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DRAFT STATUTORY INSTRUMENTS

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**2006 No.**

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

**PART III**

**APPOINTMENT AND REGULATION OF UNDERTAKERS**

**CHAPTER I**

**APPOINTMENTS**

*Modification of appointment conditions*

**Reports on modification references**

**24.**—(1) In making a report on a reference under Article 21, the Competition Commission—

- (a) shall include in the report definite conclusions on the questions comprised in the reference together with such an account of its reasons for those conclusions as, in its opinion, is expedient for facilitating a proper understanding of those questions and of its conclusions;
- (b) where it concludes that any of the matters specified in the reference operate, or may be expected to operate, against the public interest, shall specify in the report the effects adverse to the public interest which those matters have or may be expected to have; and
- (c) where it concludes that any adverse effects so specified could be remedied or prevented by modifications of the conditions of a company's appointment under this Chapter, shall specify in the report modifications by which those effects could be remedied or prevented.

(2) For the purposes of Article 25, a conclusion contained in a report of the Competition Commission is to be disregarded if the conclusion is not that of at least two-thirds of the members of the group constituted in connection with the reference concerned in pursuance of paragraph 15 of Schedule 7 to the Competition Act 1998 (c. 41).

(3) If a member of a group so constituted disagrees with any conclusions contained in a report made on a reference under Article 21 as the conclusions of the Competition Commission, the report shall, if the member so wishes, include a statement of his disagreement and of his reasons for disagreeing.

(4) For the purposes of the law relating to defamation, absolute privilege attaches to any report made by the Competition Commission on a reference under Article 21.

(5) In making any report on a reference under Article 21 the Competition Commission must have regard to the following considerations before disclosing any information.

(6) The first consideration is the need to exclude from disclosure (so far as practicable) any information whose disclosure the Commission thinks is contrary to the public interest.

(7) The second consideration is the need to exclude from disclosure (so far as practicable)—

- (a) commercial information whose disclosure the Commission thinks might significantly harm the legitimate business interests of the undertaking to which it relates; or
  - (b) information relating to the private affairs of an individual whose disclosure the Commission thinks might significantly harm the individual's interests.
- (8) The third consideration is the extent to which the disclosure of the information mentioned in paragraph (7)(a) or (b) is necessary for the purposes of the report.
- (9) A report of the Competition Commission on a reference under Article 21 shall be made to the Authority.
- (10) Subject to paragraph (11), the Authority—
- (a) shall, on receiving such a report, send a copy of it to the company to whose appointment under this Chapter the report relates and to the Department; and
  - (b) shall, not less than 14 days after that copy is received by the Department, publish another copy of that report in such manner as the Authority considers appropriate for bringing the report to the attention of persons likely to be affected by it.
- (11) If it appears to the Department that the publication of any matter in such a report would be against the public interest or the commercial interests of any person, it may, before the end of the period of 14 days mentioned in sub-paragraph (b) of paragraph (10), direct the Authority to exclude that matter from every copy of the report to be published by virtue of that sub-paragraph; and the Authority shall comply with any such direction.