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DRAFT STATUTORY INSTRUMENTS

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**2006 No.**

The Water and Sewerage Services  
(Northern Ireland) Order 2006

PART VI

SEWERAGE SERVICES

CHAPTER II

PROVISION OF SEWERAGE SERVICES

*Communication of drains and private sewers with public sewers*

**Right to communicate with public sewers**

**163.**—(1) Subject to the provisions of this Article—

- (a) the owner or occupier of any premises, or
- (b) the owner of any private sewer which drains premises,

shall be entitled to have his drains or sewer communicate with the public sewer of any sewerage undertaker and thereby to discharge foul water and surface water from those premises or that private sewer.

(2) In this Article, and in Articles 164 to 166, 168, 170 to 173, 175, 176, 182, 185, 198 and 206—

- (a) references (however expressed) to a public sewer include a public lateral drain which satisfies sewer standards; and
- (b) for the purposes of sub-paragraph (a)—
  - (i) a “public lateral drain” is a lateral drain which either belongs to the sewerage undertaker or is vested in the sewerage undertaker by virtue of a declaration made under Article 159 or under an agreement made under Article 161; and
  - (ii) “sewer standards” means such standards of construction and repair as the undertaker would require if the public lateral drain or part of it were to become a public sewer.

(3) Subject to the provisions of Chapter III of this Part, nothing in paragraph (1) shall entitle any person—

- (a) to discharge directly or indirectly into any public sewer—
  - (i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or
  - (ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any statutory provision; or
- (b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly—
  - (i) foul water into a sewer provided for surface water; or

(ii) except with the approval of the undertaker, surface water into a sewer provided for foul water; or

(c) to have his drains or sewer made to communicate directly with a storm-water overflow sewer.

(4) A person whose private sewer or drains do not communicate with a public sewer and who is desirous of availing himself of his entitlement under this Article shall give notice of his proposals to the sewerage undertaker in question.

(5) At any time within 21 days after a sewerage undertaker receives a notice under paragraph (4), the undertaker may by notice to the person who gave the notice refuse to permit the communication to be made, if it appears to the undertaker that the mode of construction or condition of the drain or sewer—

(a) does not satisfy the standards reasonably required by the undertaker; or

(b) is such that the making of the communication would be prejudicial to the undertaker's sewerage system.

(6) For the purpose of examining the mode of construction and condition of a drain or sewer to which a notice under paragraph (4) relates a sewerage undertaker may, if necessary, require it to be laid open for inspection.

(7) Where the sewer or drain satisfies the standards reasonably required by it, a sewerage undertaker may, as a condition of permitting the communication to be made, require that the sewer or that part of the drain forming the lateral drain be vested in it by virtue of a declaration under Article 159.

(8) Any question arising under paragraphs (4) to (7) between a sewerage undertaker and a person proposing to make a communication as to—

(a) the reasonableness of the undertaker's refusal to permit a communication to be made; or

(b) as to the reasonableness of any requirement under paragraph (6) or (7),

may, on the application of that person, be determined by the Authority under Article 61 and, accordingly, Article 162 shall not apply to any requirement under paragraph (7).

(9) In this Article "factory" has the same meaning as in the Factories Act (Northern Ireland) 1965 (c. 20).

### **Right of sewerage undertaker to undertake the making of communications with public sewers**

**164.**—(1) Where a person gives to a sewerage undertaker notice under Article 163 of his proposal to have his drains or sewer made to communicate with a public sewer of that undertaker, the undertaker may—

(a) within 21 days after the receipt of the notice; or

(b) if any question arising under the notice requires to be determined by the Authority, within 21 days after the determination of that question,

give notice to that person that the undertaker intends itself to make the communication.

(2) If, after a notice has been given to any person under paragraph (1), that person proceeds himself to make the communication, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(3) Where a sewerage undertaker has given a notice under paragraph (1)—

(a) the undertaker shall have all such rights in respect of the making of the communication as the person desiring it to be made would have; but

- (b) it shall not be obligatory on the undertaker to make the communication until either—
  - (i) there has been paid to the sewerage undertaker any such sum, not exceeding the undertaker's reasonable estimate of the cost of the work, as the undertaker may have required to be paid to it; or
  - (ii) there has been given to the undertaker such security for the payment of the cost of the work as it may reasonably have required.

(4) If any payment made to a sewerage undertaker under paragraph (3) exceeds the expenses reasonably incurred by it in the carrying out of the work in question, the excess shall be repaid by the undertaker; and, if and so far as those expenses are not covered by such a payment, the undertaker may recover summarily as a civil debt the expenses, or the balance of them, from the person for whom the work was done.

(5) Any dispute between a sewerage undertaker and any other person as to—

- (a) whether the undertaker's estimate of the cost of works given under paragraph (3)(b)(i) is reasonable,
- (b) whether any requirement of security for the payment of the cost of works was reasonably made by the undertaker, or
- (c) whether any excess is repayable, or any expenses are recoverable, by the undertaker under paragraph (4), or the amount of any such excess or expenses,

may be referred to the Authority for determination under Article 61 by either party to the dispute.

(6) For the purposes of this Article, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street.

### **Communication works by person entitled to communication**

**165.**—(1) Where a sewerage undertaker does not under Article 164 elect itself to make a communication to which a person is entitled under Article 163, the person making it shall—

- (a) before commencing the work, give reasonable notice to any person directed by the undertaker to superintend the carrying out of the work; and
- (b) afford any such person all reasonable facilities for superintending the carrying out of the work.

(2) For the purpose—

- (a) of exercising his rights under Article 163; or
- (b) of examining, repairing or renewing any drain or private sewer draining his premises into a public sewer,

the owner or occupier of any premises shall be entitled to exercise the same powers as, for the purpose of carrying out its functions, are conferred on a sewerage undertaker by Articles 219 and 222(1).

(3) The provisions of Part VIII of this Order shall apply, with the necessary modifications, in relation to the power conferred by paragraph (2) as they apply in relation to the power conferred by Articles 219 and 222(1).

### **Unlawful communications**

**166.**—(1) Any person who causes a drain or sewer to communicate with a public sewer—

- (a) in contravention of any of the provisions of Article 163 or 165; or
- (b) before the end of the period mentioned in paragraph (5) of Article 163,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(2) Whether proceedings have or have not been taken by a sewerage undertaker in respect of an offence under this Article, such an undertaker may—

- (a) close any communication made in contravention of any of the provisions of Article 163 or 165; and
- (b) recover summarily as a civil debt from the offender any expenses reasonably incurred by the undertaker in so doing.