
STATUTORY INSTRUMENTS

2006 No. 3336

The Water and Sewerage Services (Northern Ireland) Order 2006

PART VI

SEWERAGE SERVICES

CHAPTER II

PROVISION OF SEWERAGE SERVICES

Communication of drains and private sewers with public sewers

Right to communicate with public sewers

163.—(1) Subject to the provisions of this Article [^{F1}and Article 163A] —

- (a) the owner or occupier of any premises, or
- (b) the owner of any private sewer which drains premises,

shall be entitled to have his drains or sewer communicate with the public sewer of any sewerage undertaker and thereby to discharge foul water and surface water from those premises or that private sewer.

(2) In this Article, and in Articles 164 to 166, 168, 170 to 173, 175, 176, 182, 185, 198 and 206—

- (a) references (however expressed) to a public sewer include a public lateral drain which satisfies sewer standards; and

(b) for the purposes of sub-paragraph (a)—

- (i) a “public lateral drain” is a lateral drain which either belongs to the sewerage undertaker or is vested in the sewerage undertaker by virtue of a declaration made under Article 159 or under an agreement made under Article 161; and
- (ii) “sewer standards” means such standards of construction and repair as the undertaker would require if the public lateral drain or part of it were to become a public sewer.

(3) Subject to the provisions of Chapter III of this Part, nothing in paragraph (1) shall entitle any person—

(a) to discharge directly or indirectly into any public sewer—

- (i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or
- (ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any statutory provision; or

(b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly—

- (i) foul water into a sewer provided for surface water; or

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(ii) except with the approval of the undertaker, surface water into a sewer provided for foul water; or

(c) to have his drains or sewer made to communicate directly with a storm-water overflow sewer.

(4) A person whose private sewer or drains do not communicate with a public sewer and who is desirous of availing himself of his entitlement under this Article shall give notice of his proposals to the sewerage undertaker in question.

(5) At any time within 21 days after a sewerage undertaker receives a notice under paragraph (4), the undertaker may by notice to the person who gave the notice refuse to permit the communication to be made, if it appears to the undertaker that [^{F2}either of the following grounds is satisfied.]

[^{F3}(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.]

(6) For the purpose of examining the mode of construction and condition of a drain or sewer to which a notice under paragraph (4) relates [^{F4}, or of an associated sustainable drainage system,] a sewerage undertaker may, if necessary, require it to be laid open for inspection.

(7) Where the sewer or drain [^{F5}, or the system,] satisfies the standards reasonably required by it, a sewerage undertaker may, as a condition of permitting the communication to be made, require that the sewer or that part of the drain forming the lateral drain [^{F6}, or the system,] be vested in it by virtue of a declaration under Article 159.

(8) Any question arising under paragraphs (4) to (7) between a sewerage undertaker and a person proposing to make a communication as to—

(a) the reasonableness of the undertaker's refusal to permit a communication to be made; or

(b) as to the reasonableness of any requirement under paragraph (6) or (7),

may, on the application of that person, be determined by the Authority under Article 61 and, accordingly, Article 162 shall not apply to any requirement under paragraph (7).

(9) In this Article “factory” has the same meaning as in the Factories Act (Northern Ireland) 1965 (c. 20).

[^{F7}(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.]

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Textual Amendments

- F1** Words in art. 163(1) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 6\(2\), 8](#)
- F2** Words in art. 163(5) substituted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 5\(2\), 8](#)
- F3** Art. 163(5A)-(5C) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 5\(3\), 8](#)
- F4** Words in art. 163(6) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 8\(2\)](#)
- F5** Words in art. 163(7) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 8\(3\)\(a\)](#)
- F6** Words in art. 163(7) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 8\(3\)\(b\)](#)
- F7** Art. 163(10) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 8\(4\)](#)

Commencement Information

- I1** Art. 163 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](#))

[^{F8}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—

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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 sub-paragraph (a) or (b) of Article 161(1).]

Textual Amendments

F8 [Art. 163A](#) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 6\(3\), 8](#)

Right of sewerage undertaker to undertake the making of communications with public sewers

164.—(1) Where a person gives to a sewerage undertaker notice under Article 163 of his proposal to have his drains or sewer made to communicate with a public sewer of that undertaker, the undertaker may—

- (a) within 21 days after the receipt of the notice; or
- (b) if any question arising under the notice requires to be determined by the Authority, within 21 days after the determination of that question,

give notice to that person that the undertaker intends itself to make the communication.

(2) If, after a notice has been given to any person under paragraph (1), that person proceeds himself to make the communication, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(3) Where a sewerage undertaker has given a notice under paragraph (1)—

- (a) the undertaker shall have all such rights in respect of the making of the communication as the person desiring it to be made would have; but
- (b) it shall not be obligatory on the undertaker to make the communication until either—
 - (i) there has been paid to the sewerage undertaker any such sum, not exceeding the undertaker's reasonable estimate of the cost of the work, as the undertaker may have required to be paid to it; or
 - (ii) there has been given to the undertaker such security for the payment of the cost of the work as it may reasonably have required.

(4) If any payment made to a sewerage undertaker under paragraph (3) exceeds the expenses reasonably incurred by it in the carrying out of the work in question, the excess shall be repaid by the undertaker; and, if and so far as those expenses are not covered by such a payment, the undertaker may recover summarily as a civil debt the expenses, or the balance of them, from the person for whom the work was done.

(5) Any dispute between a sewerage undertaker and any other person as to—

- (a) whether the undertaker's estimate of the cost of works given under paragraph (3)(b)(i) is reasonable,

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(b) whether any requirement of security for the payment of the cost of works was reasonably made by the undertaker, or

(c) whether any excess is repayable, or any expenses are recoverable, by the undertaker under paragraph (4), or the amount of any such excess or expenses,

may be referred to the Authority for determination under Article 61 by either party to the dispute.

(6) For the purposes of this Article, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street.

Commencement Information

I2 Art. 164 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](#))

Communication works by person entitled to communication

165.—(1) Where a sewerage undertaker does not under Article 164 elect itself to make a communication to which a person is entitled under Article 163, the person making it shall—

(a) before commencing the work, give reasonable notice to any person directed by the undertaker to superintend the carrying out of the work; and

(b) afford any such person all reasonable facilities for superintending the carrying out of the work.

(2) For the purpose—

(a) of exercising his rights under Article 163; or

(b) of examining, repairing or renewing any drain or private sewer draining his premises into a public sewer,

the owner or occupier of any premises shall be entitled to exercise the same powers as, for the purpose of carrying out its functions, are conferred on a sewerage undertaker by Articles 219 and 222(1).

(3) The provisions of Part VIII of this Order shall apply, with the necessary modifications, in relation to the power conferred by paragraph (2) as they apply in relation to the power conferred by Articles 219 and 222(1).

Commencement Information

I3 Art. 165 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](#))

Unlawful communications

166.—(1) Any person who causes a drain or sewer to communicate with a public sewer—

(a) in contravention of any of the provisions of Article 163 or 165; or

(b) before the end of the period mentioned in paragraph (5) of Article 163,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(2) Whether proceedings have or have not been taken by a sewerage undertaker in respect of an offence under this Article, such an undertaker may—

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- (a) close any communication made in contravention of any of the provisions of Article 163 or 165; and
- (b) recover summarily as a civil debt from the offender any expenses reasonably incurred by the undertaker in so doing.

Commencement Information

I4 Art. 166 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](#))

Changes to legislation:

The Water and Sewerage Services (Northern Ireland) Order 2006, Cross Heading: Communication of drains and private sewers with public sewers is up to date with all changes known to be in force on or before 03 April 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\(b\)](#)