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STATUTORY INSTRUMENTS

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**1999 No. 662 (N.I. 6)**

**The Water (Northern Ireland) Order 1999 <sup>F1</sup>**

- - - - - 10th March 1999

**F1** certain functions transf. by SR 1999/481

**Modifications etc. (not altering text)**

**C1** Order modified by [S.R. 2003/493, Sch. 3 Pt. I para. 11](#) (as substituted (8.4.2011) by [Waste Regulations \(Northern Ireland\) 2011 \(S.R. 2011/127\)](#), [reg. 40](#) (with [reg. 9\(2\)\)](#))

**PART I**  
**INTRODUCTORY**

**Title and commencement**

**1.**—(1) This Order may be cited as the Water (Northern Ireland) Order 1999.

(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<sup>F2</sup>.

(3) The provisions of this Order set out in paragraph (4) shall come into operation on—

- (a) the expiration of one month from the day on which this Order is made; or
- (b) the day before the day appointed by an Order in Council under section 3 of the Northern Ireland Act 1998 for the commencement of Parts II and III of that Act,

whichever is the earlier.

(4) The provisions referred to in paragraph (3) are—

- (a) this Part;
- (b) Part III;
- (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.

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

**F2** fully exercised by SR 2001/283

## 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;

[<sup>F3</sup>“owner” in relation to land, means any person for the time being receiving or entitled to receive the rack rent of any land, whether on his own account or as agent or trustee for another or who, if the land were let at a rack rent, would so receive or be entitled to receive that rent]

“prescribed” means prescribed by regulations;

[<sup>F4</sup>“public sewer” has the same meaning as in the Water and Sewerage Services (Northern Ireland) Order 2006;]

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

[<sup>F5</sup>“sewage effluent” includes any effluent from any waste water treatment works, but does not include surface water (within the meaning of the Water and Sewerage Services (Northern Ireland) Order 2006);]

“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);

[<sup>F6</sup>“waste water treatment works” has the same meaning as in the Water and Sewerage Services (Northern Ireland) Order 2006;]

F7

“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) [<sup>F8</sup>any main or service pipe within the meaning of the Water and Sewerage Services (Northern Ireland) Order 2006 which is vested in or under the control of a sewerage undertaker;]
  - (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.

- F3** Art. 2(2): definition of "owner" substituted (1.4.2007) by [Rates \(Consequential Provisions\) Order \(Northern Ireland\) 2007 \(S.R. 2007/192\)](#), art. 2(1), **Sch. 1 para. 8**
- F4** Art. 2(2): definition of "public sewer" substituted (1.4.2007 for certain purposes, otherwise 25.5.2007) for definitions of "public sewage treatment works" and "public sewer" by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), **291(2)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2); S.R. 2007/282, **art. 2(2)**, Sch.
- F5** Art. 2(2): definition of "sewage effluent" substituted (1.4.2007 for certain purposes, otherwise 25.5.2007) for definitions of "sewage", "sewage treatment works", "sewage effluent" and "sewerage undertaker" by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), **291(3)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2); S.R. 2007/282, **art. 2(2)**, Sch.
- F6** Art. 2(2): definition of "waste water treatment works" inserted (1.4.2007 for certain purposes, otherwise 25.5.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), **291(4)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2); S.R. 2007/282, **art. 2(2)**, Sch.
- F7** Art. 2(2): definition of "the Water Council" repealed (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308(2), **Sch. 13** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2)
- F8** Art. 2(2): words in definition of "waterway" substituted (1.4.2007 for certain purposes, otherwise 25.5.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), **291(5)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2); S.R. 2007/282, **art. 2(2)**, Sch.

## PART II

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

#### *Interpretation*

#### **Interpretation of Part II**

##### **3.—(1) In this Part—**

“analyse”, in relation to any sample of land, water or effluent, includes subjecting the sample to a test of any description;

“apparatus” includes any meter or other device for measuring, assessing, determining, recording or enabling to be recorded, the volume, temperature, radioactivity, rate, nature, origin, composition or effect of any matter, flow, discharge, emission, deposit or abstraction;

“the Department” means the Department of the Environment;

“deposit” includes store;

“discharge consent” means a consent given [<sup>F9</sup>under Article 7A(3)(a)];

“enforcement notice” has the meaning assigned by Article 12;

“Londonderry Area” has the same meaning as in the Foyle Fisheries Act (Northern Ireland) 1952;

“mobile plant” means plant which is designed to move or be moved whether on roads or otherwise;

[<sup>F10</sup>“Newry Area” has the same meaning as in the Foyle Fisheries Act (Northern Ireland) 1952;]

“premises” includes any land, vehicle, vessel or mobile plant;

“regulations”, except in Article 36, means regulations made by the Department;

“representations” includes objections;

“trade” includes agriculture, horticulture, scientific research or experiment and the carrying on of a hospital or nursing home;

“trade effluent” means any effluent which is discharged from premises used for carrying on any trade or industry, other than storm water or domestic sewage;

“works notice” has the meaning assigned by Article 17.

(2) For the purposes of the definition of “trade effluent” in paragraph (1), any premises (whether on land or not) wholly or mainly used (whether for profit or not) for the purposes of fish farming shall be deemed to be premises used for carrying on a trade.

**F9** [Art. 3\(1\)](#): words in definition of “discharge consent” substituted (1.4.2007 for certain purposes, otherwise 25.5.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006](#) (S.I. 2006/3336 (N.I. 21)), arts. 1(2), **291(6)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (with art. 3, Sch. 2); S.R. 2007/282, **art. 2(2)**, Sch.

**F10** SI 1999/859

### *General duty of the Department*

#### **Duty of Department to promote conservation and cleanliness of water resources**

- 4.—(1) The Department shall—
- (a) promote the conservation of the water resources of Northern Ireland;
  - (b) promote the cleanliness of water in waterways and underground strata.
- (2) The Department shall, in exercising its functions in relation to the conservation of water resources and the cleanliness of water, have regard to—
- (a) the needs of industry and agriculture;
  - (b) the protection of fisheries;
  - (c) the protection of public health;
  - (d) the preservation of amenity and the conservation of flora and fauna; and
  - (e) the conservation of geological or physiographical features of special interest and any feature of archaeological, historical, architectural or traditional interest.

### *Quality objectives*

#### **Classification of quality of waters**

5.—(1) The Department may, in relation to any description of waters (being a description applying to some or all waters), by regulations prescribe a system of classifying the quality of those waters according to criteria specified in the regulations.

(2) The criteria specified in regulations under this Article in relation to any classification shall consist of one or more of the following, that is to say—

- (a) general requirements as to the purposes for which the waters to which the classification is applied are to be suitable;
- (b) specific requirements as to the matters which are to be present in or absent from the water and as to the concentrations of matters which are or are required to be present in the water;
- (c) specific requirements as to other characteristics of those waters;

and for the purposes of any such classification regulations under this Article may provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed.

#### **Water quality objectives**

6.—(1) For the purpose of maintaining and improving the quality of any waters the Department may establish the water quality objectives for any waters which are, or are included in, waters of a description prescribed in regulations for the purposes of Article 5, by publishing in one or more newspapers circulating in the area to which the description of the waters relates, a notice specifying—

- (a) one or more of the classifications for the time being prescribed under Article 5; and
- (b) in relation to each specified classification, a date.

(2) The water quality objectives for any waters to which a notice under this Article relates shall be the satisfaction by those waters, on and at all times after each date specified in the notice, of the requirements which at the time of the notice were the requirements for the classification in relation to which that date is so specified.