
STATUTORY RULES OF NORTHERN IRELAND

2009 No. 254

Groundwater Regulations (Northern Ireland) 2009

PART 5

Enforcement and penalties

Power to require the provision of information

24.—(1) For the purposes of discharging its functions under these Regulations, the Department may, by notice served on any person, require that person to provide, in such form and within such period as is specified in the notice, the information specified in the notice.

(2) A notice may require a person to provide any information where that requirement is reasonable, including the provision of information—

- (a) not in the person's possession; and
- (b) which would not usually come into the person's possession.

(3) Failure to comply with a notice served by the Department under (1) is an offence.

Notice to prevent or control the input of hazardous substance or non-hazardous pollutant

25.—(1) Where—

- (a) any person is carrying on, or proposing to carry on, any activity on or in the ground; and
- (b) that activity might lead to the input into groundwater of any hazardous substance or non-hazardous pollutant,

the Department may serve notice in writing on that person prohibiting the carrying on of that activity, or granting an authorisation to carry on that activity subject to such conditions as are specified in the notice.

(2) The Department may at any time, by notice in writing, vary or revoke that notice and a notice of variation or revocation shall state the Department's reasons.

(3) Breach of a notice or failure to comply with any condition of a notice served by the Department under (1) is an offence.

Appeals against notices

26.—(1) Any person who is aggrieved by a notice under regulation 25 may appeal by notice in writing to the Appeals Commission within 28 days from the date of the notice.

- (2) The Appeals Commission may cancel or confirm the notice, with or without changes.
- (3) The notice must be complied with pending the outcome of the appeal.

Codes of practice

27.—(1) The Department may approve for the purposes of these Regulations codes of practice issued for the purpose of giving practical guidance to persons engaged in any activity that may result in discharging hazardous substances or non-hazardous pollutants on the steps they should take to prevent such substances or pollutants from entering groundwater.

(2) The Department shall take into account whether or not such a code of practice is being or is likely to be complied with before taking any enforcement action under these Regulations.

(3) A code of practice shall be publicised as the Department sees fit.

Particulars to be included in registers

28.—(1) The Department shall, as soon as reasonably practicable, enter on registers maintained by it under Article 30 of The Water (Northern Ireland) Order 1999 full particulars of—

- (a) any authorisation granted under regulation 19;
- (b) any application for such an authorisation;
- (c) any variation or revocation of such an authorisation;
- (d) any notice under regulation 25;
- (e) any variation or revocation of any such notice;
- (f) any information furnished to the Department for the purposes of regulation 19 or 24;
- (g) any monitoring information provided in connection with any authorisation under regulation 19;
- (h) any conviction for an offence under these Regulations;
- (i) any code of practice approved under these Regulations.

(2) Article 31 of the Water (Northern Ireland) Order 1999 (exclusion from registers of information affecting national security) and Article 32 of that Order (exclusion from registers of certain confidential information) apply in relation to particulars entered by the Department under (1) as they apply in relation to that Order.

Penalties

29. A person guilty of an offence under regulation 19, 24 or 25 is liable—

- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 3 months; or
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years.

Corporate offences

30.—(1) For the purposes of these Regulations, section 20(2) of the Interpretation Act (Northern Ireland) 1954 applies with the omission of the words “the liability of whose members is limited to” and where affairs of a body corporate are managed by its members, applies in relation to acts or defaults of a member in connection with the functions of management as if that person were a Director of the body corporate.

(2) If an offence committed by a partnership is shown—

- (a) to have been committed with the consent or connivance of a partner; or
- (b) to be attributable to any neglect on the part of the partner,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) Proceedings for an offence alleged to have been committed by an unincorporated association must be brought in the name of the association and not in the name of any of its members.

(4) A fine imposed on an unincorporated association on its conviction for an offence must be paid out of the funds of the association.

(5) If an offence committed by an unincorporated association, other than a partnership is shown—

(a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body; or

(b) to be attributable to any neglect on the part of such an officer or member,

that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

Revocation

31. The Groundwater Regulations (Northern Ireland) 1998⁽¹⁾ are revoked.

⁽¹⁾ S.R. 1998 No. 401 as amended by S.R. 2003 No. 46, S.R. 2003 No. 493 and S.R. 2006 No. 280