Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2005 No. (N.I.)

NORTHERN IRELAND

The Drainage (Amendment) (Northern Ireland) Order 2005

Made - - - - 2005

Coming into operation

At the Court at Buckingham Palace, the ** day of ** 2005

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Drainage (Amendment) (Northern Ireland) Order 2005.

(2) This Order comes into operation on the expiration of two months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order "the 1973 Order" means the Drainage (Northern Ireland) Order 1973 (NI 1).

Dissolution of drainage trusts

3. After Article 29 of the 1973 Order there shall be inserted—

"**Dissolution of drainage trusts**

29A.—(1) The Department may by order dissolve a trust to which this Article applies.

(2) This Article applies to—

(a) any trust constituted by a scheme under section 27(2) of the Northern Ireland Land Act 1925 (c. 34) (trusts for the maintenance of watercourses or other works);

(b) any trust in relation to which there has been a transfer under Article 29;

(c) any other trust constituted—

(i) for the purpose of draining any land; or

(ii) for the purpose of maintaining or improving the drainage of any land,

of which the Department is a trustee.

(3) Before making an order under paragraph (1), the Department shall publish—

(a) in the Belfast Gazette; and

(b) in at least two newspapers circulating in the area to which the trust relates,

a notice of intention to dissolve the trust.

(4) The notice of intention to dissolve the trust shall—

(a) identify the trust;

(b) give details of any provision proposed to be included by virtue of paragraph (6)(a) in the order dissolving the trust;

(c) give notice that any person, who considers that the proposed dissolution of the trust would subject him to a significant detriment, may object to the Department in writing in relation to that dissolution, at the address specified in the notice, within 28 days of the publication of the notice in the Gazette.

(5) After considering any objections received in accordance with paragraph(4)(c), the Department may make an order under paragraph (1) unless it is satisfied that the dissolution of the trust in accordance with the order would subject any person to a significant detriment.

(6) An order under paragraph (1)—

(a) shall provide for the application of any property forming part of the trust;

(b) shall provide for all rights, duties, obligations and liabilities arising under the trust to be extinguished; and

(c) may contain such other incidental or supplementary provisions as the Department thinks necessary or expedient in connection with the dissolution of the trust.

(7) An order under paragraph (1) has effect in relation to a trust notwithstanding anything in any statutory provision or in any scheme, court order, deed or other instrument constituting the trust.

(8) An order made under paragraph (1) shall be subject to negative resolution.".

Power of Department to charge for exercise of functions

4.—(1) After Article 34 of the 1973 Order there shall be inserted—

"**Power of Department to charge for exercise of functions**

34A.—(1) The Department may by regulations make provision for the payment of charges to the Department in respect of the exercise of its functions under this Order.

(2) Regulations made under paragraph (1) may—