
DRAFT STATUTORY INSTRUMENTS

1998 No.

Water (Northern Ireland) Order 1998

PART I
INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Water (Northern Ireland) Order 1998.

(2) Subject to paragraphs (3) and (4), this Order shall come into operation on such day or days as the Department of the Environment may by order appoint.

(3) The following provisions of this Order shall come into operation on the expiration of two months from the day on which this Order is made—

- (a) this Part;
- (b) Part III (except for Articles 49 and 50);
- (c) Articles 59 to 62;
- (d) Schedule 3 as it applies for the purposes of Article 48(3);
- (e) Schedules 4 and 5;
- (f) Part I of Schedule 8 and Article 63(2) so far as relating thereto.

(4) The following provisions of this Order shall come into operation on such day or days as the Department of Agriculture may by order appoint—

- (a) Articles 49 and 50; and
- (b) Part II of Schedule 8 and Article 63(2) so far as relating thereto.

(5) An order under paragraph (2) or (4) may contain such transitional provisions as appear to the Department of the Environment or, as the case may be, the Department of Agriculture, to be necessary or expedient.

Interpretation

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

(2) In this Order—

- “abstraction” means the doing of anything whereby water is removed from a waterway or underground stratum;
- “the Appeals Commission” means the Water Appeals Commission for Northern Ireland;
- “disposal”, in relation to sewage, includes treatment;
- “the Drainage Order” means the Drainage (Northern Ireland) Order 1973;
- “effluent” means any liquid, either with or without particles of matter in suspension therein;

“engineering or building operations”, without prejudice to the generality of that expression, includes—

- (a) the construction, alteration, improvement, maintenance or demolition of any building or structure or of any reservoir, waterway, dam, weir, well, borehole or other works; and
- (b) the installation, modification or removal of any machinery or apparatus;

“information” includes anything contained in any records, accounts, estimates or returns;

“modifications” includes additions, alterations and omissions;

“notice” means notice in writing;

“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 person or who, if the land were let at such a rent, would receive it;

“prescribed” means prescribed by regulations;

“public sewage treatment works” means any sewage treatment works vested in or operated by the Department of the Environment or a sewerage undertaker;

“public sewer” means—

- (a) a sewer as defined in Article 2(2) of the Water and Sewerage Services (Northern Ireland) Order 1973; or
- (b) a sewer, pipe or drain vested in or operated by a sewerage undertaker and connected to a sewer as so defined;

“records” includes computer records and any other records kept otherwise than in a document;

“sewage” and “sewage treatment works” have the same meanings as in the Water and Sewerage Services (Northern Ireland) Order 1973;

“sewage effluent” means the effluent from any sewage treatment works;

“sewerage undertaker” means a person with whom the Department of the Environment has entered into an agreement under Article 13(4) of the Water and Sewerage Services (Northern Ireland) Order 1973 for the execution or performance by that person on behalf of the Department of works or services under that Order;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“tidal waters” includes the sea and the waters of any enclosed dock which adjoins tidal waters;

“underground strata” means strata subjacent to the surface of any land, and any reference to water contained in any underground strata is a reference to water so contained otherwise than in a public sewer, pipe, reservoir, tank or underground works contained in any such strata;

“vessel” means every description of vessel (whether with or without means of propulsion of any kind), and includes anything constructed or used to carry persons, goods or plant or machinery by water, or constructed to be propelled or moved on or in water, a seaplane on or in the water and a hovercraft (within the meaning of the Hovercraft Act 1968);

“the Water Council” means the Northern Ireland Water Council;

“waterway” includes any river, stream, watercourse, inland water (whether natural or artificial) or tidal waters and any channel or passage of whatever kind (whether natural or artificial) through which water flows but does not include—

- (a) the waters beyond 3 international nautical miles seaward from the baseline from which the breadth of the territorial sea adjacent to Northern Ireland is measured;
- (b) any public sewer or public sewage treatment works;

- (c) any main or service pipe within the meaning of the Water and Sewerage Services (Northern Ireland) Order 1973 which is vested in or under the control of the Department of the Environment;
 - (d) any drain or road drain—
 - (i) constructed and laid by the Department of the Environment under Article 45(1) of the Roads (Northern Ireland) Order 1993; or
 - (ii) acquired by the Department of the Environment under Article 45(6) of that Order.
- (3) In this Order any reference to a waterway includes a reference to the channel or bed of a waterway which is for the time being dry.
- (4) For the purposes of this Order water for the time being contained in—
- (a) a well, borehole or similar work, including any adit or passage constructed in connection with it for facilitating the collection of water in the well, borehole or work; or
 - (b) any excavation into underground strata, where the level of water in the excavation depends wholly or mainly on water entering it from those strata;
- shall be treated as water contained in the underground strata into which the well, borehole or work was sunk, or the excavation was made, as the case may be.