
STATUTORY RULES OF NORTHERN IRELAND

2006 No. 482

**Water Abstraction and Impoundment
(Licensing) Regulations (Northern Ireland) 2006**

PART 8

Appeals and transitional provisions

Appeals

29.—(1) Where an application is made to the Department under any of the following regulations namely—

- (a) regulation 8;
- (b) regulation 13(1)(b);
- (c) regulation 14(2) or
- (d) regulation 15(3),

then if the application is refused or is granted subject to conditions the applicant may appeal against the decision to the Appeals Commission within 28 days from the date on which notice of the decision is given to the applicant or, as the case may be, from the date on which the decision is deemed to have been made.

(2) Where a notice is served under any of the following regulations namely—

- (a) regulation 7;
- (b) regulation 13(4) (other than a notice relating to an application under regulation 13(1)(b));
- (c) regulation 16(2); or
- (d) regulation 20(2),

the person on whom the notice was served (“the recipient”) may appeal to the Appeals Commission within 28 days from the date on which the notice was served.

(3) On receipt of an appeal, the Appeals Commission shall give notice of the appeal to the Department.

(4) Where an appeal is pending in a case falling within paragraph (2) the notice to which the appeal relates shall, subject to paragraph (5), have no effect pending the determination or withdrawal of the appeal.

(5) Paragraph (4) shall not apply to—

- (a) a notice under regulation 13(4);
- (b) a notice under regulation 16(2); and
- (c) a notice under regulation 20(2),

that includes a statement that in the opinion of the Department the appropriate action is necessary in order to prevent serious damage to the water environment and that that paragraph should not apply.

- (6) In paragraph (5) “appropriate action” means—
- (a) in the case of a notice under regulation 13(4), the modification of the conditions of the licence to which the notice relates;
 - (b) in the case of a notice under regulation 16(2), the cessation of the controlled activity to which the notice relates; and
 - (c) in the case of a notice under regulation 20(2), the steps required to comply with the notice.

(7) Where paragraph (5) applies then if on the application of the recipient the Appeals Commission determines that the Department acted unreasonably in excluding the application of paragraph (4) then—

- (a) if the appeal is still pending at the end of the day on which the determination is made, paragraph (4) shall apply to the notice from the end of that day; and
- (b) the recipient shall be entitled to recover compensation from the Department in respect of any loss suffered by him in consequence of the exclusion of the application of that paragraph;

and any dispute as to the recipient’s entitlement to such compensation or to the amount of it shall be determined by the Lands Tribunal.

(8) Where on an appeal under this regulation, the Appeals Commission determines that the decision or, as the case may be, notice to which the appeal relates shall be altered, the Department shall give effect to the determination.

(9) Article 8(4) of the Water and Sewerage Services (NI) Order 1973(1) shall not apply to a decision by the Appeals Commission under this regulation.

Transitional provisions

- 30.** The transitional provisions contained in Schedule 4 shall have effect.