
DRAFT STATUTORY INSTRUMENTS

2006 No.

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

PART XII

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

Directions in the interests of national security

294.—(1) The Secretary of State may, after consultation with a relevant undertaker, give to that undertaker such directions of a general character as appear to the Secretary of State to be requisite or expedient in the interests of national security.

(2) If it appears to the Secretary of State to be requisite or expedient to do so in the interests of national security, he may, after consultation with a relevant undertaker, give to that undertaker a direction requiring it to do, or not to do, a particular thing specified in the direction.

(3) It shall be the duty of a relevant undertaker, notwithstanding any other duty imposed on it (whether or not by or under this Order), to comply with any direction given to it under this Article; and the duty of a relevant undertaker to comply with any such direction shall be enforceable under Article 30 by the Department.

(4) The Secretary of State may, after consultation with the Council, give to the Council such directions of a general character as to the exercise of its functions under this Order as appear to the Secretary of State to be requisite or expedient in the interests of national security.

(5) If it appears to the Secretary of State to be requisite or expedient to do so in the interests of national security, he may, after consultation with the Council, give to the Council a direction requiring it in the exercise of its functions under this Order to do, or not to do, a particular thing specified in the direction.

(6) The Council shall comply with any direction given to it under this Article.

(7) The Secretary of State shall lay before both Houses of Parliament a copy of every direction given under this Article unless he is of the opinion that disclosure of the direction is against the interests of national security.

(8) A person shall not disclose, or be required by virtue of any statutory provision or otherwise to disclose, anything done by virtue of this Article if the Secretary of State has notified him that he is of the opinion that disclosure of that thing is against the interests of national security.

(9) Any person who discloses any matter in contravention of paragraph (8) shall be guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Directions for preserving services or mitigating effects of emergency

295.—(1) The Department may, after consultation with a relevant undertaker, give to that undertaker such directions of a general character as appear to the Department to be requisite or expedient for the purpose of—

- (a) preserving the security of buildings, installations, pipes or apparatus used for, or for purposes connected with, the provision of a water supply or sewerage services; or
- (b) preventing, or reducing, controlling or mitigating the effects of, any civil emergency which may occur.

(2) If it appears to the Department to be requisite or expedient to do so for any purpose mentioned in paragraph (1), it may, after consultation with a relevant undertaker, give to that undertaker a direction requiring it to do, or not to do, a particular thing specified in the direction.

(3) It shall be the duty of a relevant undertaker, notwithstanding any other duty imposed on it (whether or not by or under this Order), to comply with any direction given to it under this Article; and the duty of a relevant undertaker to comply with any such direction shall be enforceable under Article 30 by the Department.

(4) The Department may, after consultation with the Council, give to the Council such directions of a general character as to the exercise of its functions under this Order as appear to the Department to be requisite or expedient for any purpose mentioned in paragraph (1).

(5) If it appears to the Department to be requisite or expedient to do so for any purpose mentioned in paragraph (1), it may, after consultation with the Council, give to the Council a direction requiring it in the exercise of its functions under this Order to do, or not to do, a particular thing specified in the direction.

(6) The Council shall comply with any direction given to it under this Article.

(7) The Department shall lay before the Assembly a copy of every direction given under this Article unless the Secretary of State has notified it that he is of the opinion that disclosure of the direction is against the interests of national security.

(8) A person shall not disclose, or be required by virtue of any statutory provision or otherwise to disclose, anything done by virtue of this Article if the Secretary of State has notified him that the Secretary of State is of the opinion that disclosure of that thing is against the interests of national security.

(9) Any person who discloses any matter in contravention of paragraph (8) shall be guilty of an offence and liable, on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(10) In this Article “civil emergency” means any event or situation which, in the opinion of the Department, causes or is likely to cause, in relation to any area—

- (a) such—
 - (i) disruption of water supplies or sewerage services;
 - (ii) loss of life, injury or illness; or
 - (iii) serious damage to property;
 as seriously and adversely to affect all the inhabitants of that area, or a substantial number of them, (whether by depriving them of any of the essentials of life or otherwise); or
- (b) serious harm to the environment (including the life or health of plants or animals in that area).

Abolition of Northern Ireland Water Council

296.—(1) On the transfer date—

- (a) any person holding office immediately before that date as chairman or other member of the Northern Ireland Water Council shall cease to hold that office; and
 - (b) that Council is abolished.
- (2) Accordingly—
- (a) Article 58 of the Water Order (constitution of that Council) is repealed;
 - (b) the entry relating to that Council in Part VII of Schedule 1 to the Freedom of Information Act 2000 (c. 36) is repealed.

Safety of reservoirs

297.—(1) The Department may make regulations with respect to the construction, inspection, maintenance and repair of reservoirs and dams.

(2) In this Article “reservoir” includes any place where water is artificially retained to form or enlarge a lake or lough, whether or not use is or is intended to be made of the water.

(3) No regulations may be made under this Article unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

Civil liability of water undertaker for escape of water, etc

298.—(1) Where an escape of water, however caused, from a pipe vested in a water undertaker causes loss or damage, the undertaker shall be liable, except as otherwise provided in this Article, for the loss or damage.

(2) A water undertaker shall not incur any liability under paragraph (1) if the escape was due wholly to the fault of the person who sustained the loss or damage or of any servant, agent or contractor of his.

(3) A water undertaker shall not incur any liability under paragraph (1) in respect of any loss or damage for which the undertaker would not be liable apart from that paragraph and which is sustained—

- (a) by a relevant undertaker or any statutory undertaker, within the meaning of Article 2(2) of the [Planning \(Northern Ireland\) Order 1991 \(NI 11\)](#);
- (b) by the Department, in connection with its functions under the [Roads \(Northern Ireland\) Order 1993 \(NI 15\)](#)
- (c) by DARD, in connection with its functions under the Drainage Order or the Lough Neagh Drainage Acts (Northern Ireland) 1955 and 1970;
- (d) by any person on whom a right to compensation is conferred by Article 42 of the [Street Works \(Northern Ireland\) Order 1995 \(NI 19\)](#);
- (e) by a person providing an electronic communications network within the meaning of section 32 of the Communications Act 2003 (c. 21);
- (f) by the Civil Aviation Authority; or
- (g) by a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000 (c. 38).

(4) Section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (c. 23), the [Fatal Accidents \(Northern Ireland\) Order 1977 \(NI 18\)](#) and the [Limitation \(Northern Ireland\) Order 1989 \(NI 11\)](#) shall apply in relation to any loss or damage for which a water undertaker is liable under this Article, but which is not due to the undertaker’s fault, as if it were due to its fault.

(5) Nothing in paragraph (1) affects any entitlement which a water undertaker may have to recover contribution under the Civil Liability (Contribution) Act 1978 (c. 47); and for the purposes of that

Act, any loss for which a water undertaker is liable under that paragraph shall be treated as if it were damage.

(6) Where the Department is liable under any statutory provision or agreement passed or made before [the transfer date] to make any payment in respect of any loss or damage the undertaker shall not incur liability under paragraph (1) in respect of the same loss or damage.

(7) In this Article “fault” has the same meaning as in section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948.