

Water, Sustainable Drainage and Flood Management Bill

[AS INTRODUCED]

LEGISLATIVE COMPETENCE

At Introduction the Minister for Infrastructure had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Water, Sustainable Drainage and Flood Management Bill would be within the legislative competence of the Northern Ireland Assembly.”

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SCHEDULE:

Schedule — Minor And Consequential Amendments

A

BILL

TO

Make provision for the regulation of water use; to provide for the regulation of sustainable drainage systems; to make provision in relation to flood prevention and remediation; to make provision in relation to communication with sewers; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by His Majesty as follows:

Water use bans

Water use: temporary bans

1.—(1) The Water and Sewerage Services Order is amended as follows.

(2) For Article 116 (temporary hosepipe bans), substitute—

5 **“Temporary bans on use**

116.—(1) A water undertaker may prohibit one or more specified uses of water supplied by it if it thinks that it is experiencing, or may experience, a serious shortage of water for distribution.

(2) Only the following uses of water may be prohibited—

- 10 (a) watering a garden on domestic premises using a hosepipe,
 (b) cleaning a private motor vehicle using a hosepipe,
 (c) watering plants on domestic or other non-commercial premises using a hosepipe,
 (d) cleaning a private leisure boat using a hosepipe,
15 (e) filling or maintaining a pool on domestic premises designed or adapted to be used for a recreational purpose,
 (f) drawing water, using a hosepipe, for domestic recreational use,
 (g) filling or maintaining an ornamental fountain on domestic premises,

- (h) cleaning walls, or windows, of domestic premises using a hosepipe,
- (i) cleaning paths or patios on domestic premises using a hosepipe,
- (j) cleaning other artificial surfaces of domestic premises using a hosepipe.

5 (3) The Department may by regulations remove a purpose from the list in paragraph (2).

(4) No regulations may be made under paragraph (3) unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

10 (5) A prohibition must specify—

- (a) the date from which it applies, and
- (b) the area to which it applies (which may be all or part of the undertaker's area).

(6) A person who contravenes a prohibition—

- 15 (a) is guilty of an offence, and
- (b) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

20 (7) A water undertaker which issues a prohibition must make arrangements for a reasonable reduction of charges which are made in respect of prohibited uses (including arrangements for repayment or credit where charges are paid in advance).

(8) A water undertaker may vary or revoke a prohibition.

(9) In this Article, "specified" means specified in the prohibition.

Temporary bans: supplemental

25 **116A.**—(1) A prohibition under Article 116 may—

- (a) apply to one or more specified uses of water generally or only in specified cases or circumstances (which may be specified by reference to classes of user, timing or in any other way),
 - (b) be subject to exceptions (which may be absolute or conditional, and may be specified by reference to classes of user, timing or in any other way).
- 30

In this paragraph, "specified" means specified in the prohibition.

(2) The Department may by regulations—

- (a) provide for exceptions to a category of use in Article 116(2),
 - (b) provide that a specified activity, or an activity undertaken in specified circumstances, is to be or not to be treated as falling within a category of use in Article 116(2),
 - (c) define a word or phrase used in Article 116(2).
- 35

40 In this paragraph and paragraph (3), "specified" means specified in the regulations.

(3) In particular, regulations may—

- (a) restrict a category of use by reference to how water is drawn,

- (b) frame an exception by reference to ownership of land by a specified person or class of person,
- (c) provide for a process that involves the use of a hosepipe at any point to be included in the meaning of “using a hosepipe”,
- 5 (d) provide for a reference to a thing to include a reference to something that is or may be used in connection with it (such as, for example, for a reference to a vehicle to include a reference to a trailer).
- (4) Subject to provision under paragraph (2)—
 - 10 (a) a reference to a hosepipe in Article 116 includes a reference to anything designed, adapted or used to serve the same purpose as a hosepipe,
 - (b) a reference to using a hosepipe, in relation to a purpose in Article 116(2), includes—
 - 15 (i) drawing relevant water through a hosepipe from a container and applying it for the purpose,
 - (ii) filling or partly filling a container with relevant water by means of a hosepipe and applying it for the purpose,
 - (c) the reference in Article 116(2)(e) to a pool designed or adapted for recreational purposes includes a swimming pool, a paddling pool
 - 20 and a hot tub.
- (5) In paragraph (4)(b), “relevant water” does not include water supplied by a water undertaker before the use of water to which the purpose relates was prohibited under Article 116(1).

Temporary bans: procedure

- 25 **116B.**—(1) A prohibition under Article 116 takes effect only if this Article is complied with.
- (2) Before the period for which a prohibition is to apply the water undertaker must give notice of the prohibition and its terms—
 - 30 (a) in at least two newspapers circulating in the area to which it is to apply, and
 - (b) on the undertaker’s website.
- (3) The notice must give details of how to make representations about the proposed prohibition.
- 35 (4) The variation of a prohibition is to be treated as a prohibition for the purposes of this Article.
- (5) Before revoking a prohibition, a water undertaker must give notice of the revocation—
 - (a) in at least two newspapers circulating in the area to which it is to apply, and
 - 40 (b) on the undertaker’s website.”.
- (3) In Article 231(4) (entry etc. for other purposes), omit the words “or restriction” in each place where they occur.

(4) In Article 300(1)(b) (regulations), after “Article 15(1) or (2)” insert “, 116(3)”.

Sustainable drainage systems

Sustainable drainage systems: regulations

- 5 **2.**—(1) The Department may make regulations about sustainable drainage systems, including in particular the kinds of provision mentioned in subsections (2) to (7).
- (2) Regulations may make provision requiring in any specified circumstances the construction or the use of—
- 10 (a) a sustainable drainage system, or
- (b) any specified category of sustainable drainage system.
- (3) Regulations may make provision about—
- (a) the design, construction, modification or removal of sustainable drainage systems, or
- 15 (b) the operation of sustainable drainage systems.
- (4) Regulations may make provision about approval of sustainable drainage systems by a specified person; and may in particular—
- (a) provide that work to construct, modify or remove a sustainable drainage system may be commenced only if the person has approved the system or work,
- 20 (b) provide as to circumstances in which approval may or must be given (and such circumstances may in particular include that the approving person is satisfied that the system or work complies with anything required by provision of a kind mentioned in subsection (3)),
- 25 (c) provide about the procedure for giving approval (including the making of applications and the payment of fees for such applications),
- (d) provide that approval may be subject to such obligations or other conditions as the approving person thinks appropriate (and such conditions may in particular include the giving of such security as may reasonably be required
- 30 for the discharge of any such obligations),
- (e) provide about cases where—
- (i) work is commenced without approval,
- (ii) conditions of approval are breached, or
- (iii) work does not conform to approved proposals.
- 35 (5) Regulations may make provision for the establishment or appointment of a person—
- (a) to act as approver in relation to provision of a kind mentioned in subsection (4), or
- 40 (b) to provide advice or guidance to the Department or any other public authority on any matter relating to sustainable drainage systems or their regulation.
- (6) Regulations may make provision about—

- (a) the adoption by public authorities of sustainable drainage systems,
 - (b) the persons responsible for maintaining sustainable drainage systems, and
 - (c) the duties of a person mentioned in paragraph (b) in relation to the maintenance of a sustainable drainage system.
- 5 (7) Where a sustainable drainage system forms part of a drainage system, regulations may make provision about—
- (a) the entitlement of a person to have a drain or sewer comprised within that drainage system communicate with another sustainable drainage system, a public sewer or a watercourse,
 - 10 (b) the circumstances in which a specified person may—
 - (i) refuse to permit such communication, or
 - (ii) itself initiate the making of such communication,
- and, in particular, regulations may provide for Articles 163 to 166 of the Water and Sewerage Services Order to apply with such modifications as may be specified.
- 15 (8) In this section, “specified” means specified in the regulations.

Section 2: supplementary

- 3.—(1) Provision mentioned in section 2(3) may be framed to any extent by reference to—
- (a) a document published by or on behalf of the Department or another person,
 - 20 (b) the approval or satisfaction of a person specified in the regulations.
- (2) Regulations under section 2 may make provision for appeals against any decision provided for in the regulations, including in particular provision for applications to any court or tribunal.
- (3) Regulations under section 2 may make provision for the enforcement of any requirement in or under the regulations; and in particular may provide for—
- 25 (a) ancillary powers (such as powers of entry or inspection, or powers to undertake and charge for remedial work),
- (b) offences of failure to comply with the regulations or notices under them, or
- 30 (c) financial penalties or compensation.
- (4) Regulations under section 2—
- (a) may amend, repeal, revoke or otherwise modify any statutory provision,
 - (b) may not be made unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.
- 35 (5) The Department may issue guidance (to any person) about matters provided for in or by regulations under section 2; and public authorities and any approver established or appointed under the regulations must have regard to the guidance.

Meaning of “sustainable drainage system”

- 4.—(1) For the purposes of section 2, a sustainable drainage system means a drainage system that functions with an aim of—
- 40 (a) reducing the volume of water entering public sewers or watercourses, or

(b) slowing the rate of water entering public sewers or watercourses.

(2) For the purposes of this section and section 2—

(a) “drainage system” means—

(i) a thing (or a series of things functioning together) which has been specifically designed,

(ii) a natural feature (or a series of natural features) which has been artificially re-purposed, or

(iii) any combination of such things or features,

employed with the object of receiving and managing surface water,

(b) “public sewer”, “surface water” and “watercourse” have the same meanings as in the Water and Sewerage Services Order.

(3) The references in subsection (2) to a thing are to a physical item of any kind which has been manufactured or brought into being by human agency.

Structural sustainable drainage systems (consequential amendment)

5.—(1) The Water and Sewerage Services Order is amended as follows.

(2) In Article 2(3A) for the words ““sustainable drainage system”” substitute ““structural sustainable drainage system””.

(3) The statutory provisions mentioned in the Schedule have effect subject to the minor and consequential amendments specified there.

Flood prevention and remediation

Flood protection grants: domestic buildings

6.—(1) The Department may make grants by way of contribution to the costs of measures to protect domestic buildings against flooding.

(2) For the purposes of this section “domestic building” means—

(a) a building or part of a building used wholly or mainly as a private dwelling, or

(b) an outbuilding of such a building.

(3) A grant may be made under subsection (1) only in accordance with regulations made by the Department.

(4) Regulations may in particular include provision—

(a) to the effect that a building or a measure qualifies for a grant only if it meets specified conditions,

(b) about who is eligible to receive a grant in relation to a building,

(c) about applying for a grant,

(d) about calculating a grant,

(e) making the giving of a grant subject to specified conditions (including conditions as to repayment),

(f) conferring functions (including functions involving the exercise of a discretion) on a person (and if it does, may require the person to keep, and make available for inspection, accounts and other records).

- (5) In this section, “specified” means specified in the regulations.
- (6) Regulations under this section are subject to negative resolution.

Flood risk: assessment and management

- 5 7.—(1) The Department may make regulations about the assessment and management by the Department of flood risk.
- (2) For the purposes of this section “flood risk” means the combination of—
- (a) the probability of a flood, and
 - (b) the potential adverse consequences associated with a flood for human health, the environment, cultural heritage and economic activity.
- 10 (3) For this purpose a flood means any temporary covering by water (from any source) of land not normally covered by water, but does not include a temporary covering of land by water solely from a sewerage system which is—
- (a) caused by a failure or blockage of that sewerage system, or
 - (b) not connected with any loading on that system by abnormal hydraulic factors (for example by heavier than usual rainfall or higher than usual river levels).
- 15 (4) Regulations under this section may not be made unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

Drainage works: environmental impact assessment

- 20 8.—(1) The Department may make regulations about the assessment by the Department of the likely effects on the environment of proposed drainage works.
- (2) For the purposes of this section “drainage works” means—
- (a) any works carried out under the Drainage (Northern Ireland) Order 1973 for the purpose of draining land or for preventing or mitigating flooding or erosion to which land is subject, including in particular—
- 25 (i) construction, cleansing, scouring, deepening, widening, straightening or diverting of any watercourse or outfall for water,
- (ii) canalisation,
 - (iii) construction, installation or alteration of any pump, pump machinery or pump-house,
- 30 (iv) removal of any obstruction (natural or artificial) in any watercourse,
- (v) construction, repair, raising, lowering, widening, straightening, altering or removing any embankment, dam, barrier, sluice, weir, wall, culvert or groyne or of any structure or erection for the purpose of defence against, or relief from, water, or
- 35 (b) any changes made to or extension of such works.
- (3) In subsection (2)(a), “watercourse” has the meaning given to it by Article 2(2) of the Drainage (Northern Ireland) Order 1973.
- (4) The reference in subsection (1) to effects on the environment includes a reference to such effects on the environment in an EEA State.
- 40 (5) Regulations under this section may not be made unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

Scope of regulations under sections 7 and 8

9.—(1) Regulations under section 7 or 8 may not—

- (a) impose or increase taxation,
- (b) make retrospective provision, or
- (c) create a relevant criminal offence,

but may otherwise make any provision that could be made by an Act of the Assembly.

(2) In this section—

“relevant criminal offence” means an offence for which an individual who has reached the age of 21 years and has no previous convictions is capable of being sentenced to imprisonment for a term of more than 2 years,

“retrospective provision”, in relation to a provision made by regulations, means provision taking effect from a date earlier than the date on which the regulations are made.

Miscellaneous

Registration of Article 161 agreements

10.—(1) In paragraph 28 of Schedule 11 to the Land Registration Act (Northern Ireland) 1970, after sub-paragraph (a) insert—

“(aa) an agreement under Article 161;”.

(2) The amendment made by subsection (1) does not require the registration of an agreement under Article 161 of the Water and Sewerage Services Order where that agreement has ceased to have effect before the date on which this section comes into operation.

(3) For the purposes of subsection (2) an agreement has ceased to have effect where a declaration mentioned in Article 161(1) of the Water and Sewerage Services Order has been made in respect of the work to which the agreement relates.

Unlawful sewer communication: remedies

11.—(1) The Water and Sewerage Services Order is amended as follows.

(2) In Article 166 (unlawful communications), for paragraph (2) substitute—

“(2) Whether proceedings have or have not been taken by a sewerage undertaker in respect of an offence under this Article, such an undertaker may—

- (a) take action as described in paragraph (3), and
- (b) recover summarily as a civil debt any expenses reasonably incurred in taking that action from the relevant person.

(3) The undertaker may—

- (a) close any communication made in contravention of any of the provisions of Article 163 or 165, and

(b) if the communication is a miscommunication, make the correct communication instead.

(4) The relevant person is—

(a) if the communication is a miscommunication, the owner or occupier of the drain or sewer concerned,

(b) in any other case, the offender.

(5) A miscommunication is where—

(a) separate public sewers are provided for foul water or surface water, and

(b) the communication allows the discharge, directly or indirectly, of—

(i) foul water into a sewer provided for surface water, or

(ii) surface water into a sewer provided for foul water.”.

Adoption by sewerage undertaker: removal of restrictions

12. Article 159(7) of the Water and Sewerage Services Order is repealed.

Final provisions

Supplementary, incidental, consequential, transitional provision etc.

13.—(1) The Department may by order make—

(a) such supplementary, incidental, or consequential provision, or

(b) such transitory, transitional or saving provision,

as it considers appropriate for the general purposes, or any particular purpose, of this Act or in consequence of, or for giving full effect to any provision made by this Act.

(2) An order under subsection (1) may amend, repeal, revoke or otherwise modify any statutory provision (including this Act).

(3) The power to make an order under subsection (1) includes power to repeal or revoke a statutory provision which is spent.

(4) Nothing in this Act affects the generality of the power conferred by this section.

(5) No order shall be made under subsection (1) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

Interpretation

14. In this Act—

“the Department” means the Department for Infrastructure,

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954,

“the Water and Sewerage Services Order” means the Water and Sewerage Services (Northern Ireland) Order 2006.

Commencement

15.—(1) This section and sections 13, 14 and 16 come into operation on the day after Royal Assent.

5 (2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

 (3) An order under subsection (2) may make any transitory or transitional provision, or savings, that the Department considers necessary or expedient.

Short title

10 **16.** This Act may be cited as the Water, Sustainable Drainage and Flood Management Act (Northern Ireland) 2025.

SCHEDULE

Section 5.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Water and Sewerage Services Order

- 5 1. The Water and Sewerage Services Order is amended as follows.
2. In the following provisions for the words “sustainable drainage system”
substitute “structural sustainable drainage system”—
- (a) Article 2(3C) (in both places where they occur),
- (b) Article 159(1)(ba) and (2),
- 10 (c) Article 160(1)(ba), (3) (in both places where they occur) and (4)(a),
- (d) Article 161(1) (in both places where they occur), (6)(c), (7)(a) and in the
heading,
- (e) Article 162(1) and (3),
- (f) Article 163(5A), (6) and (10) (in both places where they occur),
- 15 (g) Article 163A(3)(c), (4)(c) and (7) (in both places where they occur),
- (h) Article 168(1),
- (i) Article 169(1)(a), (7) and in the heading,
- (j) Article 171(1)(a) and in the heading,
- (k) Article 174(2) and (4),
- 20 (l) Article 236(6A) and (9),
- (m) Article 241(1)(b) and (2)(b), and
- (n) Article 247(1).
3. In the following provisions for the words “sustainable drainage systems”
substitute “structural sustainable drainage systems”—
- 25 (a) the heading to Article 159,
- (b) the italic cross-heading immediately preceding Article 159, and
- (c) Article 161(6)(c).

Water, Sustainable Drainage and Flood Management Bill

[AS INTRODUCED]

A Bill to make provision for the regulation of water use; to provide for the regulation of sustainable drainage systems; to make provision in relation to flood prevention and remediation; to make provision in relation to communication with sewers; and for connected purposes.

Introduced by: Dr Caoimhe Archibald, Minister for the Economy, on behalf of Ms Liz Kimmins, Minister for Infrastructure

On: 23 June 2025

Bill Type: Executive Bill

ACCOMPANYING DOCUMENTS

An Explanatory and Financial Memorandum is printed separately as NIA Bill 17/22-27 EFM.



**Northern Ireland
Assembly**

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ISBN: 978-1-78619-752-8