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## STATUTORY INSTRUMENTS

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# 2006 No. 3336

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

### PART VIII

#### UNDERTAKERS' POWERS AND WORKS

##### CHAPTER I

##### UNDERTAKERS' POWERS

##### *Other works powers*

#### **Power to carry out works and discharge surface water for sewerage purposes**

**221.**—(1) A sewerage undertaker may, by agreement with the owner or occupier of any premises, carry out at that person's expense—

- (a) any work in connection with the construction, laying, alteration or repair of a sewer or drain which that person is entitled to carry out; or
- (b) any work which the undertaker has required that person to carry out under Part VI;

and for that purpose the undertaker shall have all such rights as that person would have.

(2) Sections 255 and 260 of the Public Health (Ireland) Act 1878 (c. 52) and section 7 of the Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1962 (which provide for the recovery of expenses incurred by a district council) shall apply in relation to the recovery by a sewerage undertaker of any sums under paragraph (1) as they apply in relation to the recovery of expenses under that Act by a district council.

(3) A sewerage undertaker may for the purposes of any of its functions discharge surface water into any available watercourse or harbour.

(4) Paragraphs 1 and 2 of Schedule 10 apply in relation to the power conferred by paragraph (3) as they apply in relation to a power to carry out works.

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#### **Commencement Information**

- II** [Art. 221](#) 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](#))

#### **Power to deal with foul water and pollution**

**222.**—(1) Subject to the provisions of Chapter III, every relevant undertaker shall, for the purpose of carrying out its functions, have power—

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- (a) to carry out in a street all such works as are requisite for securing that the water in any relevant waterworks is not polluted or otherwise contaminated; and
- (b) to carry out any works requisite for, or incidental to, the purposes of any works falling within sub-paragraph (a), including for those purposes the following kinds of works, that is to say—
  - (i) breaking up or opening a street;
  - (ii) tunnelling or boring under a street;
  - (iii) breaking up or opening a sewer, drain or tunnel;
  - (iv) moving or removing earth and other materials;

and the provisions of Article 219 shall, so far as applicable, have effect in relation to the powers conferred by this paragraph as they have effect in relation to the powers conferred by paragraph (1) of that Article.

(2) Subject to the provisions of Chapter III, every relevant undertaker shall, for the purpose of carrying out its functions, have power—

- (a) to carry out on any land which is not in, under or over a street all such works as are requisite for securing that the water in any relevant waterworks is not polluted or otherwise contaminated; and
- (b) to carry out any works requisite for, or incidental to, the purposes of any works falling within sub-paragraph (a);

and the provisions of Article 220 shall, so far as applicable, have effect in relation to the powers conferred by this paragraph as they have effect in relation to the powers conferred by paragraph (1) of that Article.

(3) Without prejudice to the powers conferred by paragraphs (1) and (2) but subject to the provisions of Chapter III, every water undertaker shall have power, on any land which belongs to that undertaker or over or in which that undertaker has acquired the necessary easements or rights, to construct and maintain drains, sewers, watercourses, catchpits and other works for the purpose—

- (a) of intercepting, treating or disposing of any foul water arising or flowing upon that land; or
- (b) of otherwise preventing the pollution—
  - (i) of any waters, whether on the surface or underground, which belong to any water undertaker or from which any water undertaker is authorised to take water;
  - (ii) without prejudice to head (i), of any reservoir which belongs to or is operated by any water undertaker or which any water undertaker is proposing to acquire or construct for the purpose of being so operated; or
  - (iii) of any underground strata from which any water undertaker is for the time being authorised to abstract water.

(4) Where any water undertaker is proposing to carry out any such works as are mentioned in paragraph (3) and the proposed works will affect any watercourse, the undertaker shall consult DOE before carrying out the works.

(5) Without prejudice to Articles 245 to 250, nothing in paragraph (3) shall authorise any water undertaker, without the consent of the navigation authority in question, to intercept or take any water which a navigation authority is authorised to take or use for the purposes of its undertaking.

(6) Any dispute as to whether any consent for the purposes of paragraph (5) is being unreasonably withheld shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(7) In Article 219 the references to the laying of a relevant pipe shall include references—

- (a) to the laying of any drain or sewer for any of the purposes mentioned in paragraph (3) (a) and (b); and
  - (b) to the construction of a watercourse for any of those purposes.
- (8) In this Article—
- “relevant waterworks” means any waterworks which contain water which is or may be used by a water undertaker for providing a supply of water to any premises; and
- “waterworks” includes any water main, resource main, service pipe or discharge pipe and any spring, well, adit, borehole, service reservoir or tank.

#### Commencement Information

- I2** [Art. 222](#) 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](#))

#### Works in connection with metering

**223.**—(1) Subject to the following provisions of this Article, to Article 208 and to the provisions of Chapter III, where—

- (a) paragraph (2) applies to a relevant undertaker in respect of any premises; and
  - (b) there is either—
    - (i) a service pipe which is connected with a water undertaker's water main and by which a supply of water is or could be provided to those premises or to any building in which those premises are contained; or
    - (ii) a drain or private sewer which connects those premises with a public sewer,the undertaker shall have power, in accordance with Article 233 or otherwise, to carry out any works specified in paragraph (4).
- (2) This paragraph applies to a relevant undertaker in respect of any premises if—
- (a) the undertaker has fixed any charges in relation to any premises by reference to volume, or
  - (b) the undertaker is entitled so to fix any charges because the person who is the consumer in relation to the premises for the purposes of Chapter I of Part VII has exercised his right to give—
    - (i) a measured charges notice under Article 204, or
    - (ii) any consent for the purposes of Article 205(2)(a)(ii),and has not revoked the measured charges notice or consent under Article 204, or
  - (c) the undertaker has given notice of its intention of so fixing any charges—
    - (i) within the period specified in the notice, or
    - (ii) in a case where it is not for the time being entitled so to fix the charges, if and when it becomes entitled to do so.
- (3) The power under paragraph (1) to carry out works specified in paragraph (4) shall include power to carry out any such works in a street; and the power conferred by virtue of paragraph (1)(c) of Article 219 and paragraph (6) of that Article shall apply in relation to the power conferred by this paragraph as they apply in relation to the powers conferred by that Article.

- (4) The works mentioned in paragraphs (1) and (2) are, in relation to any premises—
- (a) works consisting in the installation and connection of any meter for use in determining the amount of any charges which have been or may be fixed in relation to the premises;

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- (b) where the premises comprise a house which is one of two or more houses to which the supply of water is wholly or partly by the same service pipe, works consisting in the installation and connection, for any purpose connected with the installation or connection of such a meter, of a separate service pipe for that house;
  - (c) works for the purpose of maintaining, repairing, disconnecting or removing—
    - (i) any meter which has been installed for use in determining the amount of any charges which have been or may be fixed in relation to the premises; or
    - (ii) any pipes or apparatus installed in the course of any works specified in this Article;
  - (d) works consisting of the installation and connection of any meter for research purposes or for the purpose of maintaining, repairing disconnecting or removing any such meter;
  - (e) any other works appearing to the undertaker to be necessary or expedient for any purpose connected with the carrying out of any works specified in sub-paragraph (a), (b), (c) or (d) including the installation and connection of any pipes or other apparatus on the premises and the alteration or removal of any of the plumbing of the premises.
- (5) A notice given for the purposes of paragraph (2)(c) may relate to particular premises or to any description of premises and shall be given—
- (a) by publishing the notice in the locality in which the premises to which it relates are situated in such a manner as the undertaker considers appropriate for bringing it to the attention of the persons likely to be affected by it; and
  - (b) by serving a copy of the notice on the Department.
- (6) Subject to paragraph (7), any works carried out by a water undertaker by virtue of the provisions of this Article shall be necessary works for the purposes of Chapter II of Part IV.
- (7) Nothing in this Article affects the operation of paragraph (4)(b) of Article 104 in a case where a water undertaker has, under Article 104, required the provision of a separate service pipe to any premises.
- (8) Part II of Schedule 4 shall apply to the powers conferred by this Article.
- (9) Any dispute between a relevant undertaker and any other person (including another such undertaker) as to the exercise of any power under this Article to carry out any works on any premises shall be referred to the arbitration of a single arbitrator appointed—
- (a) by agreement between the undertaker and that person; or
  - (b) in default of agreement, by the Authority.
- (10) Without prejudice to paragraph (3), nothing in Article 219, 220 or 222 shall authorise the installation of any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises where that apparatus is to be used for the purpose only of determining the amount of any charges fixed, or to be fixed, in relation to those premises wholly or partly by reference to the volume of that water or effluent.

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#### Commencement Information

**I3** [Art. 223](#) 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](#))

#### Power to fit stopcocks

**224.**—(1) Subject to paragraph (2) and without prejudice to Article 220, a water undertaker shall have power, at its own expense, to fit a stopcock to any service pipe by which a supply of water is

or is to be provided to any premises by the undertaker, whether that pipe belongs to the undertaker or to any other person.

(2) A stopcock fitted in private premises by a water undertaker to any service pipe shall be situated as near as practicable to any street from which that pipe enters those premises.

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**Commencement Information**

**I4** [Art. 224](#) 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](#))

**Agreements for works with respect to water sources**

**225.**—(1) A water undertaker may enter into agreements under this Article with the owners and occupiers of any land, or with DARD, with respect to the carrying out and maintenance by any party to the agreement of such works as the undertaker considers necessary—

- (a) for the purpose of draining that land; or
- (b) for more effectually collecting, conveying or preserving the purity of any water which the undertaker is for the time being authorised to take.

(2) Before entering into an agreement under this Article with respect to the carrying out of works the carrying out of which would result in the discharge of any water into a watercourse otherwise than through public sewers, a water undertaker shall consult DOE and, if the watercourse is subject to the jurisdiction of a navigation authority, that authority.

(3) An agreement under this Article with the owner of any land which is expressed to be binding on and enforceable against the owner's successors in title to that land—

- (a) may be registered in the Statutory Charges Register; and
- (b) shall be so binding and enforceable unless it is void by reason of a failure so to register it.

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**Commencement Information**

**I5** [Art. 225](#) 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:**

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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\(b\)](#)