Statutory Rule 2003 No. 7

The Anti-Pollution Works Regulations (Northern Ireland) 2003

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STATUTORY RULES OF NORTHERN IRELAND

2003 No. 7

WATER AND SEWERAGE

The Anti-Pollution Works Regulations (Northern Ireland) 2003

Made	*8th January 2003*
Coming into operation	*29th January 2003*

The Department of the Environment, in exercise of the powers conferred on it by Articles 17(5)(a), 18(5) and (6) and 30(1) of the Water (Northern Ireland) Order 1999[1] and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Anti-Pollution Works Regulations (Northern Ireland) 2003 and shall come into operation on 29th January 2003.

Interpretation

2. In these Regulations, "the 1999 Order" means the Water (Northern Ireland) Order 1999.

Content of works notices

3. A works notice shall-

(a) in the case of a potential pollution incident, describe the nature of the risk to relevant waters, identifying the relevant waters which may be affected and the place from which the matter in question is likely to enter those waters;

(b) in the case of an actual pollution incident, describe the nature and extent of the pollution, identifying the relevant waters affected by it;

(c) specify the works or operations required to be carried out by the person on whom the notice is served, stating his name and address;

(d) specify the periods referred to in Article 17(3)(a) of the 1999 Order;

(e) give the Department's reasons for serving the notice on that person and for requiring those works or operations to be carried out;

(f) inform the person on whom the notice is served of his right of appeal under Article 17(7) of the 1999 Order (including the time for appealing);

(g) state that the Department is entitled (unless the notice is quashed or withdrawn) to recover from the person on whom the notice is served its costs or expenses reasonably incurred in carrying out such investigations as are mentioned in Article 16(1) and 16(2) of the 1999 Order; and

(h) set out the contents of Article 19 of the 1999 Order (consequences of not complying with a works notice).

Compensation for grant of rights under Article 18 of the 1999 Order

4. The Schedule shall have effect for prescribing-

(a) the period within which a person who grants, or joins in granting, any rights pursuant to Article 18(2) of the 1999 Order may apply for compensation for the grant of those rights;

(b) the manner in which, and the person to whom, such an application may be made; and

(c) the manner of determining the amount of such compensation and for making supplemental provision relating to such compensation.

Pollution control registers: amendment

5. - (1) The Control of Pollution (Applications and Registers) Regulations (Northern Ireland) 2001[2] shall be amended as provided by paragraphs (2) and (3).

(2) At the end of regulation 7 (pollution control registers) there shall be inserted-

" ; and

(n) works notices under Article 17 of the 1999 Order;

(o) appeals under Article 17(7) of the 1999 Order; and

(p) any conviction of any person for any offence under Article 19 of the 1999 Order, including the name of the offender, the date of conviction, the penalty imposed, the costs, if any, awarded against the offender and the name of the Court.".

(3) In regulation 8 (entry of particulars on register, removal of certain particulars and indexing of registers) after paragraph (1)(b) there shall be inserted-

" (ba) if they relate to a works notice under Article 17 of the 1999 Order, not later than 7 days after it is served;

(bb) if they relate to an appeal under Article 17(7) of the 1999 Order, not later than 14 days after those particulars become available to the Department;".

Sealed with the Official Seal of the Department of the Environment on

8th January 2003.

L.S.

Felix A. Dillon
A senior officer of the Department of the Environment

SCHEDULE

Regulation 4

COMPENSATION FOR GRANT OF RIGHTS

Interpretation

1. In this Schedule-

"the grantor" means the person who grants, or joins in granting, any right pursuant to Article 18(2) of the 1999 Order; and

"relevant interest" means an interest in land out of which a right has been granted or which is bound by a right granted.

Period for making an application

2. An application for compensation shall be made within the period beginning with the date of the grant of the rights in respect of which compensation is claimed and ending on whichever is the latest of the following dates:-

(a) 12 months after the date of the grant of those rights;

(b) where there is an appeal against the works notice which imposed requirements in relation to which those rights were granted,12 months after the date on which the appeal is determined or abandoned; or

(c) six months after the date on which the rights were first exercised.

Manner of making an application

3. - (1) An application for compensation shall be made in writing and delivered at or sent by pre-paid post to the last known address for correspondence of the person to whom the right was granted.

(2) The application shall contain-

(a) a copy of the grant of rights in respect of which the grantor is applying for compensation and of any plans attached to such grant;

(b) a description of the exact nature of any interest in land in respect of which compensation is applied for; and

(c) a statement of the amount of compensation applied for, distinguishing the amounts applied for under each of sub-paragraphs (a) to (e) of paragraph 4 and showing how the amount applied for under each sub-paragraph has been calculated.

Loss and damage for which compensation payable

4. Compensation shall be payable for loss and damage of the following descriptions-

(a) any depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the right;

(b) loss or damage, in relation to any relevant interest to which he is entitled, which-

(i) is attributable to the grant of the right or the exercise of it;

(ii) does not consist of depreciation in the value of that interest; and

(iii) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if that interest had been acquired compulsorily under the Land Acquisition and Compensation (Northern Ireland) Order 1973[3], in pursuance of a notice to treat served on the date on which the grant of the right was made;

(c) damage to, or injurious affection of, any interest in land to which the grantor is entitled which is not a relevant interest and which results from the grant of the right or from the exercise of it;

(d) any loss or damage sustained by the grantor, other than in relation to any interest in land to which he is entitled, which is attributable to the grant of the right or the exercise of it; and

(e) the amount of any valuation and legal expenses reasonably incurred by the grantor in granting the right and in the preparation of the application for and the negotiation of the amount of compensation.

Basis on which compensation assessed

5. - (1) The rules set out in Article 6 of the Land Compensation (Northern Ireland) Order 1982[4] (rules for assessing compensation) shall, so far as applicable and subject to any necessary modifications, have effect for the purpose of assessing any compensation under paragraph 4, as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(2) Where the relevant interest in respect of which any compensation is to be assessed is subject to a mortgage-

(a) the compensation shall be assessed as if the interest were not subject to the mortgage;

(b) no compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and

(c) any compensation which is payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall, in either case, be applied by him as if it were proceeds of sale.

Determination of disputes

6. - (1) Any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

(2) In relation to the determination of any such question of compensation the provisions of Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982 (procedure on references to the Lands Tribunal and costs) shall apply as if-

(a) the reference in Article 4 of the Land Compensation (Northern Ireland) Order 1982 to Article 3 of that Order were a reference to sub-paragraph (1);

(b) and references in Article 5 of the Land Compensation (Northern Ireland) Order 1982 to the acquiring authority were references to the person to whom the rights were granted.

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations prescribe the contents of anti-pollution works notices served under

Article 17 of the Water (Northern Ireland) Order 1999, the procedure to be followed in relation to appeals against such notices and the compensation for rights of entry in connection with anti-pollution works paid under Article 18 of the Water (Northern Ireland) Order 1999 (regulations 3 and 4 and the Schedule).

These Regulations also make consequential amendments to the Control of Pollution (Application and Registers) Regulations (Northern Ireland) 2001 (regulation 5).

Notes:

[1] S.I. 1999/662 (N.I. 6); *see* Article 2(2) for definition of "prescribed" and Article 3(1) for definition of "the Department"back

[2] S.R. 2001 No. 284back

[3] S.I. 1973/1896 (N.I. 21)back

[4] S.I. 1982/712 (N.I. 9)back

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