
STATUTORY INSTRUMENTS

1993 No. 3165 (N.I. 16)

NORTHERN IRELAND

**The Water and Sewerage Services
(Amendment) (Northern Ireland) Order 1993**

Made - - - - 16th December 1993

Coming into Operation 17th February 1994

At the Court at Buckingham Palace, the 16th day of December 1993

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974⁽¹⁾ and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Introductory

Title and commencement

1.—(1) This Order may be cited as the Water and Sewerage Services (Amendment) (Northern Ireland) Order 1993.

(2) This Order shall come into operation on the expiration of 2 months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954⁽²⁾ 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—

“the Department” means the Department of the Environment;

(1) 1974 c. 28
(2) 1954 c. 33 (N.I.)

“the principal Order” means the Water and Sewerage Services (Northern Ireland) Order 1973(3).

(3) Expressions used in this Order and in the principal Order have the same meaning in this Order as in the principal Order.

Miscellaneous amendments of the principal Order

Interpretation

3. In Article 2 of the principal Order (interpretation)—

(a) in paragraph (2) the following definitions shall be inserted at the appropriate alphabetical place—

““domestic purposes”, in relation to a supply of water to any premises, means the purposes of human consumption, cooking and washing necessary for human health or hygiene but does not include the purposes of the business of a laundry;

“food production premises” means premises used for the purposes of a business of preparing food or drink for consumption otherwise than on the premises;

“food production purposes” shall be construed in accordance with paragraph (3);

“micro-organism” includes any microscopic biological entity which is capable of replication;

“prescribed” means prescribed by regulations;

“private sewer” means a sewer not vested in the Department;

“private supply” means, subject to paragraph (4), a supply of water provided otherwise than by the Department (including a supply provided for the purposes of the bottling of water);

“substance” includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

“wholesome” shall be construed subject to the provisions of any regulations made under Article 3C;”;

(b) in paragraph (2)—

(i) for the definition of “domestic sewage” there shall be substituted—

““domestic sewage”, in relation to any premises, means—

(a) the contents of lavatories; and

(b) water which has been used for cooking or washing necessary for human health or hygiene, not being water used for the business of a laundry or for a business of preparing food or drink;”;

(ii) in the definition of “main” after “giving” there shall be inserted “or intended to give”;

(iii) for the definition of “service pipe” there shall be substituted—

““service pipe” means, subject to paragraph (5), so much of a pipe which is, or is to be, connected with a main for supplying water from that main to any premises—

(a) as is or is to be subject to water pressure from that main; or

(b) as would be so subject but for the closing of some valve, and includes part of any service pipe;”;

- (iv) in the definition of “sewage” for “includes” there shall be substituted “means”;
- (c) at the end of paragraph (2) there shall be inserted—

“(3) In this Order references to food production purposes are references to the manufacturing, processing, preserving or marketing purposes with respect to food or drink for which water supplied to food production premises may be used.

(4) In this Order for the purposes of references to a private supply, or to supplying water by means of a private supply, water shall be treated as supplied to any premises not only where it is supplied from outside those premises, but also where it is abstracted, for the purpose of being used or consumed on those premises, from a source which is situated on the premises themselves; and for the purposes of this paragraph water shall be treated as used on any premises where it is bottled on those premises for use or consumption elsewhere.

(5) In this Order references to a pipe, including references to a main, a drain or a sewer, shall include references to a tunnel or conduit which serves or is to serve as the pipe in question and to any accessories for the pipe; and, accordingly, references to the laying of a pipe shall include references to the construction of such a tunnel or conduit, to the construction or installation of any such accessories and to the making of a connection between one pipe and another.

(6) For the purposes of this Order a service pipe or drain shall be treated as connected with a main or sewer even if the connection is an indirect connection made by virtue of a connection with one or more than one other service pipe or, as the case may be, drain or private sewer.”.

Quality of water supplies

4.—(1) Article 3(2) of the principal Order (Department’s duty to provide wholesome water) shall cease to have effect.

- (2) After Article 3 of the principal Order there shall be inserted—

“Water quality

3A.—(1) The Department shall—

- (a) when supplying water to any premises for domestic or food production purposes, supply only water which is wholesome at the time of supply; and
- (b) so far as reasonably practicable, ensure, in relation to each source or combination of sources from which the Department supplies water to premises for domestic or food production purposes, that there is, in general, no deterioration in the quality of the water which is supplied from that source or combination of sources.

(2) For the purpose of this Article and Article 3B and subject to paragraph (3), water supplied by the Department to any premises shall not be regarded as unwholesome at the time of supply where it has ceased to be wholesome only after leaving the pipes of the Department.

(3) For the purposes of this Article where water supplied by the Department to any premises would not otherwise be regarded as unwholesome at the time of supply, that water shall be regarded as unwholesome at that time if—

- (a) it has ceased to be wholesome after leaving the pipes of the Department but while in a pipe which is subject to water pressure from a main or which would be so subject but for the closing of some valve; and
- (b) it has so ceased in consequence of the failure of the Department, before supplying the water, to take such steps as may be prescribed for the purpose of securing the

elimination, or reduction to a minimum, of any prescribed risk that the water would cease to be wholesome after leaving the pipes of the Department.

Regulations for preserving water quality

3B.—(1) The Department may make regulations prescribing the steps required to be taken to secure compliance with Article 3A; and without prejudice to the foregoing, regulations under this paragraph may—

- (a) prescribe the steps to be taken for monitoring and recording whether the water which is supplied to premises for domestic or food production purposes is wholesome at the time of supply;
- (b) prescribe the steps to be taken for monitoring and recording the quality of the water from any source, or combination of sources, which is used or is proposed to be used for supplying water to any premises for domestic or food production purposes;
- (c) make provision for ensuring that a source which is used or proposed to be used for supplying water for domestic or food production purposes is not so used until prescribed requirements for establishing the quality of water which may be supplied from that source have been complied with;
- (d) make provision for the keeping of records of the localities within which all the premises supplied with water for domestic or food production purposes are normally supplied from the same source or combination of sources;
- (e) prescribe requirements with respect to the analysis of water samples.

(2) Without prejudice to paragraph (1), the Department may make regulations with respect to the use in connection with the preparation of water for supply to any premises for domestic or food production purposes, of such processes and substances, and of products that contain or are made with such substances or materials, as the Department considers might affect the quality of any water; and, without prejudice to the generality of the foregoing, regulations under this paragraph may—

- (a) regulate such use of processes, substances and products;
- (b) for the purposes of provision made under sub-paragraph (a), require processes, substances and products so used to conform to such standards as may be prescribed by the regulations;
- (c) impose such other conditions as may be prescribed with respect to such use of prescribed processes, substances and products and for the modification and revocation of any such condition;
- (d) provide for the circumstances in which the Department shall consult prescribed persons for advice on such use of certain processes, substances and products;
- (e) without prejudice to Article 57(2), provide that persons contravening the regulations shall be guilty of an offence and shall be liable—
 - (i) on summary conviction, to a fine not exceeding the statutory maximum; and
 - (ii) on conviction on indictment, to a fine;
- (f) make provision for the recovery from a person convicted of an offence under the regulations of expenses reasonably incurred by the Department in carrying out works of repair or reinstatement necessitated by his action.

(3) The Department may by regulations make provision for—

- (a) the publication of information about the quality of water supplied for domestic or food production purposes to any premises; and

- (b) the provision of information about the quality of water so supplied.
- (4) Regulations under paragraph (3)—
 - (a) may prescribe both the information which is to be published or provided under the regulations and the manner and circumstances in which it is to be published or provided;
 - (b) may authorise the provision of information to any person on payment of such charge as the Department may determine; and
 - (c) may impose such other conditions on the provision of information to any person as may be prescribed.

Standards of wholesomeness

3C.—(1) The Department may by regulations make provision that water that is supplied to any premises is or is not to be regarded as wholesome for the purposes of this Order if it satisfies or, as the case may be, fails to satisfy such requirements as may be prescribed.

(2) Without prejudice to the generality of paragraph (1), regulations under this Article may, for the purpose of determining the wholesomeness of water supplied for domestic or food production purposes,—

- (a) prescribe specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;
- (b) prescribe specific requirements as to other characteristics of the water;
- (c) provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed; and
- (d) provide for, or enable the Department to authorise, such relaxations of and departures from the prescribed requirements (or from any of them) as may be prescribed, to make any such authorisations subject to such conditions as may be prescribed and to modify or revoke any such authorisation or condition.

Private water supplies

Functions of Department in relation to water quality of private supplies

- 3D.**—(1) The Department shall—
- (a) take all such steps as it considers appropriate for keeping itself informed about the wholesomeness and sufficiency of private supplies; and
 - (b) maintain a register of private supplies used for domestic or food production purposes.
- (2) Where the Department is satisfied—
- (a) that any private supply used for domestic or food production purposes to any premises is, has been or is likely to become unwholesome or (so far as any such premises are concerned) insufficient for domestic and sanitary purposes; and
 - (b) that the unwholesomeness or insufficiency of any such supply is, was or is likely to be such as to cause a danger to life or health;

the Department shall notify—

- (i) the district council for the district; and
- (ii) the Health and Social Services Board for the area;

in which the premises are, and the supply is, situated.

(3) The Department may by regulations make such provision, supplementing the provisions of this Article, as the Department considers appropriate for—

- (a) obtaining information about the quality and sufficiency of private supplies, including information as to the source of the supplies and the premises supplied by such supplies;
- (b) regulating the performance of any function under this Article; and
- (c) prescribing the particulars in respect of each private supply to be recorded in the register maintained under paragraph (1)(b).

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

- (a) prescribe the matters to be taken into account in determining, for the purposes of paragraph (1), what is appropriate;
- (b) provide, for the purposes of this Article, for such samples of water to be taken and analysed at such times and in such manner as may be prescribed;
- (c) provide for functions under this Article to be carried out by prescribed persons;
- (d) provide for the recovery by the Department from prescribed persons of such amounts as may be prescribed in respect of expenses reasonably incurred by the Department under this Article.

Remedial functions of Department in relation to private supplies

3E.—(1) Subject to the following provisions of this Article, where the Department is satisfied in relation to any premises which are supplied with water for domestic or food production purposes by means of a private supply—

- (a) that any water which is being, has been or is likely to be supplied for domestic or food production purposes to those premises by means of that private supply is not, was not or, as the case may be, is likely not to be, wholesome; or
- (b) that that private supply is failing, has failed or is likely to fail to provide to any house on those premises such a supply of wholesome water as (so far as that house is concerned) is sufficient for domestic and sanitary purposes,

the Department may serve a notice in relation to that private supply on one or more of the relevant persons.

(2) A notice under paragraph (1) in relation to a private supply to any premises shall—

- (a) give particulars of the matters mentioned in paragraph (1) in respect of which the notice is served; and
- (b) specify the steps which, in the opinion of the Department, are required to be taken for ensuring that there is a supply of water to those premises which is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic and sanitary purposes;

and the person on whom the notice is served may, within 28 days from the date of the service of the notice, appeal to the Appeals Commission.

(3) Where the Department serves a notice under paragraph (1) on any relevant person it may do one or more of the following, that is to say—

- (a) by that notice designate as steps to be taken by the Department such of the steps specified in the notice as the Department considers it appropriate to so designate;
- (b) by that notice require that person, within such reasonable period as may be specified in the notice, to take one or more of the steps so specified;

- (c) by that notice require that person, at such times as may be determined in accordance with provision contained in the notice, to make to another relevant person or to the Department such payments as may be so determined in respect of expenses reasonably incurred by that other person or the Department in taking any step specified in the notice;
- (d) by that notice undertake to make such payments to that person as may be so determined in respect of expenses reasonably incurred by that person in taking any step specified in the notice.

(4) Where any relevant person who is required by virtue of a notice under paragraph (1) to take any step in relation to any premises fails to take that step within the period specified in the notice, the Department may, in accordance with any applicable provision having effect under this Order, take that step.

(5) Where any step is taken by the Department in relation to any premises by virtue of paragraph (4)—

- (a) the Department may recover from the person who failed to take that step within the specified period any expenses reasonably incurred by the Department in taking that step; and
- (b) for the purposes of any requirement under which payments are required to be made to that person by any person other than the Department, sums paid by virtue of subparagraph (a) in respect of the taking of any step shall be deemed to be expenses incurred in the taking of that step by the person who failed to take it.

(6) Nothing in this Order shall confer any right of action on any person in respect of any loss or damage sustained by that person in consequence of the failure by any other person to take any step specified in a notice under paragraph (1); but any sum required to be paid to any person by virtue of any requirement or undertaking contained in such a notice shall be recoverable summarily as a civil debt by that person from the person who is required to pay it.

(7) The Department may by notice served on any person modify or revoke the effect in relation to that person of any notice under this Article, and the person on whom the notice is served may, within 28 days from the date of the service of the notice, appeal to the Appeals Commission except where the notice—

- (a) extends the period within which any step is required to be taken by that person; or
- (b) discharges, postpones or abates any obligation of that person to make a payment to the Department.

(8) For the purposes of this Article the relevant persons, in relation to a private supply to any premises, are the owners and occupiers of those premises and the owners and occupiers of the premises where the source of that supply is situated and any other person who exercises powers of management or control in relation to that source.

Supplementary provisions

3F.—(1) The Department may serve on any person a notice requiring him to furnish the Department, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by the Department for the purposes of Articles 3D and 3E.

(2) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

Exclusion of right of appeal in respect of costs or charges

5.—(1) Article 4(2) of the principal Order (cost in relation to the provision of services) shall cease to have effect.

(2) In Article 26 of the principal Order (appeals in relation to discharges of trade effluent) after “may” there shall be inserted “, except in so far as the decision relates to charges”.

(3) In Article 27(4) of the principal Order (appeals on review of decisions in relation to discharges of trade effluent) after “may” there shall be inserted “, except in so far as the decision reviewed relates to charges,”.

(4) In Article 31(5) of the principal Order (appeals on review of decisions in relation to existing discharges) after “may” there shall be inserted “, except in so far as the direction or review relates to charges,”.

Appointment of assessors

6.—(1) In Article 8 of the principal Order (procedure on appeals)—

(a) for paragraphs (1) and (2) there shall be substituted—

“(1) Where, under this Order or any other transferred provision, the Appeals Commission may determine an appeal or hear an application—

(a) the jurisdiction of the Appeals Commission may be exercised by any one of its members;

(b) except where an appeal or application is to be decided solely by reference to written representations, the Chief Commissioner may, after consultation with the Appeals Commission and the Department or the Department of Agriculture or both such Departments as the case may require, appoint an assessor to sit with the member under sub-paragraph (a) at the appeal or hearing of the application to advise him on any matters arising;

(c) notwithstanding sub-paragraphs (a) and (b) any decision on the appeal or application shall be made by the Appeals Commission and reported to the Department.

(2) 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 Department, may approve.”;

(b) in paragraph (3) for “paragraph (2)” there shall be substituted “paragraph (1)(c)”.

(2) In section 185B of the Fisheries Act (Northern Ireland) 1966(4) (jurisdiction of Appeals Commission)—

(a) in subsection (i)(a) after “paragraphs” there shall be inserted “(i)(c),”;

(b) subsection (2) shall be omitted;

(c) in subsection (4) “(2)(b) or” shall be omitted.

Water and sewerage services

7.—(1) For Article 17 of the principal Order there shall be substituted—

“Applications for water or sewerage services

17.—(1) Where the provision of a water or sewerage service from the Department is required in respect of any premises, the owner or occupier may apply to the Department—

- (a) for a supply of water from the Department;
- (b) to discharge into a sewer or sewage treatment works vested in the Department domestic sewage and surface water;
- (c) for the connection of his service pipe, drain or private sewer with an existing main, sewer or sewage treatment works vested in the Department; or
- (d) for an existing main or sewer to be extended or augmented and the connection of his service pipe, drain or private sewer with that extended or augmented main or sewer.

(2) An application under paragraph (1) shall be in writing.

(3) The Department may refuse the application or grant the application unconditionally or subject to such terms and conditions (including conditions as to costs and charges) as it thinks fit to impose.

(4) Where a person has applied under paragraph (1) for a water or sewerage service, the Department may enter into an agreement with that person for the provision at the expense of that person of works in connection with that service, and any such agreement may specify the terms and conditions on which the works are to be provided, including conditions as to costs and charges and as to the adoption by the Department of such works.

(5) Any person aggrieved by a decision of the Department under paragraph (3), other than a decision in respect of conditions relating to costs and charges, may appeal to the Appeals Commission within 28 days from the date on which he receives notice of the decision.

(6) Any person who—

- (a) obtains a water or, as the case may be, a sewerage service from the Department otherwise than in accordance with this Order; or
- (b) contravenes any condition on which an application for such a service is granted;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(7) The Department may—

- (a) close, remove or remake any connection obtained otherwise than in accordance with this Order; and
- (b) recover from the person in respect of whose liability the power under subparagraph (a) is exercised, the costs reasonably incurred by it in so doing.

(8) Paragraphs (1) to (7) shall apply in relation to the alteration of an existing water or sewerage service as they apply to the provision of a service.

(9) Nothing in this Article applies to the discharge of any trade effluent.”.

(2) In Article 18(1) of the principal Order (rights of owners and occupiers following lawful connections) after “domestic” in the first place where it occurs there shall be inserted “, central heating and sanitary”.

(3) For Article 19 of the principal Order there shall be substituted—

“Liability of certain owners and occupiers

19.—(1) Where an application under Article 17(1) for the provision of a water or sewerage service has been granted and the Department, in connection with the provision of that service, supplies and installs any fittings in a private street within the meaning of the Private Streets

(Northern Ireland) Order 1980, or, subject to paragraph (3), in a road, the person who applied for that service shall maintain such of those fittings as are flush, or intended to be flush, with the street or as the case may be, the road during the period from the date on which the fittings are installed by the Department until—

- (a) in the case of a private street, the date on which the street becomes a public road under Article 7(4) or (4C), 8, 9(2), 9(3) or 13(3) of that Order; or
- (b) in the case of a road, the issue of a certificate by the Department that the road has been reinstated to the satisfaction of the Department.

(2) Where an application under Article 17(1) for a water or sewerage service, has been granted and the Department, in connection with the provision of that service, supplies and installs any fittings in land in such areas as may be designated by the Department for the purpose of this paragraph, other than land used for a private street or road, the Department may require the person who applied for that service to maintain such of those fittings as are flush, or intended to be flush, with the land during the period from the date on which the fittings are installed by the Department until such date as the Department may determine.

(3) Paragraph (1) shall not apply where the charge for the provision of the service mentioned in that paragraph includes an amount for excavation and restoration of the road.

(4) In an action against any person in respect of damage from his failure to maintain any fittings in a private street, a road or land in any area to which paragraph (2) applies, as the case may require, it shall be a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that he had taken such care as in all the circumstances was reasonably required to secure that the fittings to which the action relates were not dangerous or did not cause damage to persons or property.”.

Information

8.—(1) After Article 26 of the principal Order there shall be inserted—

“Information relating to new discharges of trade effluents

26A.—(1) The Department may require the owner or occupier of premises from which a new discharge is being made to furnish in writing such information to the Department concerning the discharge as an applicant for consent to such a discharge is required to furnish in a trade effluent notice under Article 23(2).

(2) Any person who, having been required by the Department to furnish information to it under this Article, fails to furnish that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.”.

(2) In Article 30 of the principal Order (information relating to existing discharges of trade effluents)—

- (a) for the words from the beginning to “furnish” in the first place where it occurs there shall be substituted—

“(1) The Department may require the owner or occupier of premises from which an existing discharge is being made to furnish in writing”;

- (b) at the end there shall be inserted—

“(2) Any person who, having been required by the Department to furnish information to it under this Article, fails to furnish that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.”.

- (3) In Article 47(1) (plans and information)—
- (a) at the beginning there shall be inserted “The Department may require”;
 - (b) after “pipe” there shall be inserted “used or intended to be used”;
 - (c) the words “of the Ministry shall, when requested in writing so to do by the Ministry” shall cease to have effect;
 - (d) in sub-paragraph (a), at the beginning, there shall be inserted “to”;
 - (e) in sub-paragraph (b) for “furnish” there shall be substituted “to furnish in writing”.

Contamination, waste and misuse of water

9.—(1) After Article 40 of the principal Order there shall be inserted—

“Offences of contaminating, wasting and misusing water, etc.

40A.—(1) If any person who is the owner or occupier of any premises to which a supply of water is provided by the Department intentionally or negligently causes or suffers any water fittings for which he is responsible to be or remain so out of order, so in need of repair or so constructed or adapted, or to be so used—

- (a) that water in a main or other pipe of the Department or in a pipe connected with such a main or pipe is or is likely to be contaminated by the return of any substance from those premises to that main or pipe;
- (b) that water that has been supplied by the Department to those premises is or is likely to be contaminated before it is used; or
- (c) that water so supplied is or is likely to be wasted or, having regard to the purposes for which it is supplied, misused,

that person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Any person who uses any water supplied to any premises by the Department for a purpose other than one for which it is supplied to those premises shall, unless the other purpose is the extinguishment of a fire, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where a person is convicted of an offence under paragraph (2) the Department may recover such amount as may be reasonable in respect of any water wasted or misused in consequence of the commission of the offence from that person summarily as a civil debt.

(4) For the purposes of this Article the owner or occupier of any premises shall be regarded as responsible for every water fitting serving those premises which is not a water fitting which the Department is liable to maintain.

(5) Where a person is convicted of an offence under paragraph (1)(a) or (b), the Department may recover from him the expenses reasonably incurred by it in carrying out works of repair or re-instatement necessitated by his action.

(6) Nothing in this Article, in so far as it relates to the construction or installation of any water fitting, shall apply to any water fitting installed in any premises before the coming into operation of this Article.

Regulations for preventing contamination, waste, etc., and with respect to water fittings

40B.—(1) Without prejudice to Article 40(1) and (2) (regulations as to water and sewerage services), the Department may make regulations—

- (a) for securing that water in a main or other pipe of the Department is not contaminated, and that its quality and suitability for particular purposes is not prejudiced, by the return of any substance from any premises to that main or pipe;
 - (b) for securing that water which is in any pipe connected with any such main or other pipe or which has been supplied by the Department to any premises is not contaminated, and that its quality and suitability for particular purposes is not prejudiced, before it is used;
 - (c) for securing that water fittings installed and used by persons to whom water is or is to be supplied by the Department are safe and do not cause or contribute to the erroneous measurement of any water or the reverberation of any pipes.
- (2) Without prejudice to the generality of paragraph (1), regulations under that paragraph may—
- (a) prohibit the installation, connection or use of the fittings if they have not been approved under the regulations or if they contravene the regulations;
 - (b) require the fittings, for the purposes of provision made by virtue of sub-paragraph (a), to be of such a size, nature, strength or workmanship, to be made of such materials or in such a manner or to conform to such standards as may be prescribed by or approved under the regulations;
 - (c) impose such other requirements as may be prescribed with respect to the installation, arrangement, connection, testing, disconnection, alteration and repair of the fittings and with respect to the materials used in their manufacture, installation or use;
 - (d) make provision enabling the Department to disconnect a service pipe or otherwise cut off the supply of water to premises where the Department has reason for believing—
 - (i) that damage to persons or property is being or is likely to be caused by any damage to, or defect in, any water fittings used in connection with the supply of water to those premises which are not water fittings of the Department;
 - (ii) that water in a main or other pipe of the Department is being or is likely to be contaminated by the return of any substance from those premises to that main or pipe;
 - (iii) that water which is in any pipe connected with any main or other pipe of the Department or which has been supplied by the Department to those premises is being or is likely to be contaminated before it is used; or
 - (iv) that water which has been or is to be so supplied is being or is likely to be wasted or, having regard to the purposes for which it is supplied, misused;
 and with respect to the procedure for requiring owners or occupiers to carry out remedial work before a supply of water is restored by the Department, including provision for the Department to undertake such work and recover the costs from such owners or occupiers.
- (3) In this Article “safe” has the same meaning as in Part II of the Consumer Protection Act 1987(5).”.

Increase in penalty and recovery of expenses

- 10.**—(1) In Article 41 of the principal Order (alteration of or interference with works)—
- (a) at the beginning there shall be inserted “(1)”;

(b) after “liable” there shall be inserted “— (a)”;

(c) at the end there shall be inserted—

“; and

(b) on summary conviction, to a fine not exceeding the statutory maximum.

(2) Where a person is convicted of an offence under this Article, the Department may recover from him the expenses reasonably incurred by it in carrying out work of repair or re-instatement necessitated by his action.”.

(2) In Article 54 of the principal Order (recovery of expenses) after “owner” there shall be inserted “or occupier”.

Limitation of compensation

11. In Article 55(1)(b) of the principal Order (compensation etc. in respect of execution of works)

(a) after “damage” there shall be inserted “to the property of any person”; and

(b) at the end there shall be added—

“in relation to a matter as to which he has not himself been in default”.

Legal proceedings and international obligations

12. After Article 56 of the principal Order there shall be inserted—

“Legal proceedings

56A.—(1) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981, summary proceedings for an offence under Articles 17(6), 26A(2), 30(2), 34(3), 44(4), 46(2) and 52 or under regulations or orders made under this Order may be brought at any time within 6 months from the date on which evidence sufficient in the opinion of the Department to warrant the proceedings comes to the knowledge of the Department; but no such proceedings shall be brought by virtue of this Article more than 2 years after the commission of the offence.

(2) For the purposes of this Article a certificate signed on behalf of the Department and stating the date on which such evidence as aforesaid came to the knowledge of the Department shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed by the secretary of, or other officer authorised by, the Department shall be deemed to be so signed unless the contrary is proved.

Power to give effect to international obligations

56B.—(1) Regulations may make such modifications of the provisions of this Order and the Water Act (Northern Ireland) 1972 as are considered necessary or expedient for the purpose of enabling effect to be given—

(a) to any Community obligations; or

(b) to any international agreement to which the government of the United Kingdom is for the time being a party.

(2) In this Article “regulations”—

(a) in relation to any Community obligations, means regulations made by the Department; and

(b) in relation to any international agreement, means regulations made by the Secretary of State.

(3) Regulations under this Article made by the Secretary of State shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(4) In this Article “modifications” includes additions, alterations and omissions.”.

Transitional provision

13. The provisions of Articles 5 and 7(1) and (3) and Article 18 and the Schedule in so far as they relate to Article 4(2) of the principal Order shall not affect any appeal or application made under Articles 4(2), 17, 19(2), 22, 26, 27(4) or 31(5) of the principal Order before the coming into operation of those provisions.

Miscellaneous amendments of other statutory provisions

Water supply to new houses

14.—(1) In section 4 of the Water Supplies and Sewerage Act (Northern Ireland) 1945(6) (provision of water supply) after subsection (3) there shall be inserted—

“(4) Article 3C of the Water and Sewerage Services (Northern Ireland) Order 1973 (standards of wholesomeness of water) and any regulations made under that Article shall apply for the purposes of subsection (1) as they apply for the purposes of that Order.”.

(2) Section 5 of that Act of 1945 shall cease to have effect.

Registration in Statutory Charges Register

15. In Schedule 11 to the Land Registration Act (Northern Ireland) 1970(7) (Statutory Charges Register) the following paragraph shall be inserted after paragraph 27—

“**28.** Any of the following matters under the Water and Sewerage Services (Northern Ireland) Order 1973—

- (a) any notice served under Article 3E(1) or 13(2);
- (b) any decision notified under Article 13(3);
- (c) any agreement entered into under Article 13(4) or 17(4).”.

Quality of water

16. In Part II of the Water Act (Northern Ireland) 1972(8) at the beginning there shall be inserted—

“General provisions

Maps of fresh-water limits of waterways.

4A.—(1) The Department shall—

- (a) maintain maps showing what appear to the Department to be the fresh-water limits of every waterway; and

(6) 1945 c. 17 (N.I.)

(7) 1970 c. 18 (N.I.)

(8) 1972 c. 5 (N.I.)

- (b) make such maps available, at all reasonable times, for inspection by the public free of charge;

and in this section “fresh-water limit”, in relation to any waterway, means the place for the time being shown as the fresh-water limit of that waterway in the map maintained for that waterway under this section.

(2) The Department may by order subject to negative resolution provide that a waterway of a description specified in the order is to be treated for the purposes of this section as if it were not a waterway to which this section applies.

Classification of quality of waters.

4B.—(1) The Department may, in relation to any description of waters (being a description applying to some or all waters), by regulations made subject to negative resolution 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 section 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 substances that are to be present in or absent from the water and as to the concentrations of substances 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 section 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.

4C.—(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 section 4B, 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 section 4B; and
- (b) in relation to each specified classification, a date.

(2) The water quality objectives for any waters to which a notice under this section 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.

(3) Where the Department has established water quality objectives under this section for any waters the Department may review objectives for those waters if 5 years or more have elapsed since the publication of the last notice under subsection (1) or (6) to be published in respect of those waters and the Department shall not establish objectives for any waters by varying the existing objectives for those waters except in consequence of such a review.

(4) Where the Department proposes to establish or vary the objectives for any waters the Department shall—

- (a) give notice setting out the proposal and specifying the period (not being less than 3 months from the date of publication of the notice) within which representations or objections with respect to the proposal may be made; and
- (b) consider any representations or objections which are duly made and not withdrawn;

and, if the Department decides, after considering any such representations or objections, to establish or vary those objectives, the Department may do so either in accordance with the proposal contained in the notice or in accordance with that proposal as modified in such manner as the Department considers appropriate.

(5) A notice under subsection (4) shall be given by publishing the notice in such manner as the Department considers appropriate for bringing it to the attention of persons likely to be affected by it.

(6) If, on a review under this section or in consequence of any representations or objections made following such a review for the purposes of subsection (4), the Department decides that the water quality objectives for any waters should remain unchanged, the Department shall publish notice of that decision and serve a copy of that notice on any person who made such representations or objections.

(7) Where a person who has made representations or objections following a review for the purposes of subsection (4) is not satisfied with the decision of the Department under subsection (6), he may appeal to the Appeals Commission within 28 days from the date on which notice of the decision is served on him.

Controlling and remedying pollution”.

Penalty for water pollution

17. In the Water Act (Northern Ireland) 1972(9)—

- (a) for section 5(7) (penalty for pollution etc., of water), there shall be substituted—
 - “(7) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding £20,000 or to both.”;
- (b) in section 9(10) (penalty for discharging effluent without consent or for contravening the conditions of any consent) for the words from “and liable” onwards there shall be substituted—
 - “and liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding £20,000 or to both.”.

Miscellaneous

Repeals

18. The statutory provisions set out in the Schedule are hereby repealed to the extent specified in the third column of that Schedule.

N. H. Nicholls
Clerk of the Privy Council

Status: This is the original version (as it was originally made).

SCHEDULE

Article 18.

REPEALS

Chapter or Number	Short title	Extent of repeal
1945 c. 17 (N.I.).	The Water Supplies and Sewerage Act (Northern Ireland) 1945.	Section 5.
1966 c. 17 (N.I.).	The Fisheries Act (Northern Ireland) 1966.	In section 185B, subsection (2) and in subsection (4) the words “(2)(b) or”.
1972 c. 5 (N.I.).	The Water Act (Northern Ireland) 1972.	In section 5(5) the words from “which, for” onwards. Section 6(2).
1973 NI 2.	The Water and Sewerage Services (Northern Ireland) Order 1973.	Articles 3(2) and 4(2). In Article 47(1) the words “of the Ministry shall, when requested in writing so to do by the Ministry”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers new powers on the Department of the Environment with respect to the quality of water, introduces an offence of contaminating, wasting or misusing water, empowers that Department to make provision to regulate against such contamination, waste and misuse and to give effect to any international obligations, and makes miscellaneous amendments to the law relating to water and sewerage services.

The principal amendments are to the Water and Sewerage Services (Northern Ireland) Order 1973 and to other statutory provisions and concern—

- (a) the exclusion of a right of appeal in respect to costs or charges (Article 5);
- (b) the appointment of assessors to assist members of the Water Appeals Commission (Article 6);
- (c) a re-statement of the procedure for applications for water or sewerage services (Article 7);
- (d) an extension of the time within which summary proceedings for offences may be commenced (Article 12);
- (e) the registration of certain agreements, notices or other matters in the Statutory Charges Register (Article 15);
- (f) the prevention of pollution (Article 16);

(g) the increase in the penalty for polluting water (Article 17).