
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Water and Sewerage Services
(Northern Ireland) Order 2006

PART III

APPOINTMENT AND REGULATION OF UNDERTAKERS

CHAPTER II

ENFORCEMENT AND INSOLVENCY

Enforcement orders

Exceptions to the duty to enforce

31.—(1) An enforcement authority shall not be required to make an enforcement order in relation to any company, or to confirm a provisional enforcement order so made, if it is satisfied—

- (a) that the contraventions were, or the apprehended contraventions are, of a trivial nature;
- (b) that, in such circumstance or subject to such conditions as may be prescribed, the company has given, and is complying with, an undertaking to take all such steps as it appears to the enforcement authority for the time being to be appropriate for the company to take for the purpose of securing or facilitating compliance with the condition or requirement in question; or
- (c) that the duties imposed on the enforcement authority by Part II preclude the making or, as the case may be, the confirmation of the order; or
- (d) that the most appropriate way of proceeding is under the Competition Act 1998 (c. 41).

(2) The requirement to comply with an undertaking given for the purposes of paragraph (1)(b) shall be treated as a statutory requirement enforceable under Article 30—

- (a) by the Department; or
- (b) with the consent of or in accordance with a general authorisation given by the Department, by the Authority.

(3) Where an enforcement authority, having notified a company that it is considering the making in relation to the company of an enforcement order or the confirmation of a provisional enforcement order so made, is satisfied as mentioned in sub-paragraph (a), (b), (c) or (d) of paragraph (1), it shall—

- (a) serve notice that it is so satisfied on the company;
- (b) publish a copy of the notice 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 affected by them; and
- (c) in a case where the enforcement authority is satisfied as mentioned in the said sub-paragraph (b), serve a copy of the notice and of the undertaking given for the purposes of that sub-paragraph on the other enforcement authority.

(4) The requirements of paragraph (3) shall not apply, in the case of any proposed order or confirmation in respect of a direction under Article 294, to the extent that the Secretary of State directs that they should not be complied with in the interests of national security.