

WATER AND SEWERAGE SERVICES (NORTHERN IRELAND) ORDER 2006

S.I. 2006 3336

EXPLANATORY MEMORANDUM

OVERVIEW OF THE ORDER

Part VIII - Undertakers Powers and Works

Chapter 1 – Undertaker’s powers (Articles 215 – 234)

106. This Chapter provides the undertaker with powers in relation to abstraction and impounding water, land, pipe-laying, discharging water, compulsory works orders and entry to land.

Abstraction and impounding of water

107. [Article 215](#) provides a water undertaker with abstraction and impounding powers for the purposes of carrying out its functions. Those powers are subject to regulations under Article 20 of the Water (NI) Order 1999 which provide for a licensing regime for water abstraction and impoundment.

Land

108. Where it has not been possible, through agreement, for the undertaker to acquire land or an easement or right over land that has been determined as essential to the fulfilment of its duties, it may apply to the Department for an order (vesting order) compulsorily acquiring it. The Department has power ([Article 216](#)) to make such a vesting order. Schedule 7 sets out the restrictions on this power including the need to attain a resolution of the Assembly in respect of certain pieces of land where objections to the acquisition have been made by the landowner.
109. Where the undertaker wishes to carry out engineering or building works or to discharge water into any inland water or underground strata but cannot do so through agreement with the landowner it may apply to the Department for a compulsory works order under [Article 228](#) to carry out such engineering/ building works or to discharge water. The procedures and restrictions applying to such orders are set out in Schedule 9 which also makes provision for dealing with objections and compensation.
110. The Department’s consent is required prior to the disposal by the undertaker of any protected land (as defined in [Article 2](#)).

Power to Carry out Works

111. [Article 218](#) enables the undertaker to make bye-laws for the protection and preservation of waterways and lands belonging to the company. The Department is required to confirm these bye-laws, ensure that they are published and that objections heard are under the procedure set out in Schedule 8.

*This Explanatory Memorandum refers to the Water and
Sewerage Services (Northern Ireland) Order 20063336*

112. This Chapter also sets out the undertaker's powers in respect of laying pipes in streets (Article 219) and private land (Article 220); carrying out works for stopcocks (Article 224), meters (Article 223) and sewerage purposes (Article 221) and for dealing with foul water or pollution (Article 222). Powers in regard to private land are dealt with by the undertaker serving notice on the landowner (Articles 220, 222 & 223 (in certain circumstances only)) or by agreement between the undertaker and landowner (Articles 221 & 225).
113. Consent is required from relevant Departments for the undertaker to discharge water from pipes greater than 300mm into any available watercourse (Article 226), other than in emergency situations, for the purposes of its functions under the Order. Article 226 creates offences in this regard and sets out penalties for failure to take suitable measures to prevent damage.

Powers of Entry

114. Any person designated in writing by the undertaker may enter any premises for the purposes of carrying out water or sewerage works in the fulfilment of its functions under the Order as set out in Articles 229 to 233. Under these Articles the undertaker may carry out survey work in the search for water, investigate whether it is appropriate or practicable to carry out its relevant works and determine how its powers should be exercised.
115. Included in relevant works are; investigating contamination of water sources; the abstraction or impoundment of water for public supply; inspection examination or testing of meters; compliance with the water quality and fittings regulations to be made under article 114; taking and testing of sample of water, effluent, trade effluent or land and investigating compliance with hose pipe bans.
116. Provision is made in article 235 for the prosecution of people found to be entering any premises unlawfully i.e. without the specific written consent of the undertaker in respect of its functions under the Order.
117. [Article 234](#) provides the Department with the power to make regulations in respect of sampling under articles 229 to 232.