

These notes refer to the Water and Sewerage Services Act (Northern Ireland) 2016 (c.7) which received Royal Assent on 23 March 2016

Water and Sewerage Services Act (Northern Ireland) 2016

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Water and Sewerage Services Act (Northern Ireland) 2016 which received Royal Assent on 23 March 2016. They have been prepared by the Department for Regional Development (“the Department”) in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The Notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section or Schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Department is responsible for setting the policy for the delivery of water and sewerage services in Northern Ireland by the sole licensed water and sewerage undertaker, Northern Ireland Water (“NI Water”). The Act extends existing arrangements to allow the Department to pay subsidy to NI Water in view of the Executive’s commitment not to apply household charges to domestic customers during the current Assembly mandate. It also gives the Department the power to make subordinate legislation to extend the period for which subsidy is paid in the future if necessary.
4. The Act also introduces measures to streamline current obligations on NI Water to produce Water Resources Management Plans and Drought Plans.
5. The Act gives the Department power to remove the requirement on NI Water to install meters at domestic properties connecting for the first time to the public water supply.
6. The Act seeks to promote more sustainable means of managing surface water and reduce the volume of surface water being carried and treated by NI Water’s sewerage system.
7. Following recommendations made by the Committee for Regional Development in its Inquiry into Unadopted Roads in 2012, the Act includes

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powers to require new sewerage, which will be connected to the public sewerage network, to be constructed to standards which NI Water can then adopt (that is, take responsibility for) in order to protect householders.

8. The measures proposed in the Act support the aims of the Executive's Sustainable Water - A Long Term Water Strategy (2015-40), which seeks to deliver a sustainable water sector in Northern Ireland.

COMMENTARY ON SECTIONS

Section 1: Extension of period for which grants to water and sewerage undertakers can be paid

Section 1 amends Article 213 (grants by the Department to relevant undertakers) of the Water and Sewerage Services (Northern Ireland) Order 2006 ("the 2006 Order") to allow the Department to continue to pay subsidy to NI Water on behalf of domestic customers up to 31 March 2017. This aligns with the Executive's commitment not to introduce household charges during the current mandate. The Section also enables the 2006 Order to be further amended by order, with the approval of the Assembly, so that the subsidy can be paid until such other date as the Department decides.

Section 2: Combining water resources management plans and drought plans

Section 2 gives effect to Schedule 1 of the Act. The Schedule aligns the existing requirements on NI Water to prepare, review and revise water resources management plans and drought plans under Articles 70 to 73 of the 2006 Order so that NI Water may prepare a single plan instead of two, which may be known as a water resource and supply resilience plan. If made, the single plan shall be reviewed every two years and revised at least every six years, unless the Department permits a longer period of up to eight years.

Section 3: Cessation or relaxation of duty to install water meters when making domestic connections

Section 3 enables the Department to make regulations to remove or amend the requirement within Article 81 of the 2006 Order (conditions of connection concerning metering) for NI Water to install water meters at domestic properties connecting for the first time to the public water supply. It also allows the requirement to be reinstated or any amendments to it to be reversed. It provides that the Department must consult certain stakeholders before making the regulations, and requires the regulations to be subject to draft affirmative resolution.

Section 4: Sustainable drainage systems

Section 4 amends Article 2 (interpretation), Article 159 (adoption of sewers and waste water treatment works) and Article 161 (agreements to adopt sewer, drain or waste water treatment works at a future date) of the 2006 Order. The Section defines "sustainable drainage system" for the purposes of the Order and extends

NI Water's power to adopt infrastructure, and to enter into agreements about adoption, so as to include such systems. It also confers a power for NI Water to require the construction of sustainable drainage systems as a condition of agreeing to adopt a drain or sewer. Section 4 also applies Schedule 2 of the Act, which sets out other necessary amendments to the Order to take account of the inclusion of sustainable drainage systems within Articles 159 and 161. Finally, the Section confers a power to make other consequential amendments. This may be needed to make other necessary amendments in other legislation.

Section 5: Refusal of surface water connection

Section 5 introduces new restrictions to the right to connect surface water sewers to the public sewer network. At present NI Water has power under Article 163 of the 2006 Order to refuse to allow a surface water connection on the grounds of unsatisfactory construction of the drain or sewer proposed for connection or that making the connection would be prejudicial to the existing public sewerage system. The Section extends this power so as to enable NI Water to take account of any upstream sustainable drainage system which is connected to the drain or sewer which is it is proposed to connect to the public sewer. Section 5 also sets out a further ground for refusal, on the basis that there is a suitable alternative means of dealing with the surface water or that such a means could reasonably be provided. The Section also makes clear that suitable alternative means of dealing with the surface water (which can be a ground for refusal) include natural features and other arrangements that are commonly known as "soft sustainable drainage systems".

Section 6: Connection of drains and private sewers to public sewers: adoption agreements

Section 6 limits the right, conferred by Article 163 of the 2006 Order, to connect to a sewer. The Section introduces a requirement to enter into a sewer adoption agreement within the meaning of Article 161 of the 2006 Order (agreements to adopt sewer, drain or waste water treatment works at future date) as a condition of that right. This is in order to enable NI Water (*i*) to set the standards to which the private sewerage, including any necessary sustainable drainage system, must be constructed and (*ii*) to require an appropriate security (such as a bond). Provided the agreed construction standards are met, connection may not then be refused by NI Water. A mechanism for appeals to the Regulator about any issue regarding the sewer adoption agreement is also included.

HANSARD REPORTS

9. The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly and the date Royal Assent was received.

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STAGE	DATE
Briefing on the proposed Act to the Committee for Regional Development	3 June 2015
First Stage	16 June 2015
Second Stage	29 June 2015
Committee Stage – evidence from Northern Ireland Freshwater Taskforce	30 September 2015
Committee Stage – evidence from Northern Ireland Local Government Association	30 September 2015
Committee Stage – evidence from Northern Ireland Environment Agency	7 October 2015
Committee Stage – evidence from Consumer Council for Northern Ireland	7 October 2015
Committee Stage – evidence from Institution of Civil Engineers	7 October 2015
Committee Stage – evidence from Construction Employers’ Federation	7 October 2015
Committee Stage – Northern Ireland Water	14 October 2015
Committee’s Report on the Act – Report Number NIA 275/11-16	18 November 2015
Consideration Stage	8 December 2015
Further Consideration Stage	12 January 2016
Final Stage	25 January 2016
Royal Assent	23 March 2016