DRAFT STATUTORY INSTRUMENTS

2006 No.

The Water and Sewerage Services (Northern Ireland) Order 2006

PART VIII

UNDERTAKERS' POWERS AND WORKS

CHAPTER I

UNDERTAKERS' POWERS

Powers to discharge water

Consents for certain discharges under Article 226

227.—(1) Except in an emergency, no discharge through any pipe the diameter of which exceeds 300 millimetres shall be made under Article 226 except with the consent of each relevant department and of any navigation authority which carries out functions in relation to—

(a) the part of the watercourse where the discharge is made; or

(b) any part of that watercourse which is less than three miles downstream from the place of the discharge.

(2) Where a water undertaker makes an application for a consent for the purposes of this Article—

(a) that application shall be accompanied or supplemented by all such information as a relevant department or the navigation authority may reasonably require; and

(b) the undertaker shall serve a copy of the application, and of any consent given on that application, on every person who—

(i) is registered with the undertaker in respect of any premises which are within three miles of the place where the discharge to which the application relates is proposed to be made and are not upstream from that place; and

(ii) has not agreed in writing that he need not be served with such a copy;

but, subject to paragraph (4) and without prejudice to the effect (if any) of any other contravention of the requirements of this Article in relation to such an application, a failure to provide information in pursuance of the obligation to supplement such an application shall not invalidate the application.

(3) Subject to paragraph (4), an application for a consent for the purposes of this Article shall be determined—

(a) in the case of an application with respect to a particular discharge, before the end of the period of 7 days beginning with the day after the application is made; and

(b) in any other case, before the end of the period of 3 months beginning with that day;

and, subject to that paragraph, where an application for any consent is required to be determined within the period specified in sub-paragraph (a) and is not so determined, the consent applied for shall be deemed to have been given unconditionally.

(4) Where—

(a) an undertaker which has made an application for a consent for the purposes of this Article has failed to comply with its obligation under paragraph (2)(a) to supplement that application with information required by a relevant department or the navigation authority; and

(b) that requirement was made by the relevant department or the navigation authority at such a time before the end of the period within which that department or authority is required to determine the application as gave the undertaker a reasonable opportunity to provide the required information within that period,

that department or authority may delay its determination of the application until a reasonable time after the required information is provided.

(5) A consent for the purposes of this Article may relate to a particular discharge or to discharges of a particular description and may be made subject to such reasonable conditions as may be specified by the body giving it; but a consent for those purposes shall not be unreasonably withheld.

(6) Any dispute as to whether a consent for the purposes of this Article should be given or withheld, or as to whether the conditions to which any such consent is made subject are reasonable, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(7) Where any discharge under Article 226 is made in an emergency without the consent which, if there were no emergency, would be required by virtue of this Article, the undertaker which made the discharge shall, as soon as practicable after making the discharge, serve a notice which—

(a) states that the discharge has been made; and

(b) gives such particulars of the discharge and of the emergency as the persons served with the notice might reasonably require,

on every person on whom that undertaker would have been required to serve the application for that consent or any copy of that application.

(8) If any water undertaker contravenes, without reasonable excuse, any of the requirements of this Article or any condition of a consent given for the purposes 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.

(9) This Article does not apply in relation to a discharge which—

(a) is being made immediately before the transfer date; and

(b) is (disregarding this Article) authorised by Article 226.

(10) For the purposes of this Article the relevant departments are DARD, DOE and DCAL.