
STATUTORY INSTRUMENTS

1999 No. 662

The Water (Northern Ireland) Order 1999

PART II

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

Miscellaneous

[^{F1}]^{F2}Application of this Part to the Crown

38A.—(1) Subject to the provisions of this Article, this Part binds the Crown.

(2) No contravention by the Crown of any provision made by or under this Part shall make the Crown criminally liable; but the High Court may, on the application of the Department, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding anything in paragraph (2), any provision made by or under this Part shall apply to persons in the public service of the Crown as it applies to other persons.

(4) If the Secretary of State certifies that it appears to him, as respects any Crown land and any powers of entry exercisable in relation to it specified in the certificate, that it is requisite or expedient that, in the interests of national security, the powers should not be exercisable in relation to that land, those powers shall not be exercised in relation to that land.

(5) Subject to paragraph (4), the powers conferred by Article 24 shall be exercisable in relation to Crown land only with the consent of the appropriate authority.

(6) In this Article any reference to the Crown includes a reference to the Crown in right of Her Majesty's Government in Northern Ireland.

(7) In this Article—

“the appropriate authority” in relation to any land, means—

- (a) in the case of land belonging to Her Majesty in right of the Crown and forming part of the Crown Estate, the Crown Estate Commissioners;
- (b) in the case of any other land belonging to Her Majesty in right of the Crown, the government department having the management of that land;
- (c) in the case of land belonging to a government department or held in trust for Her Majesty for the purposes of a government department, that government department;

and, if any question arises as to what authority is the appropriate authority in relation to any land, that question shall be referred to the Department of Finance and Personnel or, as the case may be, the Treasury, whose decision shall be final;

“Crown estate” means an estate—

- (a) belonging to Her Majesty in right of the Crown; or

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- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department;

“Crown land” means land in which there is a Crown estate.]]

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| <p>F1 Art. 38A inserted (1.8.2006) by Water and Sewerage Services (Miscellaneous Provisions) (Northern Ireland) Order 2006 (S.I. 2006/1946 (N.I. 15)), arts. 1(2), 5(11)</p> <p>F2 Art. 38A substituted (22.3.2007 for certain purposes, otherwise 1.4.2007) by virtue of Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 288 (with arts. 8(8), 121(3), 307); S.R. 2007/194, art. 2, Sch. 1 Pts. I, II (with art. 3, Sch. 2)</p> |
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