
STATUTORY INSTRUMENTS

2006 No. 3336

The Water and Sewerage Services (Northern Ireland) Order 2006

PART VIII

UNDERTAKERS' POWERS AND WORKS

CHAPTER I

UNDERTAKERS' POWERS

Powers in relation to land

Compulsory acquisition

216. Schedule 7 (which makes provision with respect to the compulsory acquisition of land) shall have effect in relation to a relevant undertaker.

Commencement Information

- II** [Art. 216](#) wholly in operation at 1.4.2007, see [art. 1\(2\)](#) and [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

Restriction on disposals of land

217.—(1) A company holding an appointment under Chapter I of Part III shall not dispose of any of its protected land, except with the consent of, or in accordance with a general authorisation given by, the Department.

(2) A consent or authorisation for the purposes of this Article shall be set out in a notice served by the Department on the company which is or may be authorised, by virtue of the provision contained in the notice, to dispose of land or, as the case may be, on every such company.

(3) A consent or authorisation for the purposes of this Article may be given on such conditions as the Department considers appropriate.

(4) Without prejudice to the generality of paragraph (3) and subject to paragraph (5), the conditions of a consent or authorisation for the purposes of this Article may include—

- (a) a requirement that, before there is any disposal, an opportunity of acquiring the land in question is to be made available, in such manner and on such terms as may be specified in or determined under provision contained in the notice setting out the consent or authorisation, to such person as may be so specified or determined;
- (b) a requirement that the company making the disposal has complied with such of the conditions of its appointment under Chapter I of Part III as relate to the disposal of its protected land;

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- (c) a requirement that the company, before making a disposal in a case in which the land in question is situated in a National Park or an area of outstanding natural beauty or special scientific interest, should do one or both of the following, that is to say—
 - (i) consult with DOE; and
 - (ii) enter into such agreements under Article 9 of the Nature Conservation and Amenity Land (Northern Ireland) Order 1985 (NI 1) or Article 34 of the Environment (Northern Ireland) Order 2002 (NI 7) (management agreements) or such covenants under paragraph (6) as the Department may determine;
 - (d) provision requiring determinations under or for the purposes of the consent or authorisation to be made, in such cases as are mentioned in sub-paragraph (c), either by DOE or only after consultation with DOE.
- (5) A consent or authorisation shall not be given on any such condition as is mentioned in paragraph (4)(a) except where the Department is satisfied that the condition will have effect in relation only to—
- (a) land which was acquired by the relevant undertaker in question, or any predecessor of that undertaker, either compulsorily or at a time when the undertaker or that predecessor was authorised to acquire it compulsorily; or
 - (b) land situated in a National Park or an area of outstanding natural beauty or special scientific interest.
- (6) Where a company holding an appointment under Chapter I of Part III is proposing, in such a case as is mentioned in paragraph (4)(c), to dispose of any of its protected land, it may enter into a covenant with the Department by virtue of which it accepts obligations with respect to—
- (a) the freedom of access to the land that is to be afforded to members of the public or to persons of any description; or
 - (b) the use or management of the land;
- and a covenant under this paragraph shall bind all persons deriving title from or under that company and shall be enforceable by the Department accordingly.
- (7) Article 8 shall have effect for the purposes of this Article as if every proposal which—
- (a) is made by a company holding an appointment as a relevant undertaker with respect to land in a National Park or an area of outstanding natural beauty or special scientific interest; and
 - (b) is a proposal for which the Department's consent or authorisation is required under this Article,
- were a proposal relating to the functions of such an undertaker.
- (8) In this Article—
- “area of outstanding natural beauty or special scientific interest” means an area which—
- (a) is for the time being designated as an area of outstanding natural beauty under Article 14 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (NI 1); or
 - (b) is an area in relation to which a notification under Article 28 of the Environment (Northern Ireland) Order 2002 (NI 7) (areas of special scientific interest) for the time being has effect;
- “National Park” means an area designated as a National Park under Article 12 of the Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (NI 1).

Commencement Information

- I2** Art. 217 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Byelaws with respect to undertakers' waterways and land

218.—(1) Every relevant undertaker shall have power to make such byelaws as are mentioned in paragraph (2) with respect to any waterway owned or managed by that body and with respect to any land held or managed with the waterway.

(2) The byelaws referred to in paragraph (1) in relation to any waterway or to any land held or managed with any such waterway are byelaws for any of the following purposes, that is to say—

- (a) the preservation of order on or in any such waterway or land;
- (b) the prevention of damage to anything on or in any such waterway or land or to any such land;
- (c) securing that persons resorting to any such waterway or land so behave as to avoid undue interference with the enjoyment of the waterway or land by others.

(3) Without prejudice to the generality of any of the sub-paragraphs of paragraph (2), the byelaws mentioned in that paragraph include byelaws—

- (a) regulating sailing, boating, bathing and fishing and other forms of recreation;
- (b) prohibiting the use of the waterway in question by boats which are not for the time being registered, in such manner as may be required by the byelaws, with the undertaker making the byelaws;
- (c) requiring the provision of such sanitary appliances as may be necessary for the purpose of preventing pollution;
- (d) providing for a contravention of the byelaws to constitute a summary offence punishable, on summary conviction, by—
 - (i) a fine not exceeding level 5 on the standard scale or such smaller sum as may be specified in the byelaws; and
 - (ii) in the case of a continuing offence, an additional fine not exceeding one twentieth of level 5 on the standard scale for each day during which the offence continues after written notice of the offence is given by the undertaker making the byelaws;
- (e) authorising the making of reasonable charges in respect of the registration of boats for the purposes of the byelaws.

(4) Schedule 8 shall have effect with respect to byelaws under this Article.

(5) Byelaws made under this Article shall cease to have effect at the end of the period of 10 years beginning with the day on which they were made; but the Department may by order make provision in relation to any particular byelaws for those byelaws to continue to have effect for such period after the time when they would otherwise cease to have effect as may be specified in the order.

(6) In this Article—

“boat” includes a vessel of any description, and “boating” shall be construed accordingly;

“waterway” means any lough, river, canal, reservoir or other waters which are, or can reasonably be rendered, suitable for sailing, boating, bathing or fishing.

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Commencement Information

- I3** [Art. 218](#) wholly in operation at 1.4.2007; [art. 218](#) in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see [art. 1\(3\)\(e\)](#); [art. 218](#) in operation at 1.4.2007 insofar as not already in operation by [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

Changes to legislation:

The Water and Sewerage Services (Northern Ireland) Order 2006, Cross Heading: Powers in relation to land is up to date with all changes known to be in force on or before 25 March 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 293(10A) inserted by [2015 c. 8 \(N.I.\) Sch. 3 para. 2\(b\)](#)