

---

STATUTORY INSTRUMENTS

---

**2006 No. 3336**

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

**PART VI**

**SEWERAGE SERVICES**

**CHAPTER II**

**PROVISION OF SEWERAGE SERVICES**

*Adoption of sewers and waste water treatment works*

**Appeals with respect to adoption**

**162.**—(1) An owner of any sewer, lateral drain or waste water treatment works may appeal to the Authority if—

- (a) he is aggrieved by the proposal of a sewerage undertaker to make a declaration under Article 159; or
- (b) he is aggrieved by the refusal of a sewerage undertaker to make such a declaration.

(2) Subject to Article 161(4), a person constructing or proposing to construct a drain or sewer or any waste water treatment works may appeal to the Authority where a sewerage undertaker—

- (a) has refused an application under Article 161;
- (b) has offered to grant such an application on terms to which that person objects; or
- (c) has failed, before the end of two months from the making of such an application, either to refuse the application or to give notice to the applicant of the terms on which it is prepared to grant the application.

(3) The time for the making of an appeal under paragraph (1) by the owner of any sewer, lateral drain or waste water treatment works shall be—

- (a) in the case of an appeal by virtue of sub-paragraph (a) of that paragraph, any time within two months after notice of the proposal is served on that owner; and
- (b) in the case of an appeal by virtue of sub-paragraph (b) of that paragraph, any time after receipt of notice of the undertaker's refusal or, if no such notice is given, at any time after the end of two months from the making of the application for the declaration.

(4) On the hearing of an appeal under this Article, the Authority may—

- (a) in the case of an appeal under paragraph (1), allow or disallow the proposal of the sewerage undertaker or, as the case may be, make any declaration which the sewerage undertaker might have made; or
- (b) in the case of an appeal under paragraph (2)—

(i) uphold the refusal of the undertaker to grant the application or to modify the terms offered; or

(ii) on behalf of the undertaker, refuse the application or enter into any agreement into which the undertaker might have entered on the application;

and any declaration made under sub-paragraph (a) shall have the same effect as if it had been made by the undertaker in question.

(5) Where the Authority makes a declaration under paragraph (4)(a), it may, if it thinks fit—

(a) specify conditions, including conditions as to the payment of compensation by the sewerage undertaker; and

(b) direct that its declaration shall not take effect unless any conditions so specified are accepted.

(6) Where the Authority makes an agreement under paragraph (4)(b) on behalf of a sewerage undertaker, it may do so on such terms as it considers reasonable or, as the case may be, on the terms offered by the undertaker subject to such modifications as the Authority considers appropriate for ensuring that the terms of the agreement are reasonable.

(7) The Authority, in deciding on an appeal under this Article whether any declaration or agreement should be made, shall have regard to all the circumstances of the case and, in particular, to the considerations specified in Article 159(5); and for the purposes of this paragraph, in its application in relation to an appeal under paragraph (2), sub-paragraphs (a) to (e) of Article 159(5) shall have effect with the necessary modifications.