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DRAFT STATUTORY INSTRUMENTS

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**2006 No.**

The Water and Sewerage Services  
(Northern Ireland) Order 2006

PART IV

WATER SUPPLY

CHAPTER III

QUALITY AND SUFFICIENCY OF SUPPLY

*Private supplies*

**General functions of DOE in relation to private supplies**

**118.**—(1) DOE shall—

- (a) take all such steps as it considers appropriate for keeping itself informed about the wholesomeness and sufficiency of private supplies;
- (b) maintain a register of private supplies used for domestic or food production purposes.

(2) Where DOE is satisfied—

- (a) that any private supply used for domestic or food production purposes to any premises is, has been or is likely to become unwholesome or (so far as any such premises are concerned) insufficient for domestic and sanitary purposes; and
- (b) that the unwholesomeness or insufficiency of any such supply is, was or is likely to be such as to cause a danger to life or health;

DOE shall notify the district council for the district, and the Health and Social Services Board for the area, in which the premises are, and the supply is, situated.

(3) DOE may by regulations make such provision, supplementing the provisions of this Article, as DOE considers appropriate for—

- (a) obtaining information about the quality and sufficiency of private supplies, including information as to the source of the supplies and the premises supplied by such supplies;
- (b) regulating the performance of any function under this Article; and
- (c) prescribing the particulars in respect of each private supply to be recorded in the register maintained under paragraph (1)(b).

(4) Without prejudice to the generality of paragraph (3), regulations under that paragraph may—

- (a) prescribe the matters to be taken into account in determining, for the purposes of paragraph (1), what is appropriate;
- (b) provide, for the purposes of this Article, for such samples of water to be taken and analysed at such times and in such manner as may be prescribed;
- (c) provide for functions under this Article to be carried out by prescribed persons;

- (d) provide for the recovery by DOE from prescribed persons of such amounts as may be prescribed in respect of expenses reasonably incurred by DOE under this Article.

### **Remedial powers in relation to private supplies**

**119.**—(1) Subject to the following provisions of this Article, where DOE is satisfied in relation to any premises which are supplied with water for domestic or food production purposes by means of a private supply—

- (a) that any water which is being, has been or is likely to be supplied for those purposes to those premises by means of that private supply is not, was not or, as the case may be, is likely not to be wholesome; or
- (b) that that private supply is failing, has failed or is likely to fail to provide to any house on those premises such a supply of wholesome water as (so far as that house is concerned) is sufficient for domestic purposes,

DOE may serve a notice in relation to that private supply on one or more of the relevant persons.

(2) A notice under this Article in relation to a private supply of water to any premises shall—

- (a) give particulars of the matters mentioned in paragraph (1) in respect of which the notice is served;
- (b) specify the steps which, in the opinion of DOE, are required to be taken for ensuring that there is a supply of water to those premises which is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic purposes;
- (c) specify a period, ending not less than 28 days after the day on which the notice is served, within which any representations or objections with respect to the notice must be received by DOE; and
- (d) state the effect in relation to that notice of Article 120(2) and (3).

(3) Subject to Articles 120 and 121, where DOE serves a notice under this Article on any relevant person it may do one or more of the following, that is to say—

- (a) by that notice designate as steps to be taken by DOE itself such of the steps specified in the notice as DOE considers it appropriate so to designate;
- (b) by that notice require that person, within such reasonable period as may be specified in the notice, to take one or more of the steps so specified;
- (c) by that notice require that person, at such times as may be determined in accordance with provision contained in the notice, to make to another relevant person or to DOE such payments as may be so determined in respect of expenses reasonably incurred by that other person or DOE in taking any step specified in the notice;
- (d) by that notice undertake from time to time to make such payments to that person as may be so determined in respect of expenses reasonably incurred by that person in taking any step specified in the notice.

(4) The steps that a relevant person may be required by a notice under this Article to take in relation to any premises shall include—

- (a) requiring a supply of water to be provided to those premises by a water undertaker or by any other person; and
- (b) taking such steps for the purpose of securing that such a requirement is complied with, and of enabling such a supply to be so provided, as may be specified in the notice.

(5) For the purposes of this Article and Articles 120 to 122 the relevant persons, in relation to a private supply of water to any premises, are—

- (a) the owners and occupiers of those premises; and

(b) the owners and occupiers of the premises where the source of that supply is situated and any other person who exercises powers of management or control in relation to that source; and in Articles 120 to 122 a notice under this Article is referred to as a private supply notice.

### **Confirmation of private supply notices**

**120.**—(1) Subject to paragraph (2), a private supply notice served by DOE shall not take effect until the end of the period specified in the notice as the period within which representations or objections with respect to the notice must be received by DOE.

(2) Where any written representation or objection with respect to a private supply notice served by DOE is received by it, before the end of the period specified in the notice, from a person on whom the notice was served, that notice shall not take effect unless—

- (a) the notice is submitted by DOE to the Appeals Commission and is confirmed by the Appeals Commission either with or without modifications; or
- (b) the representation or objection is withdrawn.

(3) If DOE submits a private supply notice to the Appeals Commission for confirmation, the Appeals Commission—

- (a) shall consider whether the notice should be confirmed and whether, if it is confirmed, it should be confirmed with or without modifications;
- (b) may, with respect to the matters specified in the notice or any proposed modification of it, direct DOE to serve a private supply notice, in such terms as may be specified in the direction, on any relevant person who has not previously been served with such a notice;
- (c) if it is satisfied that the person on whom any notice to be served in pursuance of a direction under sub-paragraph (b) has had a proper opportunity of having his representations or objections with respect to the proposal for the direction considered, may dispense, in relation to the notice so served, with the provisions of paragraphs (1) and (2) and of Article 119(2)(c) and (d).

(4) Where the Appeals Commission confirms a private supply notice (whether with or without modifications)—

- (a) DOE shall serve notice of that confirmation on every person originally served with the notice under Article 119; and
- (b) that notice shall take effect, with any modifications made by the Appeals Commission, at such time as may be specified in the notice served under this paragraph.

### **Enforcement and variation of private supply notice**

**121.**—(1) Where any relevant person who is required by virtue of a private supply notice to take any step in relation to any premises fails to take that step within the period specified in the notice, DOE may, in accordance with any applicable provision having effect by virtue of Article 122 or 124, take that step itself.

(2) Where any step is taken by DOE in relation to any premises by virtue of paragraph (1)—

- (a) DOE may recover from the person who failed to take that step within the specified period any expenses reasonably incurred by it in taking that step; and
- (b) for the purposes of any requirement under which payments are required to be made to that person by any person other than DOE, sums paid by virtue of sub-paragraph (a) in respect of the taking of any step shall be deemed to be expenses incurred in the taking of that step by the person who failed to take it.

(3) Nothing in this Order shall confer any right of action on any person in respect of any loss or damage sustained by that person in consequence of the failure by any other person to take any step specified in a private supply notice.

(4) Any sum required to be paid to any person by virtue of any requirement or undertaking contained in a private supply notice shall be recoverable summarily as a civil debt by that person from the person who is required to pay it.

(5) Any requirement which—

(a) is imposed by virtue of a private supply notice on the owner or occupier of any premises; and

(b) is expressed to bind those premises in relation to the owners or occupiers from time to time, shall bind successive owners or, as the case may be, occupiers of those premises and shall be a statutory charge.

(6) Subject to paragraph (7), DOE may by notice served on any person modify or revoke the effect in relation to that person of any private supply notice or notice under this paragraph (including a notice which has been confirmed, with or without modifications, by the Appeals Commission).

(7) The person on whom the notice is served may, within 28 days from the date of service of the notice, appeal to the Appeals Commission except where the notice—

(a) extends the period within which any step is required to be taken by that person; or

(b) discharges, postpones or abates any obligation of that person to make a payment to DOE.

### **Powers to do works in relation to private supplies**

**122.**—(1) For the purposes of the taking of any steps falling to be taken by DOE by virtue of a designation under paragraph (3)(a) of Article 119 the provisions of Part VIII shall have effect—

(a) as if the relevant works powers, so far as conferred on a water undertaker for the purpose of carrying out its functions, were also conferred on DOE for the purpose of ensuring that a supply of water provided by means of a private supply to any premises is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic purposes;

(b) as if any such power, so far as it is conferred on a water undertaker in relation to things belonging to or operated or used by the undertaker for the purposes of its functions, were conferred by virtue of sub-paragraph (a) on DOE in relation to things belonging to or operated or used by DOE, or a relevant person, in connection with the provision of water by means of a private supply;

(c) as if references to a water undertaker in any provision of Part VIII relating to a relevant works power, except the references in Articles 243 and 244, included references to DOE; and

(d) as if the making by any person in pursuance of a private supply notice of any payment in respect of sums incurred in the laying of any pipe entitled that person, for the purposes of Article 241(1), to an interest in the pipe.

(2) Where by virtue of this Order DOE has power to acquire (whether compulsorily or otherwise) any land for the purpose of ensuring that private supplies of water to premises are both wholesome and (so far as houses on those premises are concerned) sufficient for domestic purposes, that power shall include power to acquire land in order, for that purpose, to dispose of the land to a person who is a relevant person in relation to such a private supply.

(3) In this Article “relevant works powers” means the powers conferred on water undertakers by Articles 219, 220, 222, 224 and 226.

### **Power of DOE to obtain information relating to private supplies**

**123.**—(1) DOE may serve on any person a notice requiring him to furnish DOE, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by DOE for the purpose of exercising or performing any power or duty conferred or imposed on DOE by or under any of Articles 118 to 121.

(2) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under paragraph (1) shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.