

*These notes refer to the Reservoirs Act (Northern Ireland)
2015 (c.8) which received Royal Assent on 24 July 2015*

Reservoirs Act (Northern Ireland) 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 5 – Dispute referral

Section 61 – Referral to referee: directions in safety report or inspection report

Part 5 provides for a form of arbitration between reservoir managers and construction or inspecting engineers. If a reservoir manager disagrees with a direction in a safety report or inspection report or the recommendation as to the next inspection the manager can challenge the direction or recommendation by referring it to a referee. Subsection (3) suspends any direction or recommendation which is challenged until the reference is determined by the referee or withdrawn by the reservoir manager.

Section 62 – Referral to referee: requirements in preliminary certificate or final certificate

This section enables reservoir managers to challenge certain matters in preliminary or final certificates. Subsection (2) lists the matters which may be challenged under this section. Subsection (3) suspends any matter challenged under this section until the reference is determined by the referee or withdrawn by the reservoir manager.

Section 63 – Commissioning of referee

This section requires referees to be commissioned by agreement between the reservoir manager and the relevant engineer or, where no agreement can be reached, by the Institution of Civil Engineers. Subsection (2) enables engineers to be commissioned as referees if they are appropriate panel members and are not disqualified from being commissioned under this section in relation to the reservoir concerned. Subsection (3) lists the circumstances where an engineer would be disqualified.

Section 64 – Powers of referee: referral under section 61(2)

This section enables the referee to modify the direction or recommendation subject to a referral under section 61(2). If the referee does so, subsection (3)

requires the referee also to modify the report, any safety measure certificate or interim inspection compliance certificate which contains the direction or recommendation. Subsections (4) and (5) requires the referee to give the reservoir manager and the relevant engineer a referral certificate containing his or her decision, along with any modified report or certificate within 28 days of making the decision. Subsection (5)(c) requires the referee to give a copy of the referral certificate and any modified report or certificate to the Department within 28 days of the decision. Any direction, recommendation, report or certificate has the effect as modified by the referee (subsection (6)).

Section 65 – Powers of referee: referral under section 62(1)

This section enables the referee to modify the matters subject to a referral under section 62(1) (certain matters in a preliminary or final certificate). Subsection (3) requires the referee to modify the certificate if any modifications to the matters are considered appropriate. Again the referee must give the reservoir manager and the relevant engineer a referral certificate containing his or her decision, along with any modified preliminary or final certificate within 28 days of making the decision. The referee must also give a copy of the referral certificate and any modified certificate to the Department within 28 days of the decision. A preliminary or final certificate modified by a referee has effect in its modified form.

Section 66 – Procedure etc.

Section 65 enables the Department to make provision by regulations as to the time, manner and procedure of referrals and costs of the proceedings and investigations (including the remuneration of the referee). The default position is that the costs are to be paid by the reservoir manager who makes the referral subject to the provisions of regulations under subsection (1).