
DRAFT STATUTORY INSTRUMENTS

1998 No.

Water (Northern Ireland) Order 1998

PART II

**FUNCTIONS OF THE DEPARTMENT OF THE ENVIRONMENT
IN RELATION TO MATTERS AFFECTING WATER**

Abstraction and impounding

Abstraction and impounding of water

20.—(1) Subject to paragraph (2), the Department may by regulations make such provision as appears to it to be expedient for the purpose of—

- (a) controlling, restricting or prohibiting the abstraction of water from underground strata or waterways;
- (b) controlling, restricting or prohibiting the construction or alteration of any impounding works.

(2) Regulations under paragraph (1) shall not apply to a person who holds a licence under Article 10(1)(a) of the Electricity (Northern Ireland) Order 1992.

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

- (a) prohibiting the abstraction of water except in pursuance of a licence granted by the Department and in accordance with the provisions of that licence;
- (b) prohibiting the construction or alteration of impounding works except in pursuance of a licence granted by the Department and in accordance with the provisions of that licence;
- (c) for the issue, variation, transfer or revocation by the Department of any such licence as is mentioned in sub-paragraph (a) or (b);
- (d) as to the manner in which applications for the issue, revocation or variation of any such licence as is mentioned in sub-paragraph (a) or (b) are to be dealt with, including provision requiring the giving of notices of, and information relating to, the making of such applications or decisions on any such applications;
- (e) for the holding of public local inquiries in such circumstances as may be prescribed;
- (f) for the payment, in such circumstances as may be prescribed, of compensation where any such licence as is mentioned in sub-paragraph (a) or (b) is revoked or varied;
- (g) for an appeal to lie to the Appeals Commission against any decision of the Department to issue, vary or revoke any such licence as is mentioned in sub-paragraph (a) or (b);
- (h) making persons guilty of an offence where there is a contravention of the regulations and for the imposition of fines on summary conviction of such an offence.

(4) Regulations made by the Department under paragraph (1) shall contain such provisions as the Department may consider necessary for the protection of rights or interests affected by the regulations.

(5) Where regulations made under this Article include provisions prohibiting the construction or alteration of impounding works except in pursuance of a licence granted by the Department and in accordance with the provisions of that licence, the Department shall consult the Department of Agriculture before issuing such a licence.

(6) References in this Article to a waterway shall not include references to the sea or to any adit or passage constructed in connection with a well, borehole or other similar work for facilitating the collection of water in the well, borehole or work.

(7) Any reference in this Article to the doing of anything in pursuance of such a licence as is mentioned in paragraph (3)(a) or (b) is a reference to its being done—

- (a) by the holder of such a licence; or
- (b) by a person acting as a servant or agent of, or otherwise under the authority of, the holder of such a licence,

at a time when the licence is in force and in circumstances such that, if no such licence were in force, the doing of that thing would contravene a restriction imposed by regulations made under this Article.

(8) In this Article and in Article 21, “impounding works” means either of the following, that is to say—

- (a) any dam, weir or other works in any waterway by which water may be impounded;
- (b) any works for diverting the flow of any waterway in connection with the construction or alteration of any dam, weir or other works falling within sub-paragraph (a).