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DRAFT STATUTORY INSTRUMENTS

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**2006 No.**

The Water and Sewerage Services  
(Northern Ireland) Order 2006

PART III

APPOINTMENT AND REGULATION OF UNDERTAKERS

CHAPTER I

APPOINTMENTS

*Modification of appointment conditions*

**Modifications following report**

**25.**—(1) Where a report of the Competition Commission on a reference under Article 21—

- (a) includes conclusions to the effect that any of the matters specified in the reference operate, or may be expected to operate, against the public interest;
- (b) specifies effects adverse to the public interest which those matters have or may be expected to have;
- (c) includes conclusions to the effect that those effects could be remedied or prevented by modifications of the conditions of a company's appointment under this Chapter; and
- (d) specifies modifications by which those effects could be remedied or prevented,

the Authority shall, subject to the following provisions of this Article, make such modifications of the conditions of that appointment as appear to the Authority requisite for the purpose of remedying or preventing the adverse effects specified in the report.

(2) Before making modifications under this Article, the Authority shall have regard to the modifications specified in the report.

(3) Before making modifications under this Article, the Authority shall give notice—

- (a) stating that it proposes to make the modifications and setting out their effect;
- (b) stating the reasons why it proposes to make the modifications; and
- (c) specifying the period (not being less than 28 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(4) A notice under paragraph (3) shall be given—

- (a) by publishing the notice in such manner as the Authority considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by the making of the modifications; and

- (b) by serving a copy of the notice on the company whose appointment it is proposed to modify.
- (5) After considering any representations or objections made in response to proposals set out in a notice under paragraph (3), the Authority shall give notice to the Competition Commission—
- (a) setting out the modifications it proposes to make to remedy or prevent the adverse effects specified in the report; and
  - (b) stating the reasons for making the modifications.
- (6) The Authority shall include with the notice under paragraph (5) a copy of any representations or objections received in relation to the notice under paragraph (3).
- (7) If the period of 4 weeks from the date on which the notice under paragraph (5) is given elapses without a direction under Article 26(1)(a) having been given to it, the Authority shall—
- (a) make the modifications set out in the notice; or
  - (b) if a direction under Article 26(1)(b) has been given, make the modifications which are not specified in the direction.
- (8) The Authority shall not under this Article make any modification of any provisions of a company's appointment under this Chapter which—
- (a) are contained in that appointment for the purposes of Article 14(4)(d); or
  - (b) being provisions relating to the disposal of a company's protected land, are stated in the appointment to be provisions which cannot be modified.