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DRAFT STATUTORY INSTRUMENTS

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**1999 No.**

**Water (Northern Ireland) Order 1999**

**PART II**

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

*Anti-pollution works*

**Anti-pollution works and operations**

**16.**—(1) Subject to paragraphs (2) and (3), where it appears to the Department that any poisonous, noxious or polluting matter is likely to enter, or to be or have been present in, any waterway or water contained in underground strata (“relevant waters”), the Department may carry out such works and operations as it considers appropriate—

- (a) in a case where the matter appears likely to enter the relevant waters, for the purpose of preventing it from doing so; and
- (b) in a case where the matter appears to be or to have been present in the relevant waters, for the purpose—
  - (i) of removing or disposing of the matter;
  - (ii) of remedying or mitigating any pollution caused by its presence in the waters;
  - (iii) of restoring the waters (including the fauna and flora in them), so far as it is reasonably practicable to do so, to the state in which they were immediately before the matter became present in the waters; or
  - (iv) of assessing the effect, or likely effect, on the waters of existing or potential levels of pollution of the waters,

and, in either case, the Department shall be entitled to carry out investigations for the purpose of establishing the source of the matter and the identity of the person who has caused or permitted, whether knowingly or otherwise, the matter to be present in relevant waters or at a place from which it was likely, in the opinion of the Department, to enter relevant waters.

(2) Without prejudice to the power of the Department to carry out investigations under paragraph (1), the power conferred by that paragraph to carry out works and operations shall only be exercisable in a case where—

- (a) the Department considers it necessary to carry out forthwith any works or operations falling within sub-paragraph (a) or
- (b) of that paragraph; or
- (b) it appears to the Department, after reasonable inquiry, that no person can be found on whom to serve a works notice under Article 17.

(3) Nothing in paragraph (1) shall entitle the Department to impede or prevent the making of any discharge in pursuance of a discharge consent.

(4) Any expenses or costs reasonably incurred by the Department in pursuance of paragraph (1) shall be defrayed out of any money obtained by the Department from disposing of any matter under paragraph (1)(b) and, in so far as they are not so defrayed, shall be recoverable by the Department from the person in default.