
DRAFT STATUTORY INSTRUMENTS

1998 No.

Water (Northern Ireland) Order 1998

PART II

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

Prevention of pollution of water

Prevention and making good of defaults under Article 7(1)

8.—(1) Where it appears to the Department that a contravention of Article 7(1) (whether a new contravention or a repetition or continuation of one already occurred or occurring) is likely to occur—

- (a) by reason of any use or proposed use of a waterway or of any land for the disposal of any matter;
- (b) by reason of any use or proposed use of any land for the storage of any matter; or
- (c) by reason of any use or proposed use of a vessel or vehicle from which poisonous, noxious or polluting matter may enter a waterway or water contained in any underground strata;

the Department may serve a notice on the owner of the land or the person so using or proposing so to use the waterway, land, vessel or vehicle—

- (i) prohibiting the use complained of; or
- (ii) permitting it only subject to conditions designed to remove the grounds of complaint; or
- (iii) requiring it to be stopped within such period as may be specified in the notice.

(2) A notice under paragraph (1) may include provisions requiring the removal from the waterway, land, vessel or vehicle of any matter which, before the service of the notice, has been dealt with in the way complained of by the notice.

(3) A person on whom a notice under paragraph (1) is served may, within 28 days from the date of the service of the notice, appeal to the Appeals Commission.

(4) A notice under paragraph (1)—

- (a) shall, if no appeal is brought under paragraph (3), take effect on the expiration of the period of 28 days mentioned in paragraph (3) and be final and conclusive as to any matters which could have been raised on such an appeal;
- (b) shall, if an appeal is brought under paragraph (3), take effect—
 - (i) if and so far as the notice is confirmed on appeal, from the date on which the appeal is finally determined;
 - (ii) if the appeal is withdrawn, on the date of the withdrawal of the appeal.

(5) It is an offence for any person to contravene any prohibition, condition or requirement imposed by a notice served on that person under paragraph (1) which has taken effect in accordance with paragraph (4).

(6) Where a notice served under paragraph (1) which has taken effect in accordance with paragraph (4) is not complied with, the Department may undertake the removal of any matter referred to in paragraph (2) and dispose of it in such manner as it considers appropriate.

(7) The Department shall, at the request of any person appearing to it to be interested in any land, and at his expense, furnish him or such other person as may be specified in the request with such particulars as may be so specified of any notices served under paragraph (1), being notices about any use or proposed use of that land or otherwise material to its use.

(8) Any expenses reasonably incurred by the Department in removing any matter under this Article, or in disposing of any matter so removed, shall be defrayed out of any money obtained by the Department from disposing of it and, in so far as they are not so defrayed, shall be recoverable by the Department from the person in default under the notice.

(9) A person guilty of an offence under this Article 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 the statutory maximum.