
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**

Miscellaneous

Abandoned mines

35.—(1) If, in the case of any mine, there is to be an abandonment at any time after the expiration of the initial period, it shall be the duty of the operator of the mine to give notice of the proposed abandonment to the Department at least 6 months before the abandonment takes effect.

(2) A notice under paragraph (1) shall contain such information (if any) as is prescribed for the purpose, which may include information about the operator's opinion as to any consequences of the abandonment.

(3) A person who fails to give the notice required by paragraph (1) shall be guilty of an offence and liable—

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

(4) A person shall not be guilty of an offence under paragraph (3) if—

- (a) the abandonment happens in an emergency in order to avoid danger to life or health; and
- (b) notice of the abandonment, containing such information as may be prescribed, is given as soon as reasonably practicable after the abandonment has happened.

(5) Where the operator of a mine is the official receiver acting in a compulsory capacity, he shall not be guilty of an offence under paragraph (3) by reason of any failure to give the notice required by paragraph (1) if, as soon as reasonably practicable (whether before or after the abandonment), he gives to the Department notice of the abandonment or proposed abandonment, containing such information as may be prescribed.

(6) Where a person gives notice under paragraph (1), (4)(b) or (5), he shall publish prescribed particulars of, or relating to, the notice in one or more local newspapers circulating in the locality where the mine is situated.

(7) For the purposes of this Article, "abandonment", in relation to a mine,—

- (a) subject to sub-paragraph (b), includes—
 - (i) the discontinuance of any or all of the operations for the removal of water from the mine;
 - (ii) the cessation of working of any relevant seam, vein or vein-system;
 - (iii) the cessation of use of any shaft or outlet of the mine;

- (iv) in the case of a mine in which activities other than mining activities are carried on (whether or not mining activities are also carried on in the mine), the discontinuance of some or all of those other activities in the mine and any substantial change in the operations for the removal of water from the mine; but
 - (b) does not include any disclaimer under Article 152 or 288 of the Insolvency (Northern Ireland) Order 1989 (power of liquidator, or trustee of a bankrupt's estate, to disclaim onerous property) by the official receiver acting in a compulsory capacity.
- (8) In this Article—
- “acting in a compulsory capacity”, in the case of the official receiver, means acting as—
- (a) liquidator of a company;
 - (b) receiver or manager of a bankrupt's estate, pursuant to Article 260 of the Insolvency (Northern Ireland) Order 1989;
 - (c) trustee of a bankrupt's estate;
 - (d) liquidator of an insolvent partnership;
 - (e) trustee of an insolvent partnership;
 - (f) trustee, or receiver or manager, of the insolvent estate of a deceased person;
- “the initial period” means the period of 6 months beginning with the day on which paragraph (1) comes into operation;
- “mine” has the same meaning as in the Mines Act (Northern Ireland) 1969;
- “the official receiver” has the same meaning as it has in the Insolvency (Northern Ireland) Order 1989 by virtue of Article 356 of that Order;
- “relevant seam, vein or vein-system”, in the case of any mine, means any seam, vein or vein-system for the purpose of, or in connection with, whose working any excavation constituting or comprised in the mine was made.

Power to give effect to Community and other international obligations, etc.

36.—(1) Regulations may provide that the provisions of this Part shall have effect with such modifications as may be prescribed for the purpose of enabling Her Majesty's Government in the United Kingdom—

- (a) to give effect to any Community obligation or exercise any related right; or
 - (b) to give effect to any obligation or exercise any related right under any international agreement to which the United Kingdom is for the time being a party.
- (2) In this Article—
- “regulations”—
- (a) in relation to any Community obligation, means regulations made by the Department; and
 - (b) in relation to any international agreement, means regulations made by the Secretary of State;
- “related right”, in relation to an obligation, includes any derogation or other right to make more onerous provisions available in respect of that obligation.
- (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 the like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

Prosecutions

37. No proceedings shall be instituted for an offence under this Part except by the Department or by or with the consent of the Attorney General.

Repeal, amendment and adaptation of local enactments

38.—(1) If it appears to the Department that any local or private Act passed before the making of this Order—

- (a) is inconsistent with any of the provisions of this Part or of any regulations or order made under this Part, or with anything done in the performance of any functions under this Part; or
- (b) requires to be amended or adapted, having regard to any of those provisions or to anything done in the performance of any of those functions,

it may by order made subject to affirmative resolution repeal, amend or adapt that Act to such extent, or in such manner, as it considers appropriate.

(2) In this Article “Act” includes an Act of the Parliament of the United Kingdom.