
DRAFT STATUTORY INSTRUMENTS

2006 No.

**The Water and Sewerage Services
(Northern Ireland) Order 2006**

PART XII

MISCELLANEOUS AND SUPPLEMENTAL

The Water Appeals Commission

Procedure of the Appeals Commission

293.—(1) Where, under this Order or any other statutory provision, the Appeals Commission may determine an appeal or other matter or inquire into any matter—

- (a) the jurisdiction of the Appeals Commission may be exercised by any one of the Commissioners nominated by the Chief Commissioner;
- (b) the Chief Commissioner may, after consultation with the other Commissioners and the Office, appoint an assessor to sit with the Commissioner nominated under sub-paragraph (a) to advise him on any matters arising;
- (c) notwithstanding sub-paragraphs (a) and (b) any decision on the appeal or other matter and any report on the inquiry shall be made by the Appeals Commission.

(2) Paragraph (1)(b) does not apply where an appeal or other matter is to be decided solely by reference to written representations.

(3) The Appeals Commission may pay to any assessor appointed under paragraph (1)(b) such fees and allowances as the Commission, with the approval of the Office, may determine.

(4) Where an appeal is made to the Appeals Commission under any of the statutory provisions listed in paragraph (5), the Appeals Commission—

- (a) shall publish notice of the appeal in at least two newspapers circulating in the area to which the appeal relates; and
- (b) may recover the expenses of that publication from the appellant.

(5) The statutory provisions referred to in paragraph (4) are—

- (a) section 11A(4)(b) of the Fisheries Act (Northern Ireland) 1966 (c. 17) (fish culture licences);
- (b) in the Water Order—
 - (i) Article 6(7) (water quality objectives);
 - (ii) Article 13(1)(a), (b), (c), (d), (f) and (g) (discharge consents); and
 - (iii) Article 20(3)(h) (abstraction and impounding of water).

(6) Except in the case of a decision to which paragraph (9) or (10) applies, the Appeals Commission shall report its decision to the relevant Department which (subject to paragraph (7)) shall notify—

- (a) the applicant or appellant; and
- (b) any other person appearing to that Department to be interested,

of that decision.

(7) Where a decision is reported to it under paragraph (6), the relevant Department may, after considering any representations made to it under paragraph (8)—

- (a) vary the decision of the Appeals Commission; or
- (b) substitute for it a new decision.

(8) Where the relevant Department intends to act under paragraph (7) it shall, within 28 days from the date on which the decision of the Appeals Commission is reported to it under paragraph (6)—

- (a) notify the appellant or applicant and any other interested person of its intention and of the reasons; and
- (b) afford to those persons an opportunity of making representations to it.

(9) This paragraph applies to a decision by the Appeals Commission on an appeal under any of the following statutory provisions—

- (a) Article 13(1) of the Water Order (discharge consents);
- (b) Article 20(3)(h) of that Order (abstraction and impounding of water);
- (c) Article 32(5) of that Order (exclusion from register of confidential information).

(10) This paragraph applies to a decision by the Appeals Commission under—

- (a) Article 120 (confirmation of private supply notices);
- (b) Article 172(5) (agreements as to use of sewers, etc);
- (c) the Drainage Order.

(11) The Appeals Commission's decision, or any variation or substitution under paragraph (7) of that decision, shall be final except on a point of law.

(12) The Office may, after consultation with the Appeals Commission, make rules regulating the procedure to be followed by the Appeals Commission.

(13) Subject to—

- (a) any rules under paragraph (10); and
- (b) any other statutory provision,

the Appeals Commission may regulate its own procedure.

(14) In this Article—

“the Office” means the Office of the First Minister and deputy First Minister;

“the relevant department”, in relation to any decision of the Appeals Commission, means whichever of—

- (a) the Department;
- (b) DOE;
- (c) DARD; or
- (d) DCAL,

has functions under or in relation to the statutory provision conferring jurisdiction on the Commission to make that decision.