—

- (a) by that notice designate as steps to be taken by the Department such of the steps specified in the notice as the Department considers it appropriate to so designate;
- (b) by that notice require that person, within such reasonable period as may be specified in the notice, to take one or more of the steps so specified;
- (c) by that notice require that person, at such times as may be determined in accordance with provision contained in the notice, to make to another relevant person or to the Department

such payments as may be so determined in respect of expenses reasonably incurred by that other person or the Department in taking any step specified in the notice;

- (d) by that notice undertake to make such payments to that person as may be so determined in respect of expenses reasonably incurred by that person in taking any step specified in the notice.

(4) Where any relevant person who is required by virtue of a notice under paragraph (1) to take any step in relation to any premises fails to take that step within the period specified in the notice, the Department may, in accordance with any applicable provision having effect under this Order, take that step.

(5) Where any step is taken by the Department in relation to any premises by virtue of paragraph (4)—

- (a) the Department may recover from the person who failed to take that step within the specified period any expenses reasonably incurred by the Department in taking that step; and
- (b) for the purposes of any requirement under which payments are required to be made to that person by any person other than the Department, sums paid by virtue of sub-paragraph (a) in respect of the taking of any step shall be deemed to be expenses incurred in the taking of that step by the person who failed to take it.

(6) Nothing in this Order shall confer any right of action on any person in respect of any loss or damage sustained by that person in consequence of the failure by any other person to take any step specified in a notice under paragraph (1); but any sum required to be paid to any person by virtue of any requirement or undertaking contained in such a notice shall be recoverable summarily as a civil debt by that person from the person who is required to pay it.

(7) The Department may by notice served on any person modify or revoke the effect in relation to that person of any notice under this Article, and the person on whom the notice is served may, within 28 days from the date of the service of the notice, appeal to the Appeals Commission except where the notice—

- (a) extends the period within which any step is required to be taken by that person; or
- (b) discharges, postpones or abates any obligation of that person to make a payment to the Department.

(8) For the purposes of this Article the relevant persons, in relation to a private supply to any premises, are the owners and occupiers of those premises and the owners and occupiers of the premises where the source of that supply is situated and any other person who exercises powers of management or control in relation to that source.

Supplementary provisions

3F.—(1) The Department may serve on any person a notice requiring him to furnish the Department, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by the Department for the purposes of Articles 3D and 3E.

(2) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Cost in relation to provision of services

4.—(1) Article 3 shall not require the Ministry to do anything which is not practicable at a reasonable cost.

Para. (2) rep. by 1993 NI 16

Consultation with district councils

5.—(1) The Ministry shall, where it appears necessary or desirable to do so and in any case at least once in each year, consult with each district council with respect to the proposals of the Ministry to exercise its functions under this Order in the district of the council.

(2) A district council may make representations to the Ministry about the exercise by the Ministry of its functions under this Order and under the^{F4} Water (Northern Ireland) Order 1999] in the district of that council and the Ministry shall pay due regard to any such representations.

F4 1999 NI 6

Art. 6 rep. by 1999 NI 6

Water Appeals Commission for Northern Ireland

7.—(1) There shall be established a Water Appeals Commission for Northern Ireland (in this Order referred to as the Appeals Commission).

(2) Schedule 1 shall have effect with respect to the constitution and staff of the Appeals Commission.

Procedure on appeals

8^{F5}.—^{F6}(1) Where, under this Order or any other transferred provision, the Appeals Commission may determine an appeal or hear an application—

- (a) the jurisdiction of the Appeals Commission may be exercised by any one of its members;
- (b)^{F7} except where an appeal or application is to be decided solely by reference to written representations, the Chief Commissioner may, after consultation with the Appeals Commission and^{F8} the Office of the First Minister and deputy First Minister], appoint an assessor to sit with the member under sub-paragraph (a) at the appeal or hearing of the application to advise him on any matters arising;
- (c) notwithstanding sub-paragraphs (a) and (b) any decision on the appeal or application shall be made by the Appeals Commission and reported to the Department.

(2)^{F7} The Appeals Commission may pay to any assessor appointed under paragraph (1)(b) such fees and allowances as the Commission, with the approval of^{F8} the Office of the First Minister and deputy First Minister], may approve.]

^{F9}(2A) Where, in pursuance of any statutory provision listed in paragraph (2B), any appeal made to the Appeals Commission, the Appeals Commission shall, without prejudice to its powers under paragraph (7) and section 23 of the Interpretation Act (Northern Ireland) 1954, advertise the appeal in one or more newspapers circulating in the area to which the appeal relates.

(2B) The statutory provisions referred to in paragraph (2A) are—

- (a) section 11A(4)(b) of the Fisheries Act (Northern Ireland) 1966 (fish culture licences);
- (b) Article 11(4) of the Water and Sewerage Services (Northern Ireland) Order 1973 (acquisition of water rights);
- (c) Article 6 of the Water (Northern Ireland) Order 1999 (water quality objectives);
- (d) Article 13(1)(a), (b), (c), (d), (f) and (g) of the Water (Northern Ireland) Order 1999 (appeals in relation to consents).

(2C) Where the Appeals Commission advertises an appeal in accordance with paragraph (2A), the Commission shall be entitled to recover the expenses of the advertisement from the appellant.]

(3) The Ministry shall notify the applicant or appellant, and any other person appearing to it to be interested, of any decision reported to it under^{F6} paragraph (1)(c)].

(4) The Ministry may, after considering any representations made to it under paragraph (5), vary the decision of the Appeals Commission or substitute for it a new decision.

(5) Where the Ministry intends to act under paragraph (4) it shall, within twenty-eight days from the date on which it receives the decision of the Appeals Commission, notify the applicant or appellant and any other interested person of its intention and its reasons therefor and afford to those persons an opportunity of making representations to it.

(6) Subject to paragraph (5), the Appeals Commission's decision or any variation or substitution under paragraph (4) of that decision shall be final except—

(a) on a point of law;

Sub#para. (b) rep. by 1999 NI 6

(7^{F7} Without prejudice to section 23 of the Interpretation Act (Northern Ireland) 1954, [^{F8} the Office of the First Minister and deputy First Minister] may, after consultation with the Appeals Commission, make rules regulating the procedure to be followed by the Appeals Commission and, subject to this Order and the provision of any such rules, the Appeals Commission may regulate its own procedure.

Para. 8 rep. by 1999 NI 6

F5 functions transf. so far as relating to functions under f009

F6 1993 NI 16

F7 functions transf. by SR 2001/229

F8 SR 2001/229

F9 1999 NI 6

Modifications etc. (not altering text)

C1 Art. 8 applied (1.1.2007) by S.R. 2006/489, **reg. 23**

C2 Art. 8(4) excluded (1.2.2007) by S.R. 2006/482, **reg. 29(9)** (with reg. 3)

Transfer to Ministry of certain sewers, drains, pipes etc. in roads

9. There shall on 1st October 1973 be transferred to and vested in the Ministry by virtue of this Article all sewers, drains, mains and service pipes in, under or across a road which connect with any works vested in the Ministry on that date under the Local Government Act (Northern Ireland) 1972.

Status:

Point in time view as at 01/01/2006.

Changes to legislation:

There are currently no known outstanding effects for the Water and Sewerage Services (Northern Ireland) Order 1973 (REPEALED), PART II.