
DRAFT STATUTORY INSTRUMENTS

2006 No.

**The Water and Sewerage Services
(Northern Ireland) Order 2006**

PART VIII

UNDERTAKERS' POWERS AND WORKS

CHAPTER I

UNDERTAKERS' POWERS

Pipe-laying

Power to lay pipes in a street

219.—(1) Subject to the following provisions of this Article, to Article 223(10) and to the provisions of Chapter III, every relevant undertaker shall, for the purpose of carrying out its functions, have power—

- (a) to lay a relevant pipe in, under or over any street and to keep that pipe there;
- (b) to inspect, maintain, adjust, repair or alter any relevant pipe which is in, under or over any street; and
- (c) to carry out any works requisite for, or incidental to, the purposes of any works falling within sub-paragraph (a) or (b), including for those purposes the following kinds of works, that is to say—
 - (i) breaking up or opening a street;
 - (ii) tunnelling or boring under a street;
 - (iii) breaking up or opening a sewer, drain or tunnel;
 - (iv) moving or removing earth and other materials.

(2) Without prejudice to the generality of paragraph (1)(c), every water undertaker shall have power to erect and keep in any street notices indicating the position of such underground accessories for its relevant pipes as may be used for—

- (a) controlling or maintaining the flow of water in those pipes; or
- (b) the purposes of fire-fighting.

(3) The power conferred by paragraph (2) shall include power to attach any such notice as is mentioned in that paragraph to any building, fence or other structure which is comprised in premises abutting on the street in question.

(4) A stopcock fitted to any service pipe in a street shall be situated as near as reasonably practicable to the boundary of the street; and a water undertaker shall consult with the Department before determining in accordance with this paragraph where to fit a stopcock in a road.

(5) Where a water undertaker exercises its powers under this Article for the purpose of carrying out works of maintenance, repair or renewal in relation to a service pipe belonging to a person other than the undertaker, the undertaker shall be entitled to recover from the occupier of the premises supplied by means of that pipe the expenses reasonably incurred by that undertaker in so exercising that power.

- (6) Subject to Article 222(7), in this Article references to a relevant pipe shall be construed—
- (a) in relation to a water undertaker, as references to a water main (including a trunk main, resource main, discharge pipe or service pipe); and
 - (b) in relation to a sewerage undertaker, as references to—
 - (i) any sewer or disposal main; or
 - (ii) in relation to the exercise of a power to lay a pipe under sub-paragraph (a) of paragraph (1) or a power related to that power under sub-paragraph (c) of that paragraph, any lateral drain which the undertaker is to lay by virtue of Article 154 or 158; or
 - (iii) in relation to the exercise of any other power under paragraph (1), any lateral drain which belongs to or is vested for the time being in the undertaker.

(7) Paragraphs (8) and (10) apply where—

- (a) an appointment or variation has been made under Article 14 replacing a company as a relevant undertaker,
- (b) the appointment or variation relates only to parts of the area to which the company's appointment as relevant undertaker related, and
- (c) the conditions mentioned in paragraph (5) of that Article were required to be satisfied in relation to each of the premises in those parts served by that company.

(8) Where the company which has replaced the relevant undertaker has done so as water undertaker, in the application of this Article and Article 220 in relation to that company any pipe supplying, or intended to supply, any of the premises referred to in paragraph (7)(c) with a supply of water which exceeds, or is likely to exceed, 100 megalitres in any period of 12 months shall, for the purposes of paragraph (6), be deemed to be a water main.

(9) Where the Department makes regulations under Article 14(6) amending Article 14(5)(a) it shall by regulations make the corresponding amendment in paragraph (8).

(10) Where the company which has replaced the relevant undertaker has done so as sewerage undertaker, in the application of this Article and Article 220 in relation to that company any pipe draining, or intended to drain, any of those premises shall, for the purposes of paragraph (6), be deemed to be a sewer.

Power to lay pipes in other land

220.—(1) Subject to the following provisions of this Article, to Article 223(10) and to the provisions of Chapter III, every relevant undertaker shall, for the purpose of carrying out its functions, have power—

- (a) to lay a relevant pipe (whether above or below the surface) in any land which is not in, under or over a street and to keep that pipe there;
- (b) to inspect, maintain, adjust, repair or alter any relevant pipe which is in any such land;
- (c) to carry out any works requisite for, or incidental to, the purposes of any works falling within sub-paragraph (a) or (b).

(2) Nothing in paragraph (1) shall authorise a water undertaker to lay a service pipe in, on or over any land except where—

- (a) there is already a service pipe where that pipe is to be laid; or
- (b) the undertaker is required to lay the pipe in, on or over that land by virtue of any of paragraphs (3) to (5) of Article 80.

(3) The power conferred by virtue of sub-paragraph (b) of paragraph (1), and the power conferred in relation to that paragraph by virtue of sub-paragraph (c) of that paragraph shall be exercisable in relation to a service pipe irrespective of the person to whom the pipe belongs; but expenses incurred in exercising those powers in relation to any pipe shall be recoverable from the person to whom the pipe belongs only if and to the extent that that person has agreed to pay them.

(4) The powers conferred by this Article shall be exercisable only after reasonable notice of the proposed exercise of the power has been given to the owner and to the occupier of the land where the power is to be exercised.

(5) Subject to paragraph (6), in relation to any exercise of the powers conferred by this Article for the purpose of laying or altering a relevant pipe, the minimum period that is capable of constituting reasonable notice for the purposes of paragraph (4) shall be deemed—

- (a) where the power is exercised for the purpose of laying a relevant pipe otherwise than in substitution for an existing pipe of the same description, to be 3 months; and
- (b) where the power is exercised for the purpose of altering an existing pipe, to be 42 days.

(6) Paragraph (5) shall not apply in the case of any notice given with respect to the exercise of any power in an emergency or for the purpose of—

- (a) laying or altering a service pipe; or
- (b) complying with a duty imposed under Article 76 or 154.

(7) Subject to paragraph (2), in this Article “relevant pipe” has the same meaning as in Article 219 (reading references there to paragraph (1) as references to paragraph (1) of this Article).