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DRAFT STATUTORY INSTRUMENTS

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**2006 No.**

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

**PART II**

**REGULATORY AUTHORITIES AND GENERAL DUTIES**

*General duties*

**General duties with respect to water industry**

**6.—(1)** This Article shall have effect for imposing duties on the Department and the Authority as to when and how they should carry out the following functions—

- (a) in the case of the Department, its functions under the provisions of this Order relating to the regulation of relevant undertakers; and
- (b) in the case of the Authority, its functions under the provisions of this Order relating to—
  - (i) the regulation of relevant undertakers;
  - (ii) the financial conditions of requisitions; or
  - (iii) the movement of certain pipes.

**(2)** The Department or, as the case may be, the Authority shall carry out the functions mentioned in paragraph (1) in the manner that it considers is best calculated—

- (a) to protect the interests of consumers in relation to the supply of water by water undertakers and the provision of sewerage services by sewerage undertakers, wherever appropriate by facilitating effective competition between persons engaged in, or in commercial activities connected with, the supply of water and the provision of sewerage services;
- (b) to secure that the functions of a water undertaker and of a sewerage undertaker are properly carried out as respects every area of Northern Ireland; and
- (c) to secure that companies holding appointments under Chapter I of Part III as relevant undertakers are able (in particular, by securing reasonable returns on their capital) to finance the proper carrying out of the functions of such undertakers.

**(3)** For the purposes of paragraph (2)(a) the Department or, as the case may be, the Authority shall have regard to the interests of—

- (a) individuals who are disabled or chronically sick;
- (b) individuals of pensionable age;
- (c) individuals with low incomes; and
- (d) individuals residing in rural areas,

but that is not to be taken as implying that regard may not be had to the interests of other descriptions of consumer.

(4) The Department and the Authority may, in carrying out any of the functions mentioned in paragraph (1), have regard to—

- (a) any interests of consumers in relation to electricity supplied by authorised suppliers (within the meaning of the Energy Order);
- (b) any interests of consumers in relation to gas supplied by authorised suppliers (within the meaning of that Order);
- (c) any interests of consumers in relation to communications services and electronic communications apparatus (within the meaning of the Communications Act 2003 (c. 21),

which are affected by the carrying out of that function.

(5) Subject to paragraph (2), the Department or, as the case may be, the Authority shall carry out the functions mentioned in paragraph (1) in the manner that it considers is best calculated—

- (a) to promote economy and efficiency on the part of companies holding an appointment under Chapter I of Part III in the carrying out of the functions of a relevant undertaker;
- (b) to secure that no undue preference is shown, and that there is no undue discrimination, in the fixing by such companies of water and sewerage charges;
- (c) to secure that consumers are protected as respects benefits that could be secured for them by the application in a particular manner of any of the proceeds of any disposal (whenever made) of any of such a company's protected land;
- (d) to ensure that consumers are also protected as respects any activities of such a company which are not attributable to the exercise of functions of a relevant undertaker, or as respects any activities of any person appearing to the Department or, as the case may be, the Authority to be connected with the company, and in particular by ensuring—
  - (i) that any transactions are carried out at arm's length;
  - (ii) that the company, in relation to the exercise of its functions as a relevant undertaker, maintains and presents accounts in a suitable form and manner;
- (e) to contribute to the achievement of sustainable development.

(6) In carrying out any of the functions mentioned in paragraph (1) in accordance with the preceding provisions of this Article, the Department and the Authority shall have regard to the principles of best regulatory practice (including the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed).

(7) In this Article the references to water and sewerage charges are references to—

- (a) any charges in respect of any services provided in the course of the carrying out of the functions of a relevant undertaker; and
- (b) amounts of any other description which such an undertaker is authorised by or under any statutory provision to require any of its customers or potential customers to pay.

(8) For the purposes of this Article—

- (a) subject to paragraph (9), the reference in paragraph (1) to the provisions of this Order relating to the regulation of relevant undertakers is a reference to the provisions contained in Part III (except Article 45), or in any of Articles 66, 69 to 73, 150, 152, 214, 243, 244, 253, 254 and 259 to 261;
- (b) the reference in that paragraph to the provisions relating to the financial conditions of requisitions is a reference to the provisions contained in Articles 77, 83, 88 and 155; and
- (c) the reference in that paragraph to the provisions relating to the movement of certain pipes is a reference to the provisions of Article 247.

(9) Paragraphs (2) to (6) do not apply in relation to anything done by the Authority in the exercise of functions assigned to it by Article 29(3) (Competition Act functions).

(10) The Authority may nevertheless when exercising any Competition Act function, have regard to any matter in respect of which a duty is imposed by any of paragraphs (2) to (6) if it is a matter to which the OFT could have regard when exercising that function.

(11) The duties imposed by paragraphs (2) to (6) do not affect the obligation of the Department or, as the case may be, the Authority to perform or comply with any other duty or requirement (whether arising under this Order or another statutory provision, by virtue of any Community obligation or otherwise).