
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Water and Sewerage Services
(Northern Ireland) Order 2006

PART VIII

UNDERTAKERS' POWERS AND WORKS

CHAPTER I

UNDERTAKERS' POWERS

Other works powers

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—

- (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.