

*Status: Point in time view as at 24/05/2016.*

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# Water and Sewerage Services Act (Northern Ireland) 2016

## 2016 CHAPTER 7

An Act to amend, and to confer power to amend, the Water and Sewerage Services (Northern Ireland) Order 2006; and for connected purposes. [23rd March 2016]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### **Extension of period for which grants to water and sewerage undertakers can be paid**

1.—(1) Article 213 of the 2006 Order (grants by the Department for Regional Development to relevant undertakers) is amended as follows.

(2) In paragraph (3) for “the initial period” substitute “ the period ending on 31st March 2017 ”.

(3) For paragraph (4) substitute—

“(4A) The Department may by order amend paragraph (3) by substituting, for the date which is for the time being mentioned in it, such other date as the Department considers appropriate.

(4B) An order must not be made under paragraph (4A) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.”.

### **Combining water resources management plans and drought plans**

2 Schedule 1 (which amends Chapter 1 of Part 4 of the 2006 Order so as to align the procedures for making water resources management plans and drought plans, and to permit them to be prepared in a single document) has effect.

### **Power to remove or relax duty to install water meters when making domestic connections**

3.—(1) The Department may by regulations amend the 2006 Order so as to remove or qualify the duty imposed by Article 81 on a water undertaker (to make installation and connection of a water meter etc. a condition of the undertaker's complying with a connection notice).

(2) In particular, regulations under subsection (1) may—

- (a) provide that that duty does not apply in specified circumstances, or applies only in specified circumstances;
- (b) amend or remove the requirements set out in Article 81(2);
- (c) suspend (whether indefinitely or for a specified period) or repeal Article 81.

(3) In subsection (2) “specified” means specified in the regulations.

(4) The power conferred by subsection (1) includes power—

- (a) to replace a qualification that has been enacted under that subsection with a less restrictive qualification, or
- (b) to revive Article 81 (if it has been suspended).

(5) Subsection (4) is without prejudice to the powers conferred by virtue of section 17(1) and (2) of the Interpretation Act (Northern Ireland) 1954 (power from time to time to amend, revoke, etc. or substitute regulations).

(6) Regulations under subsection (1) may make such consequential, supplementary, transitional or transitory provision as the Department considers appropriate.

(7) Before making regulations under subsection (1) the Department must consult—

- (a) the Department of the Environment;
- (b) district councils;
- (c) the Northern Ireland Authority for Utility Regulation;
- (d) any water undertaker (within the meaning of the 2006 Order);
- (e) the General Consumer Council for Northern Ireland;
- (f) such other persons as the Department thinks appropriate.

(8) Regulations under subsection (1) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

## Sustainable drainage systems

4.—(1) The 2006 Order is amended as follows.

(2) After Article 2(3) (interpretation of references to pipes and waste water treatment works), insert—

“(3A) In this Order “sustainable drainage system” means any structure or part of a structure that is designed to receive surface water from premises and—

- (a) to discharge that water at a rate which is (whether in all circumstances or only in some circumstances) less than the rate at which the water enters the structure, or
- (b) to reduce the volume of surface water entering public sewers or watercourses.

(3B) For this purpose—

- (a) “structure” does not include—
  - (i) a sewer or drain that is capable of being the subject of a declaration under Article 159 (adoption of sewers etc.), or
  - (ii) a watercourse; and
- (b) the definition of “watercourse” in paragraph (2) (same meaning as in the Drainage Order) does not apply.”.

(3) In Article 159(1) (power to make declaration adopting sewers etc.), after sub-paragraph (b) insert—

“(ba) any sustainable drainage system which is so situated or which serves the whole or any part of that area; or”.

(4) In Article 161(1) (persons with whom agreement to adopt may be made)

- (a) omit the “or” at the end of sub-paragraph (a)(ii) and after sub-paragraph (a)(ii) insert—

“(ia) any sustainable drainage system; or”;

- (b) after “sewer, drain” insert “, sustainable drainage system”;

- (c) after “the lateral drain” insert “ or the system ”.

(5) In Article 161(6) (terms which may be included in agreement to adopt) omit the “and” at the end of sub-paragraph (a) and after sub-paragraph (b) insert “; and

- (c) an agreement relating to a sewer or drain may include terms requiring the other party to construct one or more sustainable drainage systems designed to receive surface water from any premises served by that sewer or drain.

(6A) In paragraph (6)(c) “the other party” means the person with whom the sewerage undertaker is to make the agreement.”.

(6) Schedule 2 (which makes further amendments to the 2006 Order relating to sustainable drainage systems) has effect.

(7) The Department may by regulations make such supplementary or consequential provision as the Department considers necessary or expedient in connection with the provision made by this section.

(8) Provision made under subsection (7) may include modification of Northern Ireland legislation.

(9) Regulations making provision under subsection (8) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

### **Refusal of surface water connection**

5.—(1) Article 163 of the 2006 Order (right to connect to public sewer) is amended as follows.

(2) In paragraph (5), for the words from “the mode of construction” to the end substitute “ either of the following grounds is satisfied. ”.

(3) After that paragraph insert—

“(5A) The first ground is that the mode of construction or condition of the drain or sewer, or of any associated sustainable drainage system—

(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.

(5B) The second ground, in the case of a drain or sewer discharging surface water into the public sewer, is that suitable alternatives exist, or could reasonably be provided, for the discharge of that water from the premises or sewer in question.

(5C) The reference in paragraph (5B) to suitable alternatives includes, in particular—

(a) the use of landscaping, natural features or any other kind of arrangement, or

(b) the design or construction of any other feature (whether or not amounting to a “structure” within the meaning of Article 2(3A)),

for the purpose of reducing the volume of water from the premises or sewer that enters public sewers or watercourses, or the rate at which it does so.”.

## **Connection of drains and private sewers to public sewers: adoption agreements**

6.—(1) The 2006 Order is amended as follows.

(2) In Article 163(1) (right to connect to public sewer), after “Subject to the provisions of this Article” insert “ and Article 163A ”.

(3) After Article 163 insert—

### **“Communication as of right only where adoption agreement entered into**

**163A.**—(1) This Article applies to a person's entitlement under Article 163(1) to have a sewer communicate with a public sewer.

(2) The person may exercise that entitlement only if an agreement complying with Conditions 1, 2 and 3 was entered into under Article 161 in respect of the sewer.

(3) Condition 1 is that the agreement included provision about the standards according to which the following were to be constructed—

- (a) the sewer in question,
- (b) any drain which communicates or is intended to communicate, whether directly or indirectly, with that sewer and was constructed at the same time as it,
- (c) any associated sustainable drainage system, and
- (d) any associated waste water works.

(4) Condition 2 is that the agreement included provision about the adoption of the following by the sewerage undertaker—

- (a) the sewer in question,
- (b) such part of any drain mentioned in paragraph (3)(b) as constitutes a lateral drain,
- (c) any associated sustainable drainage system, and
- (d) any associated waste water works.

(5) Condition 3 is that the agreement included terms such as are described in Article 161(6)(a) (provision of security for the discharge of obligations imposed on the party other than the sewerage undertaker).

(6) If an agreement has been entered into in respect of a sewer and all the obligations imposed on the other party to the agreement have been complied with, the undertaker may not refuse to permit the communication in reliance on Article 163(5).

(7) In this Article—

an “associated sustainable drainage system” is any sustainable drainage system—

- (i) constructed at the same time as the sewer in question, and
- (ii) from which water is or is to be discharged, whether directly or indirectly, into that sewer;

“associated waste water works” are any waste water treatment works—

- (i) constructed at the same time as the sewer in question, and
- (ii) from which effluent is or is to be discharged, whether directly or indirectly, into that sewer; and

the “other party to the agreement” is the person mentioned in subparagraph (a) or (b) of Article 161(1).”.

- (4) In Article 161 (adoption agreements), at the end insert—

“(9) The Department may issue guidance (to any person) about applying for, and making, agreements under this Article; and sewerage undertakers must have regard to the guidance.

(10) Before issuing guidance under this Article the Department must consult—

- (a) the Authority;
- (b) DOE;
- (c) sewerage undertakers;
- (d) the General Consumer Council for Northern Ireland;
- (e) such other persons as the Department considers it appropriate to consult in relation to the guidance.”.

- (5) For Article 162(2) (appeals with respect to adoption) substitute—

“(2) A person who has entered into or wants to enter into an agreement under Article 161 may appeal to the Authority about any matter concerning the agreement (including whether it is concluded, its terms and its operation).”.

- (6) In Article 169 (requirements for construction), at the end insert—

“(8) A requirement imposed under this Article may not be inconsistent with, or more onerous than, standards agreed in an agreement under Article 161.”.

## **Interpretation**

- 7** In this Act—

“the 2006 Order” means the Water and Sewerage Services (Northern Ireland) Order 2006;

“the Department” means the Department for Regional Development.

### **Commencement**

**8.**—(1) Sections 4, 5 and 6 come into operation on the day 2 months after this Act receives Royal Assent and apply in relation to sustainable drainage systems, drains or (as the case may be) sewers construction of which is completed on or after that day.

(2) The other provisions of this Act come into operation on the day on which this Act receives Royal Assent.

### **Short title**

**9** This Act may be cited as the Water and Sewerage Services Act (Northern Ireland) 2016.

## SCHEDULES

### SCHEDULE 1

Section 2.

#### COMBINING WATER RESOURCES MANAGEMENT PLANS AND DROUGHT PLANS

1 The 2006 Order is amended as follows.

*Requirement to review and revise plans etc.*

2.—(1) In the heading to Article 70, omit “and review”.

(2) Paragraphs (5) to (9) of Article 70 are re-numbered as paragraphs (1) to (5) of Article 70A, which is headed “Water resources management plans: review, consultation, etc.”.

3.—(1) Article 70A, as so formed, is amended as follows.

(2) In paragraph (1), after “Before each” insert “ second ”.

(3) In paragraph (2)(a), for “annual” substitute “ biennial ”.

(4) In paragraph (2)(c), for “the period of 5 years” substitute “ the maximum period (see paragraph (2A)) ”.

(5) After paragraph (2) insert—

“(2A) The maximum period mentioned in paragraph (2)(c) is—

(a) 6 years, or

(b) such longer period, of not more than 8 years, as the Department may direct in the case of a particular plan (or revised plan).”.

*Supplementary provision about plans*

4 In Article 72 (supplementary)—

(a) in paragraph (1), after “Article 70” insert “ , 70A ”;

(b) in paragraph (3), after “Articles 70”, insert “ , 70A ”.

*Drought plans*

5.—(1) Article 73 is amended as follows.

(2) In the heading, omit “and review”.



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(3) For paragraph (5) substitute—

“(5) Articles 70A and 71 (review, revision and publication of water resources management plan), including any power in those Articles to make regulations or give directions, apply in relation to drought plans (including revised plans) as they apply in relation to water resources management plans.”.

(4) Omit paragraphs (6) to (8).

(5) In paragraph (9), after “directions given under Article” insert “ 70A or ”.

*Combination of water resources management and drought plans*

6 After Article 73 insert—

**“Combination of water resources management plans and drought plans**

**73A.**—(1) The water resources management plan prepared by a water undertaker under Article 70 and the drought plan prepared by it under Article 73 may, if the undertaker so decides, be combined in a single plan.

(2) A single plan under paragraph (1) may be called a “water resource and supply resilience plan”.

SCHEDULE 2

Section 4.

SUSTAINABLE DRAINAGE SYSTEMS: FURTHER AMENDMENTS

1 The 2006 Order is amended as follows.

2 After Article 2(3B) (inserted by section 4) insert—

“(3C) In this Order—

(a) references to a sustainable drainage system include references to a tunnel or conduit which serves or is to serve as the system in question or part of it, and to any machinery or equipment of the system, and

(b) accordingly, references to the construction of a sustainable drainage system include references to the construction of such a tunnel or conduit and to the construction or installation of any such machinery or equipment.”.

3 In the italic heading before Article 159, after “sewers” insert “ , sustainable drainage systems ”.

4.—(1) Article 159 (adoption) is amended as follows.

- (2) In the heading, after “sewers” insert “ , sustainable drainage systems ”.
- (3) In paragraph (2)—
- (a) after “lateral drain”, in the first place those words occur, insert “ , sustainable drainage system ”, and
- (b) after “lateral drain”, in the second place those words occur, insert “ , system ”.
- (4) In paragraph (4)(a), after “lateral drain” insert “ , system ”.
- (5) In paragraph (5)—
- (a) in sub-paragraph (a), after “sewer” insert “ , system ”;
- (b) in sub-paragraph (b), for “or lateral drain” substitute “ , lateral drain or system ”;
- (c) in sub-paragraph (c), for “or lateral drain” substitute “ , lateral drain or system ”;
- (d) in sub-paragraph (d), after “lateral drain” insert “ , system ”.
- (6) In paragraph (6), for “or lateral drain” (in both places) substitute “ , lateral drain or system ”.
- 5.—**(1) Article 160 (adoption: supplementary) is amended as follows.
- (2) In paragraph (1), omit the “or” at the end of sub-paragraph (b) and after that sub-paragraph insert—
- “(ba) any sustainable drainage system which is situated within the area of another sewerage undertaker or which, though situated in its own area, serves the whole or any part of the area of another sewerage undertaker; or”.
- (3) In paragraph (3)—
- (a) in sub-paragraph (a), for “or a lateral drain” substitute “ , a lateral drain or a sustainable drainage system ”;
- (b) in sub-paragraph (b), after “lateral drain”, in the first place those words occur, insert “ , sustainable drainage system ”;
- (c) in sub-paragraph (b), for “or lateral drain” substitute “ , lateral drain or system ”;
- (d) in the words following sub-paragraph (b), after “or the lateral drain” insert “ or the system ”.
- (4) In paragraph (4)(a), for “or lateral drain” substitute “ , lateral drain or sustainable drainage system ”.
- 6.—**(1) Article 161 (agreements to adopt) is amended as follows.
- (2) In the heading, after “sewer, drain” insert “ , sustainable drainage system ”.

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(3) In paragraph (5), after “lateral drain” insert “ , system ”.

(4) In paragraph (7)(a) of that Article, after “sewer, drain” insert “ , sustainable drainage system ”.

7 In Article 162 (appeals with respect to adoption), in paragraphs (1) and (3), after “lateral drain” insert “ , sustainable drainage system ”.

8.—(1) Article 163 (right to connect to public sewer), as amended by section 5, is further amended as follows.

(2) In paragraph (6), after “a notice under paragraph (4) relates” insert “ , or of an associated sustainable drainage system, ”.

(3) In paragraph (7)—

(a) after “or drain” insert “ , or the system, ”;

(b) after “the lateral drain” insert “ , or the system, ”.

(4) After paragraph (9) insert—

“(10) In this Article an “associated sustainable drainage system” is any sustainable drainage system from which water is or is to be discharged, whether directly or indirectly, into a drain or sewer to which a notice under paragraph (4) relates.”.

9.—(1) Article 168 (restrictions on use of public sewers) is amended as follows.

(2) In paragraph (1)—

(a) after “a public sewer” insert “ or into a sustainable drainage system ”;

(b) in sub-paragraph (a), after “sewer, drain” (in both places) insert “ , system ”.

(3) In paragraph (2), after “sewer, drain” insert “ , system ”.

10.—(1) Article 169 (requirements for construction) is amended as follows.

(2) In the heading, for “or sewer” substitute “ , sewer or sustainable drainage system ”.

(3) In paragraph (1)—

(a) in sub-paragraph (a), for “or sewer” substitute “ , sewer or sustainable drainage system ”;

(b) in sub-paragraph (b) and in the words following that sub-paragraph, for “or sewer” substitute “ , sewer or system ”.

(4) In paragraph (6)(a), for “or sewer” substitute “ , sewer or system ”.

(5) In paragraph (6)(b)—

(a) after “a public sewer,” insert “ , or the system is vested in the undertaker by virtue of a declaration under Article 159, ”, and

(b) for “or sewer”, in the second place those words occur, substitute “, sewer or system”.

(6) In paragraph (7), for “or sewer” substitute “, sewer or sustainable drainage system”.

**11.—**(1) Article 171 (power to investigate defective drain or sewer) is amended as follows.

(2) In the heading, for “or sewer” substitute “, sewer or sustainable drainage system”.

(3) In paragraph (1)—

(a) in sub-paragraph (a), after “private sewer so connecting,” insert “ or any sustainable drainage system from which water is discharged, whether directly or indirectly, into any such drain or private sewer,”;

(b) in sub-paragraph (b), for “or private sewer” substitute “, private sewer or system”;

(c) in the words following sub-paragraph (b), for “or sewer” substitute “, sewer or system”.

(4) In paragraph (2), for “or sewer” substitute “, sewer or system”.

**12.—**(1) Article 174 (interpretation of Chapter 2 of Part 6) is amended as follows.

(2) In paragraph (2)—

(a) after “of a sewer” insert “, of a sustainable drainage system”, and

(b) after “existing sewer” insert “, system”.

(3) In paragraph (4), after “drain or outfall” insert “, or any sustainable drainage system”.

**13.—**(1) Article 236 (offences of interference with works etc.) is amended as follows.

(2) After paragraph (6) insert—

“(6A) In paragraph (6) the references to a sewer include any sustainable drainage system—

(a) which receives water directly from a sewer, or

(b) from which water is discharged directly into a sewer.”.

(3) In paragraph (9)—

(a) after “a pipe” insert “ or sustainable drainage system”;

(b) after “the pipe” insert “ or system”.

**14.—**(1) Article 241 (vesting of works in undertaker) is amended as follows.

(2) In paragraph (1)—

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- (a) in the opening words, after “the pipe” insert “ , system ”;
  - (b) in sub-paragraph (b), after “every” insert “ sustainable drainage system, ”;
  - (c) in the words following sub-paragraph (b), after “constructed” insert “ it or ”.
- (3) In paragraph (2)(b), after “lateral drain” insert “ , sustainable drainage system ”.

**15.—**(1) Article 247 (duty to move pipes etc. in certain cases) is amended as follows.

- (2) In paragraph (1)—
  - (a) after “any relevant pipe” insert “ , sustainable drainage system ”;
  - (b) after “that pipe” (in both places) insert “ , system ”.
- (3) In paragraph (3), after “any pipe” insert “ , system ”.

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