

## SCHEDULES

### SCHEDULE 7

Article 63(1).

### AMENDMENTS

#### *The Fisheries Act (Northern Ireland) 1966 (c. 17 (N.I.))*

In section 11A(5) for “section 7 of the Water Act (Northern Ireland) 1972” substitute “Article 9(1) of the Water (Northern Ireland) Order 1999”.

In section 11B—

- (a) in subsection (1)(a) for “section 7 of the Water Act (Northern Ireland) 1972 (“the 1972 Act”)” substitute “paragraph 1 of Schedule 1 to the Water (Northern Ireland) Order 1999 (“the 1999 Order)”;
- (b) in subsection (1)(i) for “notices published under section 9(3) of the 1972 Act” substitute “the advertisement of the application under paragraph 1 of Schedule 1 to the 1999 Order”;
- (c) in subsection (3) for “Section 9(4) of the 1972 Act” substitute “Article 13(1) of the 1999 Order”;
- (d) in subsection (4) for “Section 9(5) of the 1972 Act shall not apply to any application under section 7 of that Act” substitute “Paragraph 2(2) of Schedule 1 to the 1999 Order shall not apply to any application under paragraph 1 of Schedule 1 to that Order”.

#### *The Drainage (Northern Ireland) Order 1973 (NI 1)*

In paragraph 1(f) of Schedule 6, after “except” insert “in accordance with regulations under Article 20 of the Water (Northern Ireland) Order 1999 or”.

#### *The Water and Sewerage Services (Northern Ireland) Order 1973 (NI 2)*

In Article 2(2) in the definitions of “underground strata” and “waterway” for “Water Act (Northern Ireland) 1972” substitute “Water (Northern Ireland) Order 1999”.

In Articles 5(2) and 53(1) for “Water Act (Northern Ireland) 1972” substitute “Water (Northern Ireland) Order 1999”.

In Article 8 after paragraph (2) insert—

“(2A) Where, in pursuance of any statutory provision listed in paragraph (2B), any appeal is 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.”.

In Article 11(3)(d) for “section 14 of the Water Act (Northern Ireland) 1972” substitute “Article 20 of the Water (Northern Ireland) Order 1999”.

*The Pollution Control and Local Government (Northern Ireland) Order 1978 (NI 19)*

In Article 42(2) for “Water Act (Northern Ireland) 1972” substitute “Water (Northern Ireland) Order 1999”.

*The Electricity (Northern Ireland) Order 1992 (NI 1)*

In Article 61(3), for sub-paragraph (b) substitute—

“(b) the Water (Northern Ireland) Order 1999;”.

In paragraph 12 of Schedule 5 for “Water Act (Northern Ireland) 1972” substitute “Water (Northern Ireland) Order 1999”.

*The Radioactive Substances Act 1993 (c. 12)*

In Part III of Schedule 3, for paragraph 22 substitute—

“22. Articles 5, 7, 9, 14, 16 and 30 of the Water (Northern Ireland) Order 1999.”.

*The Gas (Northern Ireland) Order 1996 (NI 2)*

In Article 44(4) for sub-paragraph (b) substitute—

“(b) the Water (Northern Ireland) Order 1999;”.

*The Industrial Pollution Control (Northern Ireland) Order 1997 (NI 18)*

In Articles 7(12)(a) and 28(3)(a)(ii), for “the Water Act (Northern Ireland) 1972” substitute “the Water (Northern Ireland) Order 1999”.

*The Waste and Contaminated Land (Northern Ireland) Order 1997 (NI 19)*

In Article 8(3) for “Water Act (Northern Ireland) 1972” substitute “Water (Northern Ireland) Order 1999”.

In Article 49(1), in the definition of “waterways” and in the definition of “underground strata”, for “section 30(1) of the Water Act (Northern Ireland) 1972” substitute “Article 2(2) of the Water (Northern Ireland) Order 1999”. After Article 56 insert—

**“Restrictions on liability relating to the pollution of waterways and underground strata**

**56A.**—(1) This Article applies where any land is contaminated land by virtue of paragraph (b) of the definition of “contaminated land” in Article 49(1) (whether or not the land is also contaminated land by virtue of paragraph (a) of that definition).

(2) Where this Article applies, no remediation notice given in consequence of the land in question being contaminated land shall require a person who is an appropriate person by virtue of Article 54(4) or (5) to do anything by way of remediation to that or any other land, or any waterway or underground strata, which he could not have been required to do by such a

notice had paragraph (b) of the definition of “contaminated land” in Article 49(1) (and all other references to pollution of waterways and underground strata) been omitted from this Part.

(3) Nothing in paragraph (2) prevents the enforcing authority from doing anything by way of remediation under Article 60 which it could have done apart from that paragraph, but the authority shall not be entitled under Article 61 to recover from any person any part of the cost incurred by the authority in doing by way of remediation anything which it is precluded by paragraph (2) from requiring that person to do.”

In Article 60, in paragraphs (3)(d) and (4)(d), for “Article 57” substitute “Article 56A or 57”.

In Article 61(1), for “Article 57(6)” substitute “Article 56A(3) or 57(6)”.

In Article 70(4) for “section 5 of the Water Act (Northern Ireland) 1972” substitute “Part II of the Water (Northern Ireland) Order 1999 for the purposes of Article 9 of that Order”.