
STATUTORY INSTRUMENTS

1973 No. 70 (N.I. 2)

NORTHERN IRELAND

The Water and Sewerage Services
(Northern Ireland) Order 1973

Laid before Parliament in draft

Made 19th January 1973

Coming into Operation—

Articles 1, 2, 59

2nd February 1973

Remainder

1st October 1973

or earlier days

to be appointed

under Article 1

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At the Court at Sandringham, the 19th day of January 1973

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 1 (3) of the Northern Ireland (Temporary Provisions) Act 1972 (a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

(a) 1972 c. 22.

PART I
INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Water and Sewerage Services (Northern Ireland) Order 1973.

(2) This Article and Articles 2 and 59 shall come into operation on the fourteenth day after the making of this Order and the remaining provisions of this Order shall come into operation on 1st October 1973 or such earlier day or days and to such extent as the Minister may, for the purpose of any such provision, by order appoint.

Interpretation and temporary provisions

2.—(1) The Interpretation Act (Northern Ireland) 1954 (a) shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Parliament of Northern Ireland.

(2) In this Order—

“the Appeals Commission” has the meaning assigned to it by Article 7(1);

“authorised officer” means a person authorised by the Ministry in writing either generally or specially to act in matters of any specified kind or in any specified matter;

“domestic sewage”, in relation to any premises, means sewage which is not surface water or trade effluent;

“drain”, in relation to any premises, means any pipe or drain used solely for or in connection with the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage;

“foul water” means any water contaminated by domestic sewage or trade effluent;

“house” means a dwelling-house, whether a private dwelling-house or not, and includes any part of a building if that part is occupied as a separate dwelling-house;

“local authority” means the council of any county, county or other borough, or of an urban or rural district, or a joint board constituted for every united district within the meaning of section 12 of the Public Health (Ireland) Act 1878 (b) or section 7 of the Water Supplies and Sewerage Act (Northern Ireland) 1945 (c), or the Belfast City and District Water Commissioners;

“Londonderry Area” has the same meaning as in the Foyle Fisheries Act (Northern Ireland) 1952 (d);

“main” means a pipe vested in the Ministry, being a pipe for the purpose of giving a general supply of water as distinct from a supply to an individual consumer and includes any apparatus used in connection with such a pipe;

“maintain” shall be construed in accordance with section 147 of the Local Government Act (Northern Ireland) 1972 (e);

“the Minister” means the Minister of Development;

“the Ministry” means the Ministry of Development;

“occupier” means the person in occupation or having the charge, management or control of premises either on his own account or as the agent of another person;

(a) 1954 c. 33 (N.I.) (b) 1878 c. 52. (c) 1945 c. 17 (N.I.).
(d) 1952 c. 5 (N.I.) (e) 1972 c. 9 (N.I.).

- “owner” means a person who is for the time being receiving a rent of not less than two-thirds of the net annual value of any land whether on his own account or as agent or trustee for any other person or who, if the land were let at such a rent, would receive it;
- “private sewage treatment works” means a sewage treatment works which is not vested in the Ministry;
- “private water supply works” means a water supply works which is not vested in the Ministry;
- “provide” shall be construed in accordance with section 147 of the Local Government Act (Northern Ireland) 1972;
- “public body” has the same meaning as in section 148 of the Local Government Act (Northern Ireland) 1972;
- “road” means a road maintainable at the public expense;
- “service pipe” means a pipe for supplying water from a main to any premises;
- “sewage” includes domestic sewage, surface water and trade effluent;
- “sewage treatment works” means any works, apparatus, or plant used for the treatment or disposal of sewage and includes a septic tank;
- “sewer” does not include a drain as defined in this Article but, subject to that, includes all sewers, pipes or drains vested in the Ministry which are used for the drainage of buildings and yards appertaining to premises and includes any apparatus used in connection with such a sewer;
- “surface water” means the run-off of rain water from roofs and any paved ground surface within the curtilage of premises;
- “telegraphic line” has the same meaning as in the Telegraph Act 1878 (a);
- “trade effluent” means any liquid either with or without particles of matter in suspension therein which is wholly or in part produced in the course of any trade or industry carried out at trade premises, including trade waste waters or waters heated in the course of any trade or industry, and in relation to any trade premises, means any such liquid which is produced in the course of any trade or industry carried on at those premises;
- “trade or industry” for the purposes of the definition of “trade effluent” includes agriculture, horticulture and scientific research or experiment and the carrying on of a hospital or a nursing home and for the purposes of the definition of “trade premises” includes premises used or intended to be used in the whole or in part for the carrying on of agriculture, horticulture or scientific research or experiment, or as a hospital or nursing home;
- “trade premises” means any premises used or intended to be used for carrying on any trade or industry;
- “transferred provision” has the same meaning as in the Interpretation Act (Northern Ireland) 1954;
- “underground strata” has the same meaning as in the Water Act (Northern Ireland) 1972 (b);
- “water fittings” includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, water closets, soil pans and other similar apparatus used in connection with the supply and use of water;
- “water supply works” means any works, apparatus or plant used for the supply, distribution or treatment of water;

(a) 1878 c. 76.

(b) 1972 c. 5 (N.I.).

“waterway” has the same meaning as in the Water Act (Northern Ireland) 1972.

(3) So long as section 1 of the Northern Ireland (Temporary Provisions) Act 1972 has effect—

- (a) subsection (1) (a) of that section shall apply to all functions conferred by this Order on the Governor or any Minister of Northern Ireland;
- (b) paragraph 4 (5) of the Schedule to that Act shall apply to any order which by virtue of this Order is subject to affirmative resolution.
- (c) paragraph 4 (5) of the Schedule to that Act shall apply to any regulations which by virtue of this Order are subject to affirmative resolution.

PART II

WATER AND SEWERAGE SERVICES

Ministry's duty to provide water and sewerage services

3.—(1) Subject to this Order, the Ministry shall—

- (a) supply and distribute water;
- (b) provide and maintain sewers for draining domestic sewage, surface water and trade effluent; and
- (c) make provision for effectually dealing with the contents of its sewers.

(2) Water provided by the Ministry for domestic purposes shall be wholesome.

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.

(2) Where the Ministry decides for the purposes of paragraph (1) that a thing is not practicable at a reasonable cost, any person aggrieved by the decision may appeal to the Appeals Commission.

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 Water Act (Northern Ireland) 1972 in the district of that council and the Ministry shall pay due regard to any such representations.

Extension of functions of Northern Ireland Water Council

6. The functions of the Northern Ireland Water Council shall include the giving of advice to the Ministry on the exercise of its functions under this Order.

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.—(1) The jurisdiction of the Appeals Commission may be exercised by any one of its members and references in this Order or any other transferred provision to the Appeals Commission shall be construed accordingly.

(2) Where, in pursuance of any provision of this Order or any transferred provision, any application or appeal is made to the Appeals Commission, the Appeals Commission shall report its decision to the Ministry.

(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 paragraph (2).

(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;

(b) where that decision is in respect of a subordinate instrument to which Schedule 2 to the Water Act (Northern Ireland) 1972 applies.

(7) Without prejudice to section 23 of the Interpretation Act (Northern Ireland) 1954, the Ministry 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.

(8) In this Article "application" includes an objection made under the provisions of Schedules 1, 2 and 4 to the Water Act (Northern Ireland) 1972, as amended by Schedule 3 to this Order.

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.

PART III

WORKS AND LAND

Acquisition of land

10.—(1) The Ministry may, for any purpose in connection with the performance of any of its functions under this Order—

(a) by agreement acquire or take on lease any land or acquire land compulsorily;

(b) dispose of any land so acquired or taken on lease.

(2) Where the Ministry in exercise of the power conferred on it by paragraph (1) desires to acquire any land otherwise than by agreement, the Minis-

try may make an order (in this Article referred to as a “vesting order”) vesting the land in the Ministry.

(3) Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall, subject to the modifications specified in Schedule 2, apply for the purposes of the acquisition of land by means of a vesting order made under this Article in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act.

(4) The power to make a vesting order in respect of land—

- (a) which is the property of a public body which has power under any transferred provision to acquire land compulsorily; or
- (b) which is declared by or under any transferred provision to be inalienable;

shall not, where representations objecting to the proposal to make the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal to make the vesting order has been approved by a resolution of each House of Parliament.

(5) Nothing in this Article shall authorise the acquisition without the consent of the Ministry of Finance of any land on or in which there is, to the knowledge of the Ministry, any historic monument or archaeological object within the meaning of the Historic Monuments Act (Northern Ireland) 1971 (a).

(6) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 (b) shall not affect the disposal of any land acquired or taken on lease under this Article.

Acquisition of water rights

11.—(1) The Ministry may impound or abstract water from any waterway or water contained in underground strata.

(2) Where the Ministry proposes after 1st October 1973 to impound or abstract water, it shall, subject to paragraph (3)—

- (a) inform the Foyle Fisheries Commission, where the water to be impounded or abstracted is within the Londonderry Area;
- (b) inform the Fisheries Conservancy Board for Northern Ireland, where the water to be impounded or abstracted is outside the Londonderry Area;
- (c) take all reasonable steps to inform persons who in its opinion will be affected thereby;
- (d) give public notice of its intention to do so by publishing at least once in each of two successive weeks, in one or more newspapers circulating in the locality, a notice stating the general effect of its proposals.

(3) Paragraph (2) shall not apply to any impounding or abstraction of water—

- (a) by means of works which are in operation or under construction on 1st October 1973;
- (b) which has been authorised by an order made by the Ministry under section 8 of the Water Supplies and Sewerage Act (Northern Ireland) 1945;
- (c) which is approved by the Ministry under section 1 (2) of the Lough Neagh Drainage (Amendment) Act (Northern Ireland) 1970 (c);
- (d) which is approved under regulations made under section 14 of the Water Act (Northern Ireland) 1972.

(a) 1971 c. 17 (N.I.).

(b) 1933 c. 6 (N.I.).

(c) 1970 c. 7 (N.I.).

(4) Any person aggrieved by a proposal of the Ministry to impound or abstract water may appeal to the Appeals Commission against the proposal within twenty-eight days from the date on which the Ministry informs him of the proposal under paragraph (2) (a), (b) or (c) or public notice of it is first given under paragraph (2) (d), whichever happens first.

(5) Where the impounding or abstraction of water by the Ministry reduces the flow of water in any waterway or reduces the amount of water in underground strata the Ministry shall—

(a) provide an adequate amount of compensation water; or

(b) pay compensation to any person who suffers loss or damage as a result of the impounding or abstraction.

(6) In determining the amount of compensation water required under paragraph (5) (a), regard shall be had—

(a) to the character and flow of the waterway;

(b) to the extent to which the waterway or water is, or may be, used for water supply, the disposal of effluent, fisheries, the generation of power and navigation;

(c) to the value of the waterway or water for amenity, recreation and nature conservation;

(d) to the interests of public health;

(e) to the rights of riparian owners and of owners of fishing rights.

(7) Where the Ministry impounds or abstracts water under paragraph (1) and provides compensation water under paragraph (5) (a), then if there is any change in circumstances the amount of that compensation water may be varied accordingly.

(8) Any dispute as to compensation or as to the amount or any variation of the amount of compensation water required to be paid or provided under this Article shall be referred to and determined by the Lands Tribunal.

Adoption of works, sewers, pipes or drains

12.—(1) Subject to and in accordance with this Article, the Ministry may, by agreement with the owner of private water supply or private sewage treatment works, or failing such agreement, in pursuance of proposals made by it under paragraph (2), take over the works.

(2) The Ministry may, by notice served on the owner of any works mentioned in paragraph (1), intimate its proposals to take over the works within such period, not being less than two months, as may be specified in the notice, and on such conditions, including compensation, as may be so specified.

(3) If an owner on whom a notice has been served under paragraph (2) is aggrieved by the notice, he may, within the period specified in the notice, appeal to the Appeals Commission.

(4) All works taken over by the Ministry under this Article shall vest in it in accordance with the terms of any agreement made under paragraph (1), or failing such agreement, at the end of the period specified under paragraph (2) or on such date as may be specified in a decision on an appeal under paragraph (3).

(5) Subject to this Order, a person who immediately before the taking over of works under this Article was lawfully entitled to use them shall continue to be so entitled after they have been so taken over.

(6) An agreement under paragraph (1) or proposals under paragraph (2) may relate—

(a) to a part only of works;

(b) to any drain, pipe or sewer connecting with any works specified in the agreement or proposals.

(7) The Ministry may adopt, subject to such conditions as it thinks fit, any pipe or drain other than a pipe or drain which is within the curtilage of a building and serves only that building.

(8) Any dispute as to the compensation payable in respect of any works taken over in pursuance of proposals made by the Ministry under paragraph (2) shall be referred to and determined by the Lands Tribunal.

Execution of works

13.—(1) The Ministry may—

(a) provide and maintain such works;

(b) perform such services;

(c) do such things;

as it considers necessary or expedient for the purposes of any of its functions under this Order.

(2) Before commencing construction of a sewer, or the laying of a main, in, on or over any land not forming part of a road the Ministry shall serve notice of its intention on the owner and the occupier of the land concerned together with a description of the proposed works.

(3) If within twenty-eight days after the service of a notice under paragraph (2) the owner or the occupier of the land objects to the proposed works, and the objection is not withdrawn, the Ministry shall consider that objection and notify the objector of its decision and may proceed to carry out the works specified in the notice, with or without modifications.

(4) The Ministry may enter into agreements with other persons for the execution or performance by them on behalf of the Ministry of works or services under this Order and for the execution or performance by the Ministry of works or services on behalf of those persons.

Closing etc. of facilities

14.—(1) Subject to paragraph (2), the Ministry may, if it thinks fit, close (whether temporarily or otherwise), alter, replace or remove any works vested in it for the purposes of this Order.

(2) Before any person who is lawfully using any facilities provided under this Order is permanently deprived by the Ministry of that use, the Ministry shall provide facilities equally effective for that use and shall at its expense carry out any work which is necessary.

(3) If any person who is lawfully using any facilities provided under this Order is temporarily deprived by the Ministry of that use, the Ministry shall make available to him such alternative facilities as are practicable at reasonable cost.

Notice of certain works

15. The Ministry, before commencing to execute repairs or other work which will cause any material interference with the supply of water or any use of sewerage facilities provided by it—

- (a) shall, except in a case of emergency, give to all persons likely to be affected such notice as is reasonably practicable, and
- (b) shall complete the work with all reasonable despatch.

Power to require occupier to permit works to be executed by owner

16. If on a complaint by the owner of any premises it appears to the county court that the occupier of those premises is preventing the owner from executing any work which he is required or authorised to execute under this Order, the court may authorise the owner to enter the premises and execute the work.

PART IV

RIGHTS AND DUTIES OF OWNERS AND OCCUPIERS

New connections

17.—(1) Where the owner or occupier of any premises desires—

- (a) to have his service pipe connected with a main vested in the Ministry and to have a supply of water from the Ministry; or
- (b) to have his drain connected with, and to discharge domestic sewage and surface water into, a sewer or sewage disposal works vested in the Ministry;

he shall make a written application in that behalf to the Ministry for its consent.

(2) The Ministry shall, within twenty-eight days from the date on which it receives an application under paragraph (1), refuse its consent or grant its consent unconditionally or subject to such conditions (including conditions as to charges) as it thinks fit to impose.

(3) Any person aggrieved by a decision of the Ministry under this Article may appeal to the Appeals Commission within twenty-eight days from the date of the Ministry's decision under paragraph (2).

(4) Any person who makes a connection mentioned in paragraph (1) without the consent of the Ministry or in contravention of any conditions attached to such a consent, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(5) The Ministry may—

- (a) close, remove or remake any unlawful connections; and
- (b) recover from the offender any expenses reasonably incurred by it in so doing.

(6) Paragraphs (1) to (5) shall apply in relation to an alteration of a connection as they apply in relation to the making of a connection.

(7) Nothing in this Article applies to the discharge of any trade effluent.

Rights of owners and occupiers following lawful connections

18.—(1) Where, whether before or after 1st October 1973, any service pipe or drain from any premises has been or is lawfully connected with a main or sewer, or any sewage disposal works, vested in the Ministry or any predecessor

in title of it, the owner or occupier of the premises may take a sufficient supply of water for his domestic purposes from that main or may drain domestic sewage and surface water from his premises into the sewer or works.

(2) Nothing in this Article shall authorise the owner or occupier of any premises—

- (a) to discharge domestic sewage into a sewer reserved for the conveyance of surface water; or
- (b) to discharge, without the approval of the Ministry, surface water into a sewer reserved for the conveyance of domestic sewage.

Works in connection with new developments

19.—(1) Where the Ministry is satisfied that buildings are to be constructed, it may enter into an agreement with the person proposing to construct the buildings as respects the provision by that person or by the Ministry of a supply of water, mains, pipes, sewers or sewage treatment works to serve those buildings, and any such agreement may specify the terms and conditions on which the work is to be carried out, including provision as to charges and as to the adoption by the Ministry of such works.

(2) Where a person proposing to erect buildings fails to reach agreement with the Ministry under paragraph (1), he may appeal to the Appeals Commission.

PART V

TRADE EFFLUENTS

Right to discharge into sewers and sewage treatment works

20.—(1) Subject to this Order, the occupier of any trade premises may discharge into the sewers or sewage treatment works of the Ministry any trade effluent from those premises.

(2) Any occupier of trade premises who discharges trade effluent into the sewers or sewage treatment works of the Ministry without the consent of the Ministry, where such consent is required, or contrary to any direction given or condition imposed by virtue of this Part, shall be guilty of an offence.

- (3) A person guilty of an offence under paragraph (2) shall be liable—
 - (a) on conviction on indictment, to a fine;
 - (b) on summary conviction, to a fine not exceeding £400;

but if it is shown to the satisfaction of the court by or before which the person is convicted that the offence was substantially a repetition or continuation of an earlier offence by him after he had been convicted of the earlier offence (whether under this Order or otherwise), he shall be liable—

- (i) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;
- (ii) on summary conviction, to the greater of a fine not exceeding £400 or a fine not exceeding £40 for each day on which the offence was so repeated or continued.

CONTROL OF NEW DISCHARGES

Meaning of "new discharge"

21. In this Part "new discharge" means a discharge from trade premises into the sewers or sewage treatment works of the Ministry of trade effluent where the discharge—

- (a) has not previously been lawfully made into such sewers or works or the sewers or works of a local authority;
- (b) not being an existing discharge by virtue of Article 28 and whether commenced before or after 1st October 1973, has become substantially altered in nature or composition or whose temperature, volume or rate of discharge has been substantially increased since 1st October 1973; or
- (c) has been discontinued for a period of two years or more, the whole or part of which period occurs after 1st October 1973, and is thereafter resumed.

Consent required to new discharges

22. Subject to Article 32, an occupier or prospective occupier of trade premises who proposes to make a new discharge of trade effluent from those premises into the sewers or sewage treatment works of the Ministry shall obtain the consent of the Ministry to the discharge, which shall be applied for in accordance with Article 23.

Procedure on application for consent to new discharge

23.—(1) An application for the consent of the Ministry under Article 22 shall be made by serving a notice on the Ministry (in this Part referred to as a “trade effluent notice”).

- (2) A trade effluent notice shall state so far as is reasonably practicable—
 - (a) the nature, composition and temperature of the effluent;
 - (b) the maximum quantity of the effluent which it is proposed to discharge on any one day;
 - (c) the maximum hourly rate at which it is proposed to discharge the effluent.

(3) Where the person applying for the consent of the Ministry is not the owner of the premises, he shall, at the same time as serving a trade effluent notice on the Ministry under paragraph (1), send a copy of the notice to the owner of the premises and inform him that he may make representations in respect of the application to the Ministry within twenty-eight days of receipt of the copy.

(4) The Ministry before making a decision on an application shall take into account any representations made in pursuance of paragraph (3).

Decision on application

24.—(1) The Ministry in its decision on an application under Article 22 shall, within three months from the date on which it receives that application, refuse its consent or grant its consent either unconditionally or subject to such conditions (including conditions as to charges) as it thinks fit to impose.

(2) A consent granted under this Article, and (where such consent is granted subject to any conditions) all or any of the conditions, may be made to take effect as from a specified date or for a specified period, or both as from a specified date and for a specified period.

(3) Any decision of the Ministry under this Article shall continue to be effective notwithstanding that there has been a change of ownership or occupancy of the premises to which the decision relates.

Intimation of decision

25.—(1) The Ministry shall intimate its decision under Article 24, and the reasons therefor, to the owner and occupier or prospective occupier of the trade premises in question.

(2) An intimation of a decision under this Article shall—

(a) draw attention to the effect of Article 24 (3);

(b) refer to the applicant's right of appeal against, and the power of review of, the decision under this Part.

Appeals

26. Where an applicant for consent under Article 22 is aggrieved by the decision of the Ministry under Article 24, he may appeal to the Appeals Commission within twenty-eight days from the date on which he receives an intimation of the decision.

Review of consents etc.

27.—(1) The Ministry may review a decision made by it under Article 24 at intervals of not less than two years from the giving of the decision or the last review of the decision or at any time on the application of the person making the discharge in question.

(2) Before reviewing a decision under this Article the Ministry shall intimate to the owner and occupier of the premises in question that it proposes to do so, and its reason therefor, and inform them that they may, within twenty-eight days of that intimation, make representations to the Ministry in respect of the proposal.

(3) Before reviewing a decision under this Article, the Ministry shall take into account any representations made to it under paragraph (2).

(4) Where a decision is reviewed under this Article, the occupier of the premises to which it relates may appeal to the Appeals Commission against the review within twenty-eight days from the date of the review.

(5) A review under this Article shall take effect from a date specified therein but not earlier than three months after the date of the review.

CONTROL OF EXISTING DISCHARGES

Meaning of "existing discharge"

28.—(1) In this Part, "existing discharge" means a discharge of trade effluent from trade premises into the sewers or sewage treatment works of a local authority which was lawfully made within the period of two years ending on 1st October 1973.

(2) Where before 1st October 1973 a local authority and the person making the discharge have agreed that after that date the nature or composition of the discharge may be altered or the temperature, volume or rate of discharge may be increased, any discharge made in accordance with such agreement shall be treated for the purposes of this Part as an existing discharge.

(3) Any dispute between the Ministry and the person making the discharge as to whether the discharge is an existing discharge shall be determined by the county court whose decision in the matter shall be final, except on a point of law.

Right to continue existing discharge

29. Subject to this Part, and except where the Ministry and the person making the discharge otherwise agree, an existing discharge shall be allowed to continue.

Information relating to existing discharges

30. The owner or occupier of premises from which an existing discharge is being made shall, when requested in writing to do so by the Ministry, furnish such information to the Ministry concerning the discharge as an applicant for consent to a new discharge is required to furnish in a trade effluent notice under Article 23 (2), and information concerning the period for which the discharge has continued.

Review of existing discharges

31.—(1) The Ministry may, and when requested by the person making the discharge shall, review the making of an existing discharge and may direct that any continuation of the discharge shall be either unconditional or subject to such conditions (including conditions as to charges) as it may think fit to impose.

(2) The Ministry may review a direction under paragraph (1) at intervals of not less than two years from the direction or last review of the direction or at any time on the application of the person making the discharge in question.

(3) Before a direction is made under paragraph (1) or is reviewed under paragraph (2), the Ministry shall intimate to the person making the discharge in question that it proposes to do so, and its reasons therefor, and inform him that he may, within twenty-eight days of that intimation, make representations to the Ministry in respect of the proposal.

(4) Before a direction is made under paragraph (1) or is reviewed under paragraph (2), the Ministry shall take into account any representations made to it under paragraph (3).

(5) Where a direction is made under paragraph (1) or is reviewed under paragraph (2), the person making the discharge may appeal to the Appeals Commission against that direction or review, within twenty-eight days from the date of that direction or review.

(6) A direction made under paragraph (1) or reviewed under paragraph (2) shall take effect from a date specified therein but not earlier than three months after the date of that direction or review as the case may be.

AGREEMENTS IN LIEU OF APPLICATIONS FOR CONSENT

Agreements as respects trade premises

32.—(1) The Ministry may enter into an agreement with the owner or occupier of any trade premises for the reception, treatment or disposal by the Ministry of any trade effluent produced on those premises.

(2) The reference in paragraph (1) to an agreement includes a reference to an agreement varying or renewing an existing agreement, whether that existing agreement was entered into before or after 1st October 1973.

(3) Where the Ministry proposes to enter into an agreement under this Article with an occupier who is not also the owner of trade premises, the Ministry shall intimate the proposal to the owner who may, within twenty-eight days of receipt of the intimation, make representations in respect of the proposal.

(4) Before the Ministry and such an occupier as is mentioned in paragraph (3) enter into an agreement under this Article, the Ministry shall take into account any representations made by the owner of the premises in question in pursuance of that paragraph.

(5) A discharge of trade effluent which is made in accordance with an agreement under this Article—

(a) shall not otherwise require the consent of the Ministry; and

(b) shall not be reviewed by the direction of the Ministry;

and accordingly Articles 22 to 27 and Article 31 shall not apply to such a discharge.

(6) If the parties to an agreement under this Article have failed to renew the agreement, with or without variation, on or before the date of its expiry, the Ministry may, and if requested by the person making the discharge shall, review the making of the discharge by direction; and Article 27 (2) to (5) shall, with any necessary modifications, apply to a direction under this paragraph.

(7) Until a direction has been made under paragraph (6) in respect of an agreement, a discharge may continue to be made in accordance with the agreement.

(8) Any reference in this Article to an occupier includes a reference to a prospective occupier.

SUPPLEMENTARY

Power to extend Part V to other effluents

33. The Ministry may, by order made subject to affirmative resolution, provide that this Part shall apply in relation to liquid or other matter of any description specified in the order which is discharged from any premises into the sewers or sewage treatment works of the Ministry as it applies in relation to trade effluent, but subject to such modifications, if any, as may be specified in the order, and in particular subject to any modification of the definition of trade premises in this Order which may be so specified.

PART VI

MISCELLANEOUS (WATER)

Pollution of water belonging to the Ministry

34.—(1) If any person commits an act whereby any water belonging to the Ministry or which the Ministry is authorised to take, is polluted, he shall be guilty of an offence.

(2) Where a person is charged with an offence under this Article, it shall be a defence to prove that he exercised all reasonable care to prevent the act whereby the water in question was polluted.

(3) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to a fine not exceeding £400 and to a further fine not exceeding £40 for every day during which the offence is continued after conviction or, on conviction on indictment, to a fine.

Water for fire fighting

35.—(1) The Ministry may enter into an agreement with the Fire Authority for Northern Ireland for the provision of adequate facilities for making water available for the purpose of fighting fires.

(2) The Ministry shall not make a charge for any water made available by it to any person for the purpose of fighting fires.

Water shortages

36.—(1) Where the Ministry is satisfied that a serious deficiency of supplies of water in any area exists or is threatened, it may, subject to this Article, make an order—

- (a) enabling water to be taken from any specified source for a period not exceeding six months;
- (b) suspending or modifying for a period not exceeding six months—
 - (i) any restriction governing the taking of water from any source;
 - (ii) any obligation governing the discharge of compensation water;
- (c) restricting the use of water for any purpose.

(2) Any person who suffers loss or damage as a result of an order made under paragraph (1) (a) or (b) shall be entitled to compensation from the Ministry.

(3) Any dispute as to the amount of compensation under paragraph (2) shall be referred to and determined by the Lands Tribunal.

PART VII

MISCELLANEOUS (SEWERAGE)

Emptying of septic tanks

37. The Ministry may agree to empty any septic tank, subject to such conditions (including conditions as to charges) as it may think fit.

Ministry's rights as to sewage

38. The Ministry—

- (a) shall be entitled to all sewage discharged into its sewers or sewage treatment works and to the contents of any septic tank emptied by it under Article 37; and
- (b) may process, sell or otherwise dispose of such sewage or contents.

Certain matter not to be passed into sewerage system

39.—(1) Without prejudice to Part V, no person shall pass or permit to be passed into, or into a drain connecting with, a sewer or sewage treatment works of the Ministry any matter or substance which, either alone or in combination with any matter or substance with which it is likely to come into contact while passing through any sewer or works, is likely to injure the sewer or works, or to interfere with the free flow of their contents, or to affect prejudicially the treatment or disposal of their contents or to be prejudicial to health.

(2) Where a person is charged with an offence under this Article it shall be a defence to prove that at the time he so passed or permitted to be passed the matter or substance in question he did not know, and could not reasonably be expected to know, that it would be likely to have the effects mentioned in paragraph (1).

(3) A person who contravenes this Article shall be guilty of an offence and liable—

- (a) on conviction on indictment, to a fine;
- (b) on summary conviction to a fine not exceeding £400 and a further fine not exceeding £40 for each day on which the offence continues after conviction thereof.

PART VIII
GENERAL
MISCELLANEOUS

Regulations as to water and sewerage services

40.—(1) The Ministry may make regulations with respect to the proper provision and maintenance of water and sewerage services under this Order.

(2) Without prejudice to the generality of paragraph (1), regulations made under that paragraph may include provisions for—

- (a) the prevention of waste or of the misuse or contamination of water supplied by the Ministry;
- (b) the provision of adequate drains, sewers, sewage disposal facilities, service pipes and water fittings for any premises;
- (c) the protection against pollution of any water, whether on the surface or underground, belonging to the Ministry or which the Ministry is authorised to take.

(3) Where any instrument which is in force on 30th September 1973 made under a transferred provision relates to a matter with respect to which regulations may be made under paragraph (1), the instrument shall, until it is revoked under paragraph (1), have effect, with any necessary modifications, as if it had been made under paragraph (1).

Alteration of or interference with Ministry's works

41. Any person who, wilfully and without the consent of the Ministry, alters or interferes with any works vested in the Ministry for the purposes of this Order shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding five years or to a fine or to both.

Facilities for recreational use of certain land

42.—(1) The Ministry may provide facilities for recreation on any land vested in it for the purposes of this Order and may make charges for the use of those facilities.

(2) The Ministry may make regulations as to the use, for recreational purposes, of any such land or facilities on such land.

Safety of reservoirs

43.—(1) The Ministry may make regulations with respect to the construction, inspection, maintenance and repair of reservoirs and dams.

(2) Regulations under paragraph (1) shall be subject to affirmative resolution.

Supply of water fittings

44.—(1) The Ministry may—

- (a) on the request of any person, supply to him, by way either of sale or hire, any water fittings; and
- (b) on such request, install, repair or alter (but not manufacture) any water fittings, whether supplied by it or not; and
- (c) provide any materials and do any work required in connection with such installation, repair or alteration of water fittings.

(2) The Ministry—

- (a) may make reasonable charges for any fitting supplied, or any materials provided or work done, under this Article; and
- (b) may recover those charges summarily as civil debts.

(3) If any fittings let for hire by the Ministry bear either a distinguishing metal plate affixed thereto, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the Ministry as the actual owner of the fittings, those fittings—

- (a) shall, notwithstanding that they are fixed to some part of the premises in which they are situated or be laid in the soil thereunder, continue to be the property of, and removable by, the Ministry; and
- (b) shall not be liable to be taken under the Judgments (Enforcement) Act (Northern Ireland) 1969 (a) or in any proceedings in bankruptcy against the persons in whose possession they may be;

but nothing in this paragraph shall affect the valuation for rating of any rateable hereditament.

(4) If any person wilfully or negligently injures or suffers to be injured any water fitting belonging to the Ministry—

- (a) he shall be liable on summary conviction to a fine not exceeding £100; and
- (b) the Ministry—
 - (i) may do all such work as is necessary for repairing any injury done; and
 - (ii) may recover the expenses reasonably incurred by it in doing so from the offender summarily as a civil debt.

Obstruction

45. Any person who wilfully obstructs an authorised officer of the Ministry in the execution of any functions under this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

INFORMATION ETC.

Information as to ownership etc. of premises

46.—(1) The Ministry may, for the purpose of enabling it to perform any of its functions under this Order, require the occupier or owner of any premises to state in writing—

- (a) the nature of his own estate therein; and
- (b) the name and address of any other person known to him as having an estate therein, whether as owner, tenant, or otherwise.

(2) Any person who, having been required by the Ministry to give information to it in pursuance of this Article, fails to give that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £25.

Production of plans and furnishing of information

47.—(1) The owner or occupier of any land on or under which is situated any drain used or intended to be used for discharging any sewage into a sewer

(a) 1969 c. 30 (N.I.).

or sewage treatment works of the Ministry or pipe for connecting with any main of the Ministry shall, when requested in writing so to do by the Ministry—

- (a) produce to the Ministry all such plans of the drain or pipe as the owner or occupier, as the case may be, possesses or is able without unreasonable expense to obtain, and allow copies of the plans so produced by him to be made by, or under the direction of, the Ministry, and
- (b) furnish to the Ministry all such information as the owner or occupier, as the case may be, can reasonably be expected to supply with respect to the drain and any sewage discharged therefrom or with respect to the pipe.

(2) A person who fails to comply with this Article shall be guilty of an offence and liable on summary conviction to a fine not exceeding £25.

Maps of sewers and mains

48.—(1) The Ministry shall cause to be prepared, for inspection and copying by any person at all reasonable hours free of charge, a map showing and distinguishing so far as is reasonably practicable all mains and sewers which are vested in the Ministry.

(2) Where some of the sewers vested in the Ministry are reserved for foul water only or for surface water only, the map shall show also the purposes which each such sewer is intended to serve.

Research and publicity

49. The Ministry may—

- (a) undertake, or contribute towards the cost of, investigations and research relevant to the problems of water supplies, sewerage and sewage treatment; and
- (b) arrange for the publication of information on those problems.

Powers of entry

50.—(1) Subject to this Article, an authorised officer of the Ministry shall, on producing if so required some duly authenticated document showing his authority, have a right to enter any land or premises at all reasonable hours for the purpose of—

- (a) surveying land or boring or carrying out other works in order to ascertain the suitability of the land for the execution of works under this Order;
- (b) inspecting, repairing, altering, renewing or removing any works executed under this Order in or on the land;
- (c) ascertaining whether there is or has been on or in connection with the land or premises any contravention of this Order or of any conditions imposed under it;
- (d) ascertaining whether or not circumstances exist which would authorise the Ministry to take any action or execute any work under this Order;
- (e) taking any action or executing any work authorised or required by this Order to be taken or executed by the Ministry;
- (f) inspecting any records and other documents and apparatus which the Ministry may reasonably require to inspect for the purpose of exercising any of its functions under this Order;

- (g) taking away for analysis samples of sewage or any other matter or substance which is passing from the premises into the sewers or sewage treatment works of the Ministry.
- (2) Admission to any land with heavy equipment shall not, except in a case of emergency, be demanded under paragraph (1) unless at least seven days' notice of the intended entry has been given to the occupier.
- (3) A person carrying out an inspection of documents under paragraph (1) (f) shall have a right to take copies or extracts from the documents.
- (4) Where notice of intended entry for a particular purpose has been given as respects the first occasion on which the right of entry is exercised, no further notice shall be required before entering the land or premises on a subsequent occasion in connection with that purpose.
- (5) If it is shown to the satisfaction of a justice of the peace on a sworn information in writing—
- (a) that admission to land or premises which any person is entitled to enter by virtue of this Article has been refused to that person, or that refusal is apprehended, or that the land or premises are unoccupied, or the occupier is temporarily absent, or that the case is one of urgency, or that the application for admission would defeat the object of the entry, and
- (b) that there is reasonable ground for entry to the land or premises for any purpose for which entry is required,
- the justice may by warrant under his hand authorise that person to enter the land or premises if need be by force.
- (6) Any person entitled to enter any land or premises, by virtue of a right of entry or of a warrant issued under this Article—
- (a) may take with him such other persons and such equipment as may be necessary; and
- (b) on leaving any unoccupied land or premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.
- (7) Every warrant granted under this Article shall continue in force until the purpose for which the entry is necessary has been satisfied.
- (8) A person who wilfully obstructs any person upon whom a right of entry has been conferred by this Article or by a warrant issued thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.
- (9) Where work has been carried out on land in pursuance of this Article the Ministry shall, as soon as possible, reinstate the land.
- (10) In determining whether an hour is a reasonable one for the purposes of paragraph (1), regard shall be had to whether there is an emergency or not.

Admissibility of samples as evidence

51.—(1) The result of any analysis of a sample taken under Article 50 shall not be admissible as evidence in any legal proceedings in respect of any sewage, matter or substance discharged from any premises or of any water in, on or under any land unless the person taking the sample—

- (a) takes all reasonable steps to notify to the occupier of the premises or land his intention to have it analysed; and
- (b) there and then divides the sample into three parts and causes each part to be placed in a container which is sealed and marked; and
- (c) takes all reasonable steps to deliver one part to the occupier of the premises or land, retains one part for future comparison, and has one part analysed by a competent person.

(2) In this Article any reference to an analysis includes a reference to any test of whatever kind.

Restriction on disclosure of information

52. If any person who, under Article 50 is admitted to any factory, workshop or workplace discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless the disclosure is made in the performance of his duty, be guilty of an offence under this Article and liable on summary conviction to a fine not exceeding £100, or to imprisonment for a term not exceeding three months, or to both.

FINANCIAL

Charges for services

53.—(1) The Ministry may charge the owners or occupiers of premises connected with a main or sewer of the Ministry such sums as it considers appropriate for the purpose of defraying the expenses of the Ministry under this Order and the Water Act (Northern Ireland) 1972.

(2) Without prejudice to the generality of paragraph (1), sums charged under that paragraph may be calculated by reference to—

- (a) the quantity of water consumed;
- (b) the cost of treating and disposing of any trade effluent discharged from the premises in question;
- (c) the net annual value of the premises.

(3) The Ministry, with the approval of the Ministry of Finance, may make such regulations as it considers necessary for the purpose of levying charges under paragraph (1).

(4) Regulations made under paragraph (3) shall be subject to affirmative resolution.

(5) Where a person fails to pay a sum recoverable under this Article, the Ministry may disconnect the premises owned or occupied by him from the mains or sewers of the Ministry.

Recovery of expenses

54. Where the Ministry has incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable under this Order, or by agreement with the Ministry, the Ministry may recover those expenses from him summarily as a civil debt.

Compensation etc. in respect of execution of works

55.—(1) In executing any works under this Order, the Ministry shall—

- (a) cause as little detriment and inconvenience and do as little damage as possible;

(b) make good, or pay compensation for, any damage caused by, or in consequence of, the execution of the works.

(2) Subsections (2) to (6) of section 38 of the Mineral Development Act (Northern Ireland) 1969 (a) shall have effect for the purposes of any claim for compensation under this Article as if, in those subsections, any reference to that section, that Act or the Ministry of Commerce were a reference to, respectively, this Article, this Order or the Ministry.

Financial provision

56.—(1) Any expenses incurred by the Ministry under this Order shall be defrayed either out of moneys hereafter appropriated for the purposes of defraying such expenses or, if the Ministry of Finance so directs, by means of sums charged on and issued out of the Consolidated Fund.

(2) The Ministry of Finance may borrow moneys for the purpose of providing money for issues out of the Consolidated Fund under paragraph (1).

(3) Any moneys borrowed under paragraph (2) shall be repaid within any period or periods not exceeding twenty-five years from the date of borrowing, and provision for such payment may be made out of moneys thereafter appropriated for that purpose.

(4) The aggregate of the sums charged on and issued out of the Consolidated Fund under paragraph (1) in relation to expenses for capital purposes shall not, unless and until Parliament otherwise determines, exceed one hundred million pounds.

SUPPLEMENTARY

Regulations and orders

57.—(1) Unless the contrary is expressly provided, any regulations or orders made under this Order by the Ministry, other than a vesting order made under Article 10, shall be subject to negative resolution.

(2) Regulations or orders may provide that persons contravening the regulations or orders shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding an amount specified in the regulations or orders.

(3) The amount which may be specified in regulations or orders as mentioned in paragraph (2) shall not exceed £400.

Protection for telegraph and telephone lines

58.—(1) The Ministry shall take all reasonable precautions in executing any works under this Order so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic or electric signalling communication or electrical control of railways or the currents in that wire or line.

(2) Any question arising under paragraph (1) as to whether the working of a wire or line is or is not injuriously affected shall, in default of agreement, be determined by arbitration.

(3) An arbitrator under paragraph (2) may direct the Ministry to make any alterations in, or additions to, its works, so as to comply with this Article.

(4) If the Ministry contravenes this Article, it shall make full compensation to the owner for any loss or damage incurred by him in consequence of the contravention.

(a) 1969 c. 35 (N.I.).

Transitional exercise of powers

59. The Ministry may exercise before 1st October 1973 any functions which will, from that date, be exercisable by it under this Order in so far as that exercise is, in the opinion of the Ministry, necessary or expedient for securing that this Order may be effective from that date and for preventing difficulties in the operation of this Order after that date.

Repeals and amendments

60.—(1) The enactments set out in Schedule 3 shall have effect subject to the amendments specified in that Schedule.

(2) The enactments set out in columns 1 and 2 of Schedule 4 are hereby repealed to the extent specified in column 3 of that Schedule.

(3) Any local transferred provision relating to the supply of water, the provision of sewerage services or the disposal of sewage or trade effluent is hereby repealed.

Savings

61. The administrative powers conferred by this Order on the Ministry shall not be taken to authorise any matter or thing to be done without the consent of the Secretary of State or the Board of Trade and if the case so requires of the Crown Estate Commissioners, where that consent is required to be obtained under section 9 (2) of the Northern Ireland (Miscellaneous Provisions) Act 1932 (a).

W. G. Agnew

SCHEDULES

Article 7 (2).

SCHEDULE 1

**CONSTITUTION AND STAFF OF WATER APPEALS COMMISSION
FOR NORTHERN IRELAND**

1.—(1) The Appeals Commission shall consist of the following persons appointed by the Governor, that is to say a Chief Commissioner and such number, if any, of other Commissioners as the Ministry and the Ministry of Agriculture may, with the consent of the Ministry of Finance, determine.

(2) A Commissioner shall not engage, whether directly or indirectly, or be a partner of any person who engages, in a gainful profession, occupation or business if to do so would in any way be incompatible with his functions under this Order.

(3) There shall be paid to a Commissioner or in respect of his service such remuneration and allowances and such pension, allowances or benefits as the Ministry may determine with the approval of the Ministry of Finance.

(4) In Part II of Schedule 1 to the House of Commons Disqualification Act 1957 (b), as applied to the Senate and House of Commons of Northern Ireland by Schedule 3 to that Act, insert the following entry at the appropriate place in alphabetical order—

“The Water Appeals Commission for Northern Ireland”.

2.—(1) The Ministry may appoint persons to assist the Appeals Commission in the performance of its functions.

(2) There shall be paid to persons appointed under sub-paragraph (1) such remuneration and allowances and to, or in respect of the service of, those persons such pension, allowances or benefits as the Ministry may determine with the approval of the Ministry of Finance.

(a) 1932 c. 11.

(b) 1957 c. 20.

SCHEDULE 2

Article 10 (3).

MODIFICATIONS OF SCHEDULE 6 TO THE LOCAL GOVERNMENT ACT
(NORTHERN IRELAND) 1972 FOR THE PURPOSES OF ARTICLE 10

1. References to the Ministry or to the Council shall be construed as references to the Ministry within the meaning of this Order.
2. References to Schedule 6 to the Local Government Act (Northern Ireland) 1972 shall be construed as references to that Schedule as modified by this Schedule.
3. Omit paragraph 1 of that Schedule.
4. In paragraph 2 of that Schedule—
 - (a) omit the words “in such form and manner as the Ministry directs”;
 - (b) in sub-paragraph (c) for the words “as may be prescribed” substitute the words “as the Ministry considers fit”.
5. In paragraph 4 omit the words from “and may provide” onwards.
6. In paragraph 5—
 - (a) in sub-paragraph (1) (a) omit the words “in the prescribed form and manner”;
 - (b) in sub-paragraph (1) (b) the two references to the said Act of 1972 shall be construed as references to this Order;
 - (c) in sub-paragraph (1) (d) omit the words “in the prescribed form”;
 - (d) in sub-paragraph (2) for the words “as may be prescribed” substitute the words “as the Ministry considers fit”.
7. In paragraph 6 (2) for the words “fund out of which the expenses of the Council in acquiring the land are to be defrayed” substitute the words “Consolidated Fund” and for the words “out of the Compensation Fund” there shall be substituted the words “made by the Ministry”.
8. In paragraph 11 (3) omit the words “in the prescribed form”.
9. In paragraph 12—
 - (a) in sub-paragraph (1) omit the words “such” and “as may be prescribed”;
 - (b) in sub-paragraph (2) for the words from “clerk” to “directs” substitute the words “Ministry as correct, and publish”.
10. In paragraph 14 (1) omit the words “in the prescribed form”.
11. In paragraph 15 (1) for the words “in the prescribed form” substitute the words “in such form as may be approved by the Ministry”.
12. Omit paragraph 19.
13. Omit paragraph 20 (2).

SCHEDULE 3

Articles, 7 (8), 60 (1).

AMENDMENTS OF ENACTMENTS

The Radioactive Substances Act 1960 (c. 34)

1. In Part III of Schedule 1—
 - (a) in paragraph 22, for “sections seventeen and” substitute “section”;
 - (b) after paragraph 28 insert—

“29. Article 34 of the Water and Sewerage Services (Northern Ireland) Order 1973”.

The Fire Services Act (Northern Ireland) 1969 (c. 13)

2. For section 5 substitute—

“5.—(1) It shall be the duty of a fire authority to arrange with the Ministry of Development for the provision and maintenance of such fire-hydrants as are

necessary for securing the efficient use of the available supply of water in case of fire.

(2) The situation of every fire-hydrant shall be plainly indicated by a notice or distinguishing mark which may be placed on any wall or fence adjoining a street or public place.

(3) Any person who uses a fire-hydrant otherwise than for the purpose of extinguishing fires or for any fire brigade purpose or for any purpose authorised by the Ministry of Development, or damages or obstructs any fire-hydrant otherwise than in consequence of its use for such a purpose as aforesaid, shall be liable on summary conviction to a fine not exceeding £10”..

3. In section 6 (2), for from “the duty” onwards, substitute “Article 35 (2) of the Water and Sewerage Services (Northern Ireland) Order 1973”.

The Water Act (Northern Ireland) 1972 (c. 5)

4. In section 6 (7) for from “county court, and” onwards substitute “Water Appeals Commission for Northern Ireland (in this Act referred to as the “Appeals Commission”)”.

5. For section 9 (4) substitute—

“(4) Where an application is made to the Ministry for its consent under section 7 or 8, the Ministry shall give notice of its decision on that application to—

- (a) the person making the application;
- (b) the Foyle Fisheries Commission, where the discharge is to be, or is being, made in the Londonderry Area;
- (c) the Fisheries Conservancy Board for Northern Ireland, where the discharge is to be, or is being, made outside that Area;

and that person, that Commission or that Board may within twenty-eight days from the date on which notice of the decision of the Ministry is given to them, appeal to the Appeals Commission against that decision.”.

6. For section 10 (3) substitute—

“(3) Where the Ministry varies under subsection (2) a consent or any conditions to which it is subject, the Ministry shall give notice of that variation to—

- (a) the person by whom the discharge permitted by the consent is made;
- (b) the Foyle Fisheries Commission where the discharge is made in the Londonderry Area;
- (c) the Fisheries Conservancy Board for Northern Ireland where the discharge is made outside that Area;

and that person, that Commission or that Board may within twenty-eight days from the date on which notice of the variation by the Ministry is given to them, appeal to the Appeals Commission against that variation.”.

7. In section 13 (3), for from “county court, and” onwards substitute “Appeals Commission”.

8. In section 13 (4)—

- (a) in paragraph (a) omit “a county court varies or quashes” and after “subsection (1)” insert “is varied or quashed on appeal”;
- (b) in paragraph (b), for “the court may order the payment to that person of an amount” substitute “the Ministry shall pay to that person an amount”.

9. After section 13 (4) insert—

“(4A) Any dispute under subsection (4) as to the loss suffered or expenditure incurred shall be determined by the Lands Tribunal.”.

10. In section 21 (2) for from “county court and” onwards substitute “Appeals Commission”.

11. In section 30 (1) between the definitions of "abstraction" and "deposit" insert—

“ “Appeals Commission” has the meaning assigned to it by section 6 (7);” ’.

12. In Schedule 1—

(a) in paragraph 5 for from "either" where that word secondly occurs onwards substitute "cause an inquiry to be held by the Appeals Commission";

(b) after paragraph 5 insert—

“5 A. An objection shall not be made to the Appeals Commission in respect of any watercourse in relation to which the Lands Tribunal has, on a review of a determination by the Drainage Council for Northern Ireland, or of a refusal by that Council to make a determination decided that the watercourse should or should not be a designated watercourse).”;

(c) after paragraph 7 insert—

“8. Where the Ministries cause an inquiry to be held by the Appeals Commission under this Schedule, the power under Article 8 (4) of the Water and Sewerage Services (Northern Ireland) Order 1973, to substitute a new decision or vary the decision of the Appeals Commission may be exercised by the Ministries.

9. In this Schedule "watercourse" means any channel or passage of whatever kind, whether natural or artificial, through which water flows and without prejudice to the generality of the foregoing, includes any river, stream, canal, ditch, drain, cut, culvert, dyke, sluice, valve, sewer, overland carrier, millrace or layde, but does not include any drain or sewer within the meaning of the Water and Sewerage Services (Northern Ireland) Order 1973, or any water main or service pipe under the control of the Ministry of Development.”.

13. In Schedule 2—

(a) in paragraph 4 for from "either" onwards substitute "cause an inquiry to be held by the Appeals Commission";

(b) after paragraph 6 insert—

“7. Where the Ministry causes an inquiry to be held by the Appeals Commission under this Schedule, in relation to objections to orders made under section 16, the power under Article 8 (4) of the Water and Sewerage Services (Northern Ireland) Order 1973 to substitute a new decision or vary the decision of the Appeals Commission may be exercised by the Ministry of Agriculture).”.

14. In Schedule 4, in paragraph 6, for from "either" onwards substitute "cause an inquiry to be held by the Appeals Commission”.

The Public Utilities (Emergency Powers) Act (Northern Ireland) 1972 (c. 2)

15. In section 3 (b) for from "electricity or water" onwards substitute "or electricity.”.

SCHEDULE 4
ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
10 & 11 Vict. c. 17	The Waterworks Clauses Act 1847.	The whole Act.
10 & 11 Vict. c. 34	The Towns Improvement Clauses Act 1847.	Sections 13 to 18. Sections 22 to 34. In section 79 the words "and during the construction or repair of any sewers or drain" and the words "sewer or drain or". In section 84 the words "and before making any sewer where none was before or altering the course or level of or abandoning or stopping any sewer" and the words "and the names of the places through or near which it is intended that the new sewer shall pass, or the existing sewer be altered or stopped up and also the places of the beginning and the end thereof". Sections 121 to 123.
26 & 27 Vict. c. 93	The Waterworks Clauses Act 1863.	The whole Act.
33 & 34 Vict. c. 70	The Gas and Water Works Facilities Act 1870.	The whole Act, so far as unrepealed.
36 & 37 Vict. c. 89	The Gas and Water Works Facilities Act 1870 Amendment Act 1873.	The whole Act, so far as unrepealed.
39 & 40 Vict. c. 75	The Rivers Pollution Prevention Act 1876.	Section 7.
40 & 41 Vict. c. 31	The Limited Owners Reservoirs and Water Supply Further Facilities Act 1877.	The whole Act.
41 & 42 Vict. c. 52	The Public Health (Ireland) Act 1878.	In section 11, the words from "in the supply" to "drains". Sections 15 to 24. Section 27A. Sections 30 to 33.

Chapter	Short Title	Extent of Repeal
41 & 42 Vict. c. 52	The Public Health (Ireland) Act 1878— <i>cont.</i> ,	Sections 35 to 37. Sections 61 to 65. Sections 67 to 75. Section 77. Sections 202 to 204. Sections 285 to 287. Section 290.
53 & 54 Vict. c. 59	The Public Health Acts Amendment Act 1890.	Sections 16 to 18.
59 & 60 Vict. c. 54	The Public Health (Ireland) Act 1896.	Section 5.
6 Edw. 7 c. 14	The Alkali, etc. Works Regulation Act 1906.	Section 3 (3) and (4).
7 Edw. 7 c. 53	The Public Health Acts Amendment Act 1907.	Section 38.
1945 c. 17	The Water Supplies and Sewerage Act (Northern Ireland) 1945.	The whole Act, except section 4, section 5, in section 16, the definitions of— “contravene”, “county court”, “house” and “Ministry”; and section 17.
1946 c. 18	The Loans Guarantee and Borrowing Regulation Act (Northern Ireland) 1946.	In section 4 (1), in the definition of “local authority” the words “and any statutory water undertakers”.
1949 c. 21	The Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1949.	Sections 1 to 5.
1955 c. 6	The Consolidated Fund (Miscellaneous Provisions) Act (Northern Ireland) 1955.	Section 7.
1955 c. 13	The Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1955.	Section 1. Section 3. In the Schedule the amendments of section 27A and section 71 of the Public Health (Ireland) Act 1878.
1959 c. 23	The Consolidated Fund (Miscellaneous Provisions) Act (Northern Ireland) 1959.	Section 4.

Chapter	Short Title	Extent of Repeal
8 & 9 Eliz. 2 c. 34	The Radioactive Substances Act 1960.	In section 9 (2) (b) (ii) and (3) the words "statutory water undertakers". Section 21 (2) (h).
1965 c. 13	The New Towns Act (Northern Ireland) 1965.	In section 29 (4), in the definition of "joint board" the words from "or under" onwards.
1966 c. 17	The Fisheries Act (Northern Ireland) 1966.	Section 60. In Schedule 7, the amendment of the Water Supplies and Sewerage Act (Northern Ireland) 1945.
1966 c. 38	The Local Government Act (Northern Ireland) 1966.	Sections 9 and 10.
1967 c. 2	The Local Government (Finance) Act (Northern Ireland) 1967.	In section 6 (2), in the definition of "local authority", the words from "or" to the end of paragraph (c) and paragraph (d).
1968 c. 25	The Financial Provisions Act (Northern Ireland) 1968.	In Schedule 2, the entry relating to the Water Supplies and Sewerage Act (Northern Ireland) 1945.
1969 c. 13	The Fire Services Act (Northern Ireland) 1969.	Section 5 (3) and (4). In section 6, in subsection (1), the words "local authority or undertakers or" and "for any part of their area" and subsection (3). Sections 7 and 8. In section 41 (1), the definition of "undertakers".
1969 c. 35	The Mineral Development Act (Northern Ireland) 1969.	In section 40 (6), the words "or the Waterworks Clauses Act 1847".
1972 c. 2	The Public Utilities (Emergency Powers) Act (Northern Ireland) 1972.	Section 2. In section 3 the words "or by the Ministry of Development under section 2".
1972 c. 5	The Water Act (Northern Ireland) 1972.	In section 9 (5) the word "intended".

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes the Ministry of Development for Northern Ireland responsible for public services relating to the supply and distribution of water and the provision and maintenance of facilities for draining and dealing with domestic sewage and trade effluents.

The Order sets out the rights and duties of owners and occupiers in relation to water and sewerage services provided by the Ministry of Development and contains provisions about the discharge of trade effluents. It also establishes a Water Appeals Commission to consider applications or appeals arising out of the administration of water and sewerage services under the Order and extends the functions of the Northern Ireland Water Council.

STATUTORY INSTRUMENTS

1973 No. 70 (N.I. 2)

NORTHERN IRELAND

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