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## STATUTORY INSTRUMENTS

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# 2006 No. 3336

## The Water and Sewerage Services (Northern Ireland) Order 2006

### PART IX

#### INFORMATION

*Registers, maps etc*

#### **The Authority's register**

**253.**—(1) The Authority shall, at such premises and in such form as it may determine, maintain a register for the purposes of Part III and of Article 201.

(2) Subject to any direction given under paragraph (3), the Authority shall cause to be entered in the register the provisions of—

- (a) every appointment under Chapter I of Part III, every termination or transfer of any such appointment, every variation of the area for which any company holds any such appointment and every modification of the conditions of any such appointment;
- (b) every direction, consent or determination given or made under any such appointment by the Department, the <sup>[F1</sup>CMA] or the Authority;
- (c) every final enforcement order made under Article 30, every provisional enforcement order made or confirmed under that Article and every revocation of such a final or provisional enforcement order;
- (d) every undertaking given to and accepted by the Department or the Authority for the purposes of paragraph (1)(b) of Article 31 and every notice under paragraph (3) of that Article;
- (e) every penalty imposed under Article 35(1) or (2) and every notice under Article 35(5); and
- (f) every special administration order and every discharge of such an order.

(3) If it appears to the Department that the entry of any provision in the register would be against the public interest, it may direct the Authority not to enter that provision in the register; and the Authority shall comply with any such direction.

(4) The Authority shall also cause to be entered on the register the provisions of any guidance given to it by the Department under Article 201(8).

(5) It shall be the duty of the Authority to secure that the contents of the register are available, at all reasonable times, for inspection by the public free of charge.

(6) It shall be the duty of the Authority, on the payment of such sum as may be reasonable, to provide a person who requests it with a copy of, or of an extract from, the contents of any part of the register.

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006, PART IX is up to date with all changes known to be in force on or before 19 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) Any sums received by the Authority under this Article shall be paid into the Consolidated Fund.

#### Textual Amendments

- F1** Word in [art. 253\(2\)\(b\)](#) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), [art. 1\(1\)](#), [Sch. 1 para. 255](#) (with [art. 3](#))

#### Commencement Information

- II** [Art. 253](#) wholly in operation at 1.4.2007, see [art. 1\(2\)](#) and [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

#### Reasons for decisions

- 254.**—(1) This Article applies to the following decisions of the Authority or the Department—
- (a) the modification of the conditions of an appointment under Chapter I of Part III or the variation of the area to which an appointment relates;
  - (b) the termination of such an appointment;
  - (c) the giving of any directions or consent in pursuance of a condition included in such an appointment by virtue of [Article 19\(1\)](#);
  - (d) the determination of a question referred in pursuance of a condition included in such an appointment by virtue of [Article 19\(2\)](#); and
  - (e) the making of a final enforcement order, the making or confirmation of a provisional enforcement order or the revocation of a final order or of a provisional order which has been confirmed.

(2) As soon as reasonably practicable after making such a decision the Authority or the Department shall publish a notice stating the reasons for the decision in such manner as it considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be interested.

(3) A body publishing a notice under paragraph (2) shall serve a copy on the company holding the appointment to which the decision relates.

(4) A body preparing a notice under paragraph (2) shall have regard to the need for excluding, so far as that is practicable, any matter which relates to the affairs of a particular individual or body of persons (corporate or unincorporate), where it considers that publication of that matter would or might seriously and prejudicially affect the interests of that individual or body.

(5) This Article does not apply in relation to a decision of the Authority resulting in any provision which the Authority was directed under [Article 253\(3\)](#) not to enter in the register required to be kept under that Article.

#### Commencement Information

- I2** [Art. 254](#) wholly in operation at 1.4.2007, see [art. 1\(2\)](#) and [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

#### Trade effluent registers

- 255.**—(1) It shall be the duty of every sewerage undertaker to secure that copies of—

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006, PART IX is up to date with all changes known to be in force on or before 19 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) every consent given by the undertaker under Chapter III of Part VI;
- (b) every direction given or having effect as if given by the undertaker under that Chapter;
- (c) every joint notice given to the undertaker under Article 177(5)(a);
- (d) every agreement entered into or having effect as if entered into by the undertaker under Article 187; and
- (e) every notice served on the undertaker under Article 190,

are kept available, at all reasonable times, for inspection by the public free of charge at the offices of the undertaker.

(2) It shall be the duty of every sewerage undertaker, on the payment of such sum as may be reasonable, to provide a person who requests it with a copy of, or of an extract from, anything kept available for inspection under this Article.

(3) The duties of a sewerage undertaker under this Article shall be enforceable under Article 30 by the Authority.

#### Commencement Information

**I3** [Art. 255](#) partly in operation; [art. 255](#) not in operation at date of making see [art. 1\(2\)](#); [art. 255](#) in operation for certain purposes at 1.4.2007 by [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

### Register for the purposes of works discharges

**256.**—(1) Every water undertaker shall keep a register of persons and premises for the purposes of Article 227.

(2) A water undertaker shall enter the name and address of a person in that register in respect of any premises which abut on any watercourse if that person has requested to be so registered and is either—

- (a) the owner or occupier of those premises; or
- (b) an officer of an association of owners or occupiers of premises which abut on that watercourse and include those premises.

(3) If any water undertaker contravenes, without reasonable excuse, any of the requirements of this Article, it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### Commencement Information

**I4** [Art. 256](#) wholly in operation at 1.4.2007, see [art. 1\(2\)](#) and [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

### Maps of waterworks

**257.**—(1) Subject to paragraphs (6) and (7), it shall be the duty of every water undertaker to keep records of the location of—

- (a) every resource main, water main or discharge pipe which is for the time being vested in that undertaker; and
- (b) any other underground works, other than a service pipe, which are for the time being vested in that undertaker.

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006, PART IX is up to date with all changes known to be in force on or before 19 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) Subject to paragraph (6), it shall also be the duty of every water undertaker to keep records of the location and other relevant particulars of—

- (a) every water main in relation to which a declaration of vesting has been made by the undertaker under Chapter II of Part IV but has not taken effect; and
- (b) every water main which is the subject of any agreement to make such a declaration which has been entered into by (or on behalf of) the undertaker.

(3) For the purposes of this Article the other relevant particulars of a water main are (in addition to its location) particulars of whether it is a water main in relation to which a declaration has been made under Chapter II of Part IV or a water main which is the subject of an agreement to make such a declaration.

(4) It shall be the duty of every water undertaker to secure that the contents of any records for the time being kept by it under this Article are available, at all reasonable times, for inspection by the public free of charge at an office of the undertaker.

(5) Any information which is required under this Article to be made available by a water undertaker for inspection by the public shall be so made available in the form of a map.

(6) For the purpose of determining whether any failure to make a modification of any records kept under this Article constitutes a breach of the duty imposed by paragraph (1) or (2), that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this Article are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.

(7) Nothing in this Article shall require a water undertaker, at any time before the tenth anniversary of the transfer date, to keep records of—

- (a) any pipe which was laid before the transfer date; or
- (b) any underground works which were completed before the transfer date,

unless those particulars were shown on the day before the transfer date on a map kept by the Department under Article 48 of the Water and Sewerage Services (Northern Ireland) Order 1973 (NI 2) (maps of underground works).

(8) The duties of a water undertaker under this Article shall be enforceable under Article 30 by the Department.

(9) In this Article “discharge pipe” has the same meaning as in Part VIII.

#### **Commencement Information**

**I5** [Art. 257](#) wholly in operation at 1.4.2007, see [art. 1\(2\)](#) and [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

#### **Sewer maps**

**258.**—(1) Subject to paragraphs (5) to (7), it shall be the duty of every sewerage undertaker to keep records of the location and other relevant particulars—

- (a) of every public sewer, lateral drain or disposal main which is vested in the undertaker;
- (b) of every sewer or lateral drain in relation to which a declaration of vesting has been made by the undertaker under Chapter II of Part VI but has not taken effect; and
- (c) of every drain or sewer which is the subject of any agreement to make such a declaration which has been entered into by the undertaker under Article 161 .

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006, PART IX is up to date with all changes known to be in force on or before 19 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) For the purposes of this Article the relevant particulars of a drain, sewer or disposal main are (in addition to its location) particulars—

- (a) of whether it is a drain, sewer or disposal main and of the descriptions of effluent for the conveyance of which it is or is to be used; and
- (b) of whether it is vested in the undertaker or, if it is not, of whether it is a sewer in relation to which a declaration has been made under Chapter II of Part VI or a drain or sewer which is the subject of an agreement under Article 161.

(3) It shall be the duty of every sewerage undertaker to secure that the contents of all the records for the time being kept by it under this Article are available, at all reasonable times, for inspection by the public free of charge at an office of the undertaker.

(4) Any information which is required under this Article to be made available by a sewerage undertaker for inspection by the public shall be so made available in the form of a map.

(5) For the purpose of determining whether any failure to make a modification of any records kept under this Article constitutes a breach of the duty imposed by paragraph (1), that duty shall be taken to require any modification of the records to be made as soon as reasonably practicable after the completion of the works which make the modification necessary; and, where records kept under this Article are modified, the date of the modification and of the completion of the works making the modification necessary shall be incorporated in the records.

(6) Nothing in this Article shall require a sewerage undertaker to keep records of any particulars of—

- (a) a lateral drain laid before the transfer date; or
- (b) any other drain, or any sewer or disposal main laid before the transfer date if—
  - (i) the undertaker does not know of, or have reasonable grounds for suspecting, the existence of the drain, sewer or disposal main; or
  - (ii) it is not reasonably practicable for the undertaker to discover the course of the drain, sewer or disposal main and it has not done so.

(7) Nothing in this Article shall require a sewerage undertaker, at any time before the tenth anniversary of the transfer date, to keep records of any particulars of any such drain, sewer or disposal main laid before the transfer date as would not be excluded from its records by virtue of paragraph (6) (b) unless—

- (a) those particulars were shown on the day before the transfer date on a map kept by the Department under Article 48 of the Water and Sewerage Services (Northern Ireland) Order 1973 (NI 2) (sewer maps); or
- (b) it is a drain or sewer in relation to which a declaration of vesting, or an agreement to make such a declaration, has been made since the transfer date.

(8) The duties of a sewerage undertaker under this Article shall be enforceable under Article 30 by the Department.

#### **Commencement Information**

**I6** Art. 258 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006, PART IX is up to date with all changes known to be in force on or before 19 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

### *Publication of certain information and advice*

#### **Publication of certain information and advice**

**259.**—(1) The Department may arrange for the publication, in such form and in such manner as it considers appropriate, of such information relating to any matter which is connected with the carrying out by a company holding an appointment under Chapter I of Part III of the functions of a relevant undertaker as it may appear to the Department to be in the public interest to publish.

(2) DOE may arrange for the publication, in such form and in such manner as it considers appropriate, of such information relating to any matter which is connected with [<sup>F2</sup>its functions relating to the supply of water for domestic or food production purposes] as it may appear to DOE to be in the public interest to publish.

(3) The Authority may arrange for the publication, in such form and in such manner as it considers appropriate, of such information and advice as it may appear to the Authority to be expedient to give to any customer or potential customer of a company holding an appointment under Chapter I of Part III.

(4) In arranging for the publication of any such information or advice the Department, DOE or the Authority shall have regard to the need for excluding, so far as that is practicable—

- (a) any matter which relates to the affairs of an individual, where the publication of that matter would or might, in the opinion of the Department, DOE or (as the case may be) the Authority, seriously and prejudicially affect the interests of that individual; and
- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or unincorporate, where publication of that matter would or might, in the opinion of the Department, DOE or (as the case may be) the Authority, seriously and prejudicially affect the interests of that body.

(5) The [<sup>F3</sup>CMA] shall consult the Authority before publishing under section 6 of the Enterprise Act any information or advice which may be published by the Authority under paragraph (3).

(6) The Department may—

- (a) undertake, or contribute towards the cost of, investigations and research relevant to water supplies, sewerage and sewerage treatment; and
- (b) arrange for the publication of information on those matters.

(7) DOE may undertake, or contribute towards the cost of, investigations and research relevant to [<sup>F4</sup>its functions relating to the supply of water for domestic or food production purposes]

[<sup>F5</sup>(8) References in this Article to the functions of DOE relating to the supply of water for domestic or food production purposes are to its functions under Articles 107 to 112 and 118 to 125.]

#### **Textual Amendments**

- F2** Words in art. 259(2) substituted (12.4.2016) by [Environmental Better Regulation Act \(NorthernIreland\) 2016 \(c. 13\), ss. 22\(2\), 27\(1\)](#)
- F3** Word in art. 259(5) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\), art. 1\(1\), Sch. 1 para. 256 \(with art. 3\)](#)
- F4** Words in art. 259(7) substituted (12.4.2016) by [Environmental Better Regulation Act \(NorthernIreland\) 2016 \(c. 13\), ss. 22\(2\), 27\(1\)](#)
- F5** Art. 259(8) substituted (12.4.2016) by [Environmental Better Regulation Act \(NorthernIreland\) 2016 \(c. 13\), ss. 22\(3\), 27\(1\)](#)

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006, PART IX is up to date with all changes known to be in force on or before 19 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

#### **Commencement Information**

- I7** Art. 259 wholly in operation at 1.4.2007, see art. 1(2) and [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

### *Powers to acquire and duties to provide information*

#### **Duties of undertakers to provide the Department with information**

**260.**—(1) It shall be the duty of a company holding an appointment as a relevant undertaker to provide the Department with all such information relating to any matter which—

(a) is connected with, or with any proposals relating to, the carrying out by that company of the functions of a relevant undertaker; or

(b) is material to the carrying out by the Department of any of its functions under this Order, as the Department may reasonably require.

(2) Information required under this Article shall be provided in such form and manner, and be accompanied or supplemented by such explanations, as the Department may reasonably require.

(3) The information which a company may be required to provide under this Article shall include information which, although it is not in the possession of that company or would not otherwise come into the possession of that company, is information which it is reasonable to require that company to obtain.

(4) A requirement for the purposes of this Article shall be contained in a direction which—

(a) may describe the information to be provided in such manner as the Department considers appropriate;

(b) may require the information to be provided on a particular occasion, in particular circumstances or from time to time; and

(c) may be given to a particular company, to companies of a particular description or to all the companies holding appointments under Chapter I of Part II.

(5) The obligations of a relevant undertaker under this Article pursuant to a requirement under paragraph (1) shall be enforceable under Article 30 by the Department.

#### **Commencement Information**

- I8** [Art. 260](#) wholly in operation at 1.4.2007, see [art. 1\(2\)](#) and [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

#### **Power to require information for enforcement purposes**

**261.**—(1) Where it appears to an enforcement authority that a company which holds an appointment as a relevant undertaker may be contravening, or may have contravened—

(a) any condition of the company's appointment in relation to which it is the relevant enforcement authority; or

(b) any statutory or other requirement enforceable under Article 30 in relation to which it is the relevant enforcement authority,

it may, for any purpose connected with such of its powers under Chapter II of Part III as are exercisable in relation to that matter, serve a notice under paragraph (2) on any person.

(2) A notice under this paragraph is a notice—



*Status: This version of this part contains provisions that are prospective.*

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- (a) requiring the person on whom it is served to produce, at a time and place specified in the notice, to—
  - (i) the enforcing authority; or
  - (ii) any person appointed by the enforcing authority for the purpose,
 any documents which are specified or described in the notice and are in that person's custody or under his control; or
- (b) requiring that person, if he is carrying on a business, to provide, at the time and place and in the form and manner specified in the notice, the enforcing authority with such information as may be specified or described in the notice.

(3) No person shall be required under this Article to produce any documents which he could not be compelled to produce in civil proceedings in the High Court or, in complying with any requirement to provide information, to give any information which he could not be compelled to give in evidence in any such proceedings.

(4) A person who, without reasonable excuse, fails to do anything required of him by a notice under paragraph (2) shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(5) A person who intentionally alters, suppresses or destroys any document which he has been required by any notice under paragraph (2) to produce shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(6) If a person makes default in complying with a notice under paragraph (2), the High Court may, on the application of the enforcing authority which served the notice, make such order as the Court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other body who are responsible for its default.

(7) Nothing in this Article shall be construed as restricting any power of the Department or the Authority under Article 260 or under the conditions of an appointment under Chapter I of Part III to require a company holding such an appointment to produce any document to it or to provide it with any information.

(8) Expressions used in this Article and in Chapter II of Part III have the same meanings in this Article as in that Chapter.

#### **Commencement Information**

**19** [Art. 261](#) wholly in operation at 1.4.2007, see [art. 1\(2\)](#) and [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

#### **Provision of information to sewerage undertakers with respect to trade effluent discharges**

**262.**—(1) The owner or occupier of any land on or under which is situated any sewer, drain, pipe, channel or outlet used or intended to be used for discharging any trade effluent into a sewer of a sewerage undertaker shall, when requested to do so by the undertaker—

- (a) produce to the undertaker all such plans of the sewer, drain, pipe, channel or outlet as the owner or, as the case may be, occupier possesses or is able without expense to obtain;
- (b) allow copies of the plans so produced by him to be made by, or under the directions of, the undertaker; and



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- (c) provide to the undertaker all such information as the owner or, as the case may be, occupier can reasonably be expected to supply with respect to the sewer, drain, pipe, channel or outlet.
- (2) A request by a sewerage undertaker for the purposes of this Article shall be made in writing.
- (3) Any person who fails to comply with this Article shall be guilty of an offence and liable, on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Expressions used in this Article and in Chapter III of Part VI have the same meanings in this Article as in that Chapter; and, accordingly, Article 198 shall have effect for the purposes of this Article as it has effect for the purposes of that Chapter.

#### Commencement Information

**110** [Art. 262](#) wholly in operation at 1.4.2007, see [art. 1\(2\)](#) and [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

PROSPECTIVE

#### Exchange of metering information between undertakers

**263.**—(1) Where—

- (a) different services are provided in relation to the same premises by different relevant undertakers;
- (b) one of those undertakers has obtained a reading from a meter used in determining the amount of any charges fixed in relation to those premises;
- (c) the charges in relation to those premises of another of those undertakers are fixed by reference to any matter to which the reading is relevant; and
- (d) that other undertaker has agreed to bear a reasonable proportion of the expenses of obtaining the reading together with the reasonable expenses of the disclosure of the reading to it,

it shall be the duty of the undertaker who obtained the reading to disclose the reading to the other undertaker.

(2) Any dispute between a relevant undertaker and any other person (including another such undertaker)—

- (a) as to the terms to be contained in any agreement for the purposes of paragraph (1)(d); or
- (b) as to the amount of any expenses to be borne by any person under any such agreement,

shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the Authority.

(3) The duties of a relevant undertaker under this Article shall be enforceable under Article 30 by the Authority.

#### Information sharing for purposes of special provision in charges scheme

**264.**—(1) This Article applies to any information relating to a consumer which is held by the Department of Finance and Personnel or the Northern Ireland Housing Executive for the purposes of the administration of—

- (a) a scheme under Article 30A of the Rates (Northern Ireland) Order 1977; or

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(b) housing benefit.

(2) Information to which this Article applies must, if an authorised officer of a relevant undertaker so requires, be supplied to—

(a) the undertaker; or

(b) any person or body providing services to the undertaker,

for the purpose of enabling or assisting the undertaker to give effect to any special provision included in a charges scheme of the undertaker in compliance with regulations under Article 202(2)(d)(i).

(3) Any requirement under paragraph (2) must specify—

(a) the description of information which is to be supplied;

(b) in the case of information to be supplied to a person other than the authorised officer, the name and address of that person;

(c) the form in which the information is to be supplied; and

(d) the date by which the information is to be supplied.

(4) This Article—

(a) does not limit the circumstances in which information may be supplied apart from this Article; but

(b) has effect despite any restriction on the purposes for which information may be disclosed or used.

(5) The Department may by order amend paragraph (1) by adding any description of information to, or removing any description of information from, the list in that paragraph; but no description of information may be added to that list unless it is information of a description held by a Northern Ireland department or the Northern Ireland Housing Executive.

(6) In this Article—

“authorised officer”, in relation to a relevant undertaker, means an officer of the undertaker authorised for the purposes of this Article by the undertaker;

“consumer” has the same meaning as in Chapter I of Part VII;

“housing benefit” means housing benefit provided by virtue of a scheme under section 122 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).

#### **Commencement Information**

**III** [Art. 264](#) wholly in operation at 1.4.2007; [art. 264](#) in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see [art. 1\(3\)\(e\)](#); [art. 264](#) in operation at 1.4.2007 insofar as not already in operation by [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

#### *Restriction on disclosure of information*

#### **Restriction on disclosure of information**

**265.**—(1) Subject to the following provisions of this Article, no information with respect to any particular business which—

(a) has been obtained by virtue of any of the provisions of this Order or the Water and Sewerage Services (Northern Ireland) Order 1973 (NI 2); and

(b) relates to the affairs of any individual or to any particular business,

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shall, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

(2) No person shall disclose any information provided to him under Article 262 or under Chapter III of Part VI except—

- (a) with the consent of the person by whom the information was furnished;
  - (b) in connection with the execution of that Chapter;
  - (c) for the purposes of any proceedings arising under that Chapter (including any appeal, application to the Department, DOE or the Authority or an arbitration);
  - (d) for the purposes of any criminal proceedings (whether or not so arising); or
  - (e) for the purposes of any report of any proceedings falling within sub-paragraph (c) or (d).
- (3) Paragraph (1) does not apply to any disclosure of information which is made—
- (a) for the purpose of facilitating the performance by the Department, DOE, the Authority, the Council, the [<sup>F6</sup>CMA] or a district council of any functions under this Order, the Water Order, Part III of the Waste and Contaminated Land (Northern Ireland) Order 1997 (NI 19) or regulations under Article 4 of the Environment (Northern Ireland) Order 2002 (NI 7);
  - (b) for the purpose of facilitating the performance by a relevant undertaker of any of the duties imposed on it by or under this Order or the Water Order;
  - (c) in pursuance of any duty imposed by Article 52;
  - (d) for the purpose of facilitating the performance by a person or body mentioned in paragraph (4) of any functions under a statutory provision specified in paragraph (5);
  - (e) for the purpose of facilitating the exercise by the Secretary of State or the Treasury of any powers conferred by the Financial Services and Markets Act 2000 (c. 8) or by any statutory provision relating to companies, insurance companies or insolvency;
  - (f) for the purpose of facilitating the performance by any inspector appointed under the statutory provisions relating to companies of his functions;
  - (g) for the purpose of facilitating the performance by the Department of Enterprise, Trade and Investment or DFP of any functions conferred on it by any statutory provision relating to companies or insolvency;
  - (h) for the purpose of facilitating the performance by the official receiver for Northern Ireland of his functions under the statutory provisions relating to insolvency or for the purpose of facilitating the performance by a recognised professional body for the purposes of Article 350 of the Insolvency (Northern Ireland) Order 1989 (NI 19) of its functions as such a body;
  - (i) for the purpose of facilitating the performance by the Health and Safety Executive for Northern Ireland of any of its functions;
  - (j) for the purpose of facilitating the performance by the Comptroller and Auditor General for Northern Ireland of any of his functions;
  - (k) for the purpose of facilitating the performance by the Appeals Commission of any of its functions;
  - [<sup>F7</sup>(ka) for the purpose of facilitating the performance by the lead enforcement authority (as defined in section 33(1) of the Estate Agents Act 1979) of any of its functions under the Estate Agents Act 1979;]
  - (l) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;

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(m) for the purposes of any civil proceedings brought under or by virtue of this Order or the Water Order or any statutory provision specified in paragraph (5), or of any arbitration under this Order or the Water Order; or

(n) in pursuance of [<sup>F8</sup>[<sup>F9</sup>an assimilated] obligation],

and sections 17 and 18 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) apply to this paragraph as if it were listed in Schedule 4 to that Act.

(4) The persons and bodies specified for the purposes of paragraph (3)(d) are—

- (a) a Minister of the Crown;
- (b) a Northern Ireland department;
- (c) the [<sup>F10</sup>CMA];

<sup>F11</sup>(d) .....

- (e) the Office of Communications;
- (f) the Authority;
- (g) the Civil Aviation Authority;

[<sup>F12</sup>(h) the Financial Conduct Authority;

(i) the Prudential Regulation Authority.]

(5) The statutory provisions specified for the purposes of paragraphs (3)(d) and (m) are—

- (a) the Trade Descriptions Act 1968 (c. 29);
- (b) the Fair Trading Act 1973 (c. 41);
- (c) the Consumer Credit Act 1974 (c. 39);
- (d) the Estate Agents Act 1979 (c. 38);
- (e) the Competition Act 1980 (c. 2);
- (f) the Telecommunications Act 1984 (c. 12);
- (g) the Consumer Protection (Northern Ireland) Order 1987 (NI 20);
- (h) <sup>F13</sup> .....

- (i) the Electricity (Northern Ireland) Order 1992 (NI 1);
- (j) Part IV of the Airports (Northern Ireland) Order 1994 (NI 1);
- (k) the Gas (Northern Ireland) Order 1996 (NI 2);
- (l) the Competition Act 1998 (c. 41);
- (m) Part I of the Transport Act 2000 (c 38);
- (n) the Financial Services and Markets Act 2000 (c. 8);
- (o) the Enterprise Act;
- (p) the Communications Act 2003 (c. 21);
- (q) the Energy (Northern Ireland) Order 2003 (NI 6).

[<sup>F14</sup>(r) the Business Protection from Misleading Marketing Regulations 2008;

(s) the Consumer Protection from Unfair Trading Regulations 2008.]

[<sup>F15</sup>(t) Parts 3 and 4 of the Enterprise and Regulatory Reform Act 2013.]

(6) The Department may by order modify paragraph (3), (4) or (5).

(7) Nothing in paragraph (1) shall be construed—

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- (a) as limiting the matters which may be published under Article 67, 151 or 259 or may be included in, or made public as part of, a report of the Department, DOE, the Authority, the Council, a district council or the [F16CMA] under any provision of this Order, the Water Order, Part III of the Waste and Contaminated Land (Northern Ireland) Order 1997 (NI 19) or regulations under Article 4 of the Environment (Northern Ireland) Order 2002 (NI 7), or
- (b) as applying to any information which has been so published or has been made public as part of such a report or to any information exclusively of a statistical nature.
- (8) Subject to paragraph (9), nothing in paragraph (1) shall preclude the disclosure of information—
- (a) if the disclosure is of information relating to a matter connected with the carrying out of the functions of a relevant undertaker and is made by one Minister of the Crown or government department to another; or
- (b) if the disclosure is for the purpose of enabling or assisting any public or other authority for the time being designated for the purposes of this Article by an order made by the Department to discharge any functions which are specified in the order.
- (9) An order under paragraph (8) shall be subject to negative resolution; and where such an order designates an authority for the purposes of sub-paragraph (b) of that paragraph, the order may—
- (a) impose conditions subject to which the disclosure of information is permitted by virtue of that paragraph; and
- (b) otherwise restrict the circumstances in which disclosure is so permitted.
- (10) Any person who discloses any information in contravention of the preceding provisions of this Article shall be guilty of an offence.
- (11) A person who is guilty of an offence under this Article by virtue of paragraph (1) shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (12) A person who is guilty of an offence under this Article by virtue of paragraph (2) shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 3 on the standard scale or to both.
- (13) Information obtained by the Authority in the exercise of functions which are exercisable concurrently with the [F17CMA] under Part I of the Competition Act 1998 (c. 41) is subject to Part 9 of the Enterprise Act (information) and not to the preceding provisions of this Article.

#### Textual Amendments

- F6** Word in art. 265(3)(a) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 257\(2\)](#) (with art. 3)
- F7** Art. 265(3)(ka) inserted (31.3.2014) by [The Public Bodies \(Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc\) Order 2014 \(S.I. 2014/631\)](#), art. 1(5), [Sch. 2 para. 10](#) (with Sch. 1 para. 28, Sch. 2 paras. 13-15)
- F8** Words in art. 265(3)(n) substituted (31.12.2020) by [The Water and Floods \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/32\)](#), regs. 1(1), [2\(6\)](#); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in art. 265(3)(n) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), [Sch. para. 64\(6\)](#)

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- F10** Word in art. 265(4)(c) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 257\(3\)\(a\)](#) (with art. 3)
- F11** Art. 265(4)(d) omitted (1.4.2014) by virtue of [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 257\(3\)\(b\)](#) (with art. 3)
- F12** Art. 265(4)(h)(i) substituted for art. 265(4)(h) (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 122](#)
- F13** Art. 265(5)(h) revoked (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), [Sch. 2 para. 112\(a\)](#), [Sch. 4 Pt. 2](#) (with saving in reg. 28(2)(3))
- F14** Art. 265(5)(r)(s) added (26.5.2008) by Consumer Protection from [Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1), [Sch. 2 para. 112\(b\)](#) (with saving in reg. 28(2)(3))
- F15** Art. 265(5)(t) inserted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 257\(4\)](#) (with art. 3)
- F16** Word in art. 265(7)(a) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 257\(5\)](#) (with art. 3)
- F17** Word in art. 265(13) substituted (1.4.2014) by [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), [Sch. 1 para. 257\(6\)](#) (with art. 3)

#### Commencement Information

- I12** Art. 265 wholly in operation at 1.4.2007; art. 265 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); art. 265 in operation at 1.4.2007 insofar as not already in operation by [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to art. 3, Sch. 2)

#### Unauthorised disclosure of information relating to particular persons

**266.—(1)** A person to whom this Article applies commits an offence if he discloses without lawful authority any information(

- (a) which he acquired in the course of his employment;
- (b) which is, or is derived from, information supplied under—
  - (i) Article 264; or
  - (ii) Article 3 of the Water and Sewerage Services (Miscellaneous Provisions) (Northern Ireland) Order 2006; and
- (c) which relates to a particular person.

(2) This Article applies to any person who is employed—

- (a) by a relevant undertaker; or
- (b) in the provision of services to a relevant undertaker for the purposes of any arrangements mentioned in Article 264(2);

and “employment” in relation to any such person shall be construed accordingly.

(3) It is not an offence under this Article to disclose information which has previously been disclosed to the public with lawful authority.

(4) It is a defence for a person charged with an offence under this Article to show that at the time of the alleged offence—

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- (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or
  - (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (5) A person who is guilty of an offence under this Article shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (6) For the purposes of this Article a disclosure of information is to be regarded as made with lawful authority if, and only if, it is made—
- (a) with the authority of a relevant undertaker for the purposes of the exercise of its functions;
  - (b) in accordance with any statutory provision or order of a court;
  - (c) for the purposes of any criminal proceedings; or
  - (d) with the consent of the person to whom the information relates.

#### Commencement Information

**I13** Art. 266 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

#### *Provision of false information*

#### **Provision of false information**

**267.**—(1) If any person, in providing any information or making any application under or for the purposes of any provision of this Order, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(2) Proceedings for an offence under paragraph (1) shall not be instituted except by or with the consent of the relevant Department or the Director of Public Prosecutions for Northern Ireland.

(3) In paragraph (2) “relevant Department” means—

- (a) DOE, in the case of an offence alleged to have been committed in providing any information or making any application under or for the purposes of any [<sup>F18</sup>provision in Articles 107 to 112 or] in Articles 118 to 123;
- (b) the Department in any other case.

#### Textual Amendments

**F18** Words in art. 267(3)(a) substituted (12.4.2016) by *Environmental Better Regulation Act (Northern Ireland) 2016* (c. 13), ss. 19(9), 27(1) (with S.I. 2006/3336 (N.I. 21), art. 302A(1) (as inserted by 2016 c. 13 (N.I.), s. 23))



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**Status:** This version of this part contains provisions that are prospective.

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#### **Commencement Information**

**I14** Art. 267 wholly in operation at 1.4.2007, see art. 1(2) and [S.R. 2007/194](#), **art. 2(2)**, Sch. 1 Pt. II (subject to [art. 3](#), [Sch. 2](#))

**Status:**

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**Changes to legislation:**

The Water and Sewerage Services (Northern Ireland) Order 2006, PART IX is up to date with all changes known to be in force on or before 19 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 293(10A) inserted by [2015 c. 8 \(N.I.\) Sch. 3 para. 2\(b\)](#)