

WATER AND SEWERAGE SERVICES (NORTHERN IRELAND) ORDER 2006

S.I. 2006 3336

EXPLANATORY MEMORANDUM

OVERVIEW OF THE ORDER

Part Vi - Sewerage Services

74. This Part sets out the duties of sewerage undertakers.

Chapter I – General Functions of Sewerage Undertakers

75. Chapter I sets out the undertaker's main duty and matters concerning performance standards in relation to the provision of sewerage services. The provisions are similar to those covering the supply of water (see Part IV above).

76. [Article 149](#) sets out the general duty of the undertaker to provide, improve, maintain, cleanse and extend public sewers so as to provide effective drainage and to deal with the contents of sewerage effectively. In carrying out its duty the undertaker must have regard to the need to accept the discharge of trade effluent into its sewers and provide for its disposal (see Chapter III below). The undertaker's obligation to meet its sewerage supply duties is enforceable by the Department or the Authority if the Department delegates responsibility to it. In order to facilitate the determination of what constitutes a breach of the undertaker's duty or to establish overall performance standards the Department may make regulations setting out these matters (Article 150). However, the Department cannot make regulations unless the Authority has first applied to it to do so and set out the substance of what should be contained in the regulations after consulting the undertaker and carrying out customer research (Article 152). The regulations, amongst other things, can require the undertaker to pay compensation to customers if it fails to meet the prescribed standards. Article 151 obliges the Authority to collect information about performance standards and to publish them annually. The undertaker is required to provide information on performance standards to the Authority (it commits an offence if it fails to do so) and to its customers (Article 153). Regulations, whilst additional to enforcement, do not in any way qualify the powers to enforce.

Chapter II – Provision of Sewerage Services

77. Chapter II sets out the duties of the undertaker to supply sewerage services to its customers. The provisions are similar to those covering the supply of water.

78. [Articles 154 to 174](#) establish the circumstances governing the supply of sewerage services to the undertaker's customers including the making of new connections to the sewerage system. Article 154 places a duty on the undertaker to provide a sewer and lateral drain (the pipe connecting the main sewer to the premises) for drainage for domestic purposes when requested to do so. "Domestic purposes" in relation to sewerage means discharge of the contents of lavatories, water which has been used for domestic washing and cooking and surface water from, for example, gutters (Article

174). As with water supply, the undertaker may also make agreements with people who have decided to build their own sewers, drains or treatment works to adopt them so that they become owned and maintained by the undertaker. Unlike water supply, the undertaker can forcibly adopt sewers and drains (a water main connected to the supply system has to vest in the undertaker anyway – Article 89) under Article 159. It can also be requested to adopt sewers, drains or waste water treatment works built after 1973 by the owners of those facilities. The undertaker also has a duty in certain circumstances to provide a sewer where the drainage of any premises is having an adverse environmental effect (Article 157). Exercise of this provision is subject to guidance issued by the Department with individual disputes subject to determination by the Authority. Article 163 gives owners or occupiers the right to have their premises (or any privately owned sewer) connected to the public sewerage system for the purpose of discharging foul or surface water (but not trade effluent – see chapter III below). Articles 164 and 165 provide for the making of connections to the sewerage system; this can be carried out by the undertaker or by the person wishing to make the connection as long as it is supervised by the undertaker (only the undertaker can make a water supply connection). In either case, it is an offence for someone to make a connection to the public sewers other than in accordance with the legislation (Articles 164(2) and 166). It is also an offence, under Article 168, for anyone to dispose of substances or objects into the public sewerage system that might damage it or impair the treatment of its contents.

79. As with water supplies, customers are required to meet costs of work and pay charges for sewerage services in accordance with the undertaker's charges scheme. Articles 155 allows the undertaker to require financial securities from those requesting sewers and Article 161(6) provides for similar arrangements in respect of adoption agreements. The undertaker can require the provision of appropriate information before agreeing to adoption and that certain standards in the building of the sewer are met. Articles 169 to 173 give the undertaker a number of other powers. Article 169 requires that sewers which a person proposes to connect to the public sewerage system are built to a specification in excess of that required for the particular sewer because of benefits to the wider system (the undertaker has to provide the extra expenditure needed). Articles 170 and 173 allow the undertaker to alter existing drainage systems or close public sewers so long as it meets costs and provides an alternative means of drainage or sewerage disposal. Article 171 provides for the inspection of defective drains by the undertaker. Article 172 allows the undertaker to make agreements with the Department to use road drains as sewers and vice versa.
80. [Article 156](#) sets out time limits for the completion of work in the provision of drains or sewers by the undertaker and for it to pay interest on any securities deposited with it if work is not completed within six months from a prescribed date. If the undertaker breaches its duty to supply drains or sewers within the prescribed time it is liable to the person making the request for any loss or damage they suffer (Article 154). Disputes between an undertaker and customer about such matters as interest payments, reasonableness of securities demanded, the refusal to adopt sewers or the compulsory adoption of them, the refusal to permit a connection to the public sewer or the terms upon which a connection may be made can be referred to the Authority for resolution.

Chapter III – Trade Effluent

81. This Chapter sets out the duties and responsibilities of the undertaker, the Department, the DOE and the customer in respect of dealing with trade effluent. Such clearly defined duties and responsibilities are required in order to satisfy the increasing demands set down by new environmental legislation. Trade effluent is defined at Article 199 as liquid produced in the course of any trade or industry (including medical, scientific and agricultural). It does not include domestic sewage. Article 198 gives the Department power, by order, to prescribe that a substance is or is not to be treated as trade effluent for the purposes of the legislation.

This Explanatory Memorandum refers to the Water and Sewerage Services (Northern Ireland) Order 20063336

82. Any occupier of trade premises wishing to discharge trade effluent, into the undertaker's sewers must apply for consent so to do (Articles 175 and 176). It is an offence to discharge trade effluent without first obtaining proper consent. The undertaker may not agree to consent to the discharge or may agree unconditionally or subject to such conditions as the undertaker sets. Conditions may be varied with the agreement of the consent holder or, after 2 years, at the behest of the undertaker. If the undertaker varies the consent within 2 years it will, in certain circumstances, be liable to pay compensation to the consent holder. Guidance on any such conditions and the process for varying them is set out in Articles 179, 182 and 183. The transfer of trade effluent discharge consents, by the holder to a successor proposing to carry on the same discharge, is facilitated by Article 177.
83. Any owner or occupier of trade premises wishing to discharge trade effluent other than directly into the undertaker's sewers e.g. disposal by tanker, may apply to enter into an agreement with the undertaker so to do.
84. [Articles 180,181](#) and [184](#) provide for appeals to the Authority in respect of trade effluent discharge consents and the relevant conditions attached.
85. [Articles 178](#) and [188](#) require the sewerage undertaker to refer applications and proposed agreements for the discharge of special category effluent to DOE, and no consent may be given to its discharge until DOE has made a determination; failure to make references to DOE constitutes an offence. Article 181 sets out the appeals process. Articles 185 and 189 provide the process by, and the timeframes within which, DOE may review consents and agreements relating to special category effluent. Article 190 sets out DOE's powers, and the procedure to be applied, in relation to its receiving representations or objections, and making determinations, on references and reviews. Article 192 sets out the circumstances in which DOE may or may not be liable to pay compensation as a result of a notice served by DOE under Article 190. Article 194 provides DOE with a power to require information for the purpose of its functions in relation to special category effluent; failure to comply with a notice served by DOE constitutes an offence. Article 197 defines special category effluent.
86. Charges for services provided under this Chapter of the Order will be set out in the undertaker's charges scheme (see Part VII below).
87. This Chapter of the Order sets out the formal processes for administration of applications, transfers, variations, reviews and appeals in relation to trade effluent and special category effluent discharge consents.