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*Changes to legislation: There are currently no known outstanding effects for the Environment Act 2021, Paragraph 12. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 3

#### THE OFFICE FOR ENVIRONMENTAL PROTECTION: NORTHERN IRELAND

#### PART 1

#### THE OEP'S NORTHERN IRELAND FUNCTIONS

##### *Review application*

- 12 (1) The OEP may make a review application in relation to conduct described in a decision notice given to a relevant public authority as a failure of the authority to comply with relevant environmental law, but only if—
- (a) it is satisfied, on the balance of probabilities, that the authority has failed to comply with relevant environmental law, and
  - (b) it considers that the failure is serious.
- (2) A review application is an application for judicial review in respect of conduct of a relevant public authority, and any reference in this Part of this Schedule to a review application is to an application made by virtue of sub-paragraph (1).
- (3) A review application may not be made before the earlier of—
- (a) the end of the period within which the authority must respond to the decision notice that precedes the application (see paragraph 10(3)), and
  - (b) the date on which the OEP receives the authority's response to that notice.
- (4) Subject to that, the OEP may make a review application at any time (and accordingly any time limit, that would otherwise apply to the making of a review application, does not apply).
- (5) The High Court may grant a remedy on a review application only if Condition A or Condition B is met.
- (6) Condition A is that the court is satisfied that granting the remedy would not—
- (a) be likely to cause substantial hardship to, or substantially prejudice the rights of, any person other than the authority, or
  - (b) be detrimental to good administration.
- (7) Condition B is that Condition A is not met but the court is satisfied that—
- (a) granting the remedy is necessary in order to prevent or mitigate serious damage to the natural environment or to human health, and
  - (b) there is an exceptional public interest reason to grant it.
- (8) If, on a review application, there is a finding that a relevant public authority has failed to comply with relevant environmental law, and the finding has not been overturned

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on appeal, the authority must publish a statement that sets out the steps it intends to take in light of the finding.

- (9) A statement under sub-paragraph (8) must be published before the end of the 2 month period beginning with the day the proceedings relating to the review application (including any appeal) conclude.
- (10) In this Part of this Schedule reference to an application for judicial review includes an application for the permission of the High Court to apply for judicial review.

**Commencement Information**

- I1** Sch. 3 para. 12 not in force at Royal Assent, see **s. 147(6)(7)**
- I2** Sch. 3 para. 12 in force at 28.2.2022 by **S.R. 2022/54, art. 2(1)(a)**

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