
DRAFT STATUTORY INSTRUMENTS

2006 No.

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

**PART I
INTRODUCTORY**

Title and commencement

1.—(1) This Order may be cited as the Water and Sewerage Services (Northern Ireland) Order 2006.

(2) Except as provided by paragraph (3), this Order shall come into operation on such day or days as the Department may by order appoint.

(3) The following provisions come into operation on 1st January 2007—

- (a) this Part;
- (b) Article 201(11) to (13);
- (c) Part X (together with Schedule 11);
- (d) Articles 300, 302, 306 and 307; and
- (e) so much of any other provision of this Order as confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power.

(4) An order under paragraph (2) providing for any provision contained in Chapter IV of Part IV to come into operation shall not be made unless a draft of the order has been laid before and approved by resolution of the Assembly.

(5) An order under paragraph (2) may contain such transitional or transitory provisions and such savings as appear to the Department to be necessary or expedient.

Interpretation

2.—(1) Subject to paragraph (13), the Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

“accessories”, in relation to a water main, sewer or other pipe, includes any manholes, ventilating shafts, inspection chambers, settling tanks, wash-out pipes, pumps, valves, hydrants, ferrules or stopcocks for the main, sewer or other pipe, or any machinery or other apparatus which is designed or adapted for use in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it, but does not include any electronic communications apparatus (within the meaning of the Communications Act 2003 (c. 21)) unless it—

- (a) is or is to be situated inside or in the close vicinity of the main, sewer or other pipe or inside or in the close vicinity of another accessory for it; and

- (b) is intended to be used only in connection with the use or maintenance of the main, sewer or other pipe or of another accessory for it;
- “analyse”, in relation to any sample of land, water or effluent, includes subjecting the sample to a test of any description;
- “the Appeals Commission” means the Water Appeals Commission for Northern Ireland;
- “the Authority” means the Northern Ireland Authority for Utility Regulation;
- “consumers” includes both existing consumers and future consumers;
- “contravention” includes a failure to comply;
- “the Council” means the General Consumer Council for Northern Ireland;
- “customer or potential customer”, in relation to a company holding an appointment under Chapter I of Part III, means—
- (a) any person for or to whom that company provides any services in the course of carrying out the functions of a water undertaker or sewerage undertaker; or
- (b) any person who might become such a person on making an application for the purpose to the company;
- “DARD” means the Department of Agriculture and Rural Development;
- “damage”, in relation to individuals, includes death and any personal injury, including any disease or impairment of physical or mental condition;
- “DCAL” means the Department of Culture, Arts and Leisure;
- “the Department” means the Department for Regional Development;
- “disposal”—
- (a) in relation to land, includes the creation of any estate in the land and a disposal effected by means of the surrender or other termination of any such estate; and
- (b) in relation to sewage, includes treatment;
- “disposal main” means (subject to paragraph (3)) any outfall pipe or other pipe which—
- (a) is a pipe for the conveyance of effluent to or from any waste water treatment works, whether of a sewerage undertaker or of any other person; and
- (b) is not a public sewer;
- “DFP” means the Department of Finance and Personnel;
- “DHSSPS” means the Department of Health, Social Services and Public Safety;
- “DOE” means the Department of the Environment;
- “domestic purposes”, in relation to a supply of water, shall be construed in accordance with paragraphs (4) to (6);
- “drain” means (subject to paragraph (3)) a drain used for the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage;
- “the Drainage Order” means the [Drainage \(Northern Ireland\) Order 1973 \(NI 1\)](#);
- “effluent” means any liquid, including particles of matter and other substances in suspension in the liquid;
- “the Energy Order” means the [Energy \(Northern Ireland\) Order 2003 \(NI 6\)](#);
- “engineering or building operations”, without prejudice to the generality of that expression, includes—
- (a) the construction, alteration, improvement, maintenance or demolition of any building or structure or of any reservoir, watercourse, dam, weir, well, borehole or other works; and

- (b) the installation, modification or removal of any machinery or apparatus;
- “the Enterprise Act” means the Enterprise Act 2002 (c. 40);
- “functions”, in relation to a relevant undertaker, means the functions of the undertaker under any statutory provision and shall be construed subject to Article 304;
- “harbour authority” means a person who is a harbour authority within the meaning of Chapter II of Part VI of the Merchant Shipping Act 1995 (c. 21) and is not a navigation authority;
- “house” means any building or part of a building which is occupied as a dwelling-house, whether or not a private dwelling-house, or which, if unoccupied, is likely to be so occupied;
- “information” includes anything contained in any records, accounts, estimates or returns;
- “inland waters” means—
- (a) any river, stream or other watercourse whether natural or artificial and whether tidal or not;
- (b) any lough, lake or pond, whether artificial or not or any reservoir or dock; and
- (c) so much of any channel, creek, bay, estuary or arm of the sea as does not fall within subparagraph (a) or (b);
- “lateral drain” means—
- (a) so much of that part of a drain which runs from the curtilage of a building (or buildings or yards within the same curtilage) to the sewer with which the drain communicates or is to communicate as is located or is to be located in, under or over a road; or
- (b) (if different and the context so requires) the part of a drain identified in a declaration of vesting made under Article 159 or in an agreement made under Article 161;
- “limited company” means a company within the meaning of the Companies (Northern Ireland) Order 1986 (NI 6) which is limited by shares;
- “local statutory provision” means a statutory provision which has effect only with respect to a particular area or to particular persons or works;
- “meter” means any apparatus for measuring or showing the volume of water supplied to, or of effluent discharged from, any premises;
- “micro-organism” includes any microscopic biological entity which is capable of replication;
- “modifications” includes additions, omissions, amendments and substitutions;
- “navigation authority” means any person who has a duty or power under any statutory provision to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;
- “notice” means notice in writing;
- “owner”, in relation to any premises, means the person who—
- (a) is for the time being receiving the rack-rent of the premises, whether on his own account or as agent or trustee for another person; or
- (b) would receive the rack-rent if the premises were let at a rack-rent;
- “the OFT” means the Office of Fair Trading;
- “prescribed” means prescribed by regulations;
- “protected land”, in relation to a company holding an appointment under Chapter I of Part III, means any land which—
- (a) was transferred to that company in accordance with a scheme under Article 270;

- (b) is or has at any time on or after the transfer date been held by that company for purposes connected with the carrying out of its functions as a water undertaker or sewerage undertaker; or
- (c) has been transferred to that company in accordance with a scheme under Schedule 1 from another company in relation to which that land was protected land when the other company held an appointment under that Chapter;

“public authority” means any Northern Ireland department or department of the government of the United Kingdom, any Minister of the Crown, any district council or any person certified by the Department to be a public authority for the purposes of this Order;

“public sewer” means (subject to Article 163(2)) a sewer for the time being vested in a sewerage undertaker in its capacity as such, whether vested in that undertaker by virtue of a scheme under Article 270 or Schedule 1 or under Article 241 or otherwise, and “private sewer” shall be construed accordingly;

“railway undertaking” has the same meaning as in the Transport Act (Northern Ireland) 1967 (c. 37);

“records” includes computer records and any other records kept otherwise than in a document;

“the relevant sewerage provisions” means the following provisions of this Order—

- (a) Chapters II and III of Part VI (except so much of Chapter III of that Part as provides for regulations under Article 197 or has effect by virtue of any such regulations);
- (b) Articles 221, 232, 233(4), 236, 240, 246, 250, 255 and 262; and
- (c) the other provisions of this Order so far as they have effect for the purposes of any provision falling within head (a) or (b) of this definition;

“relevant undertaker” means a water undertaker or a sewerage undertaker;

“resource main” means (subject to paragraph (3)) any pipe, not being a trunk main, which is or is to be used for the purpose of—

- (a) conveying water from one source of supply to another, from a source of supply to a regulating reservoir or from a regulating reservoir to a source of supply; or
- (b) giving or taking a supply of water in bulk;

“road” has the same meaning as in the Roads (Northern Ireland) Order 1993 (NI 15);

“service pipe” means (subject to paragraph (3) and to Article 90(3)) so much of a pipe which is, or is to be, connected with a water main for supplying water from that main to any premises as—

- (a) is or is to be subject to water pressure from that main; or
- (b) would be so subject but for the closing of some valve,
and includes part of any service pipe;

“services” includes facilities;

“sewer” includes (without prejudice to paragraph (3)) all sewers and drains (not being drains within the meaning given by this paragraph) which are used for the drainage of buildings and yards appurtenant to buildings;

“sewerage services” includes the disposal of sewage and any other services which are required to be provided by a sewerage undertaker for the purpose of carrying out its functions;

“special administration order” has the meaning given by Article 41;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 and includes any provision of this Order;

“stopcock” includes any box or pit in which a stopcock is enclosed and the cover to any such box or pit;

“street” has the same meaning as in the [Street Works \(Northern Ireland\) Order 1995 \(NI 19\)](#);

“substance” includes micro-organisms and any natural or artificial substance or other matter, whether it is in solid or liquid form or in the form of a gas or vapour;

“supply of water in bulk” means a supply of water for distribution by a water undertaker taking the supply;

“surface water” includes water from roofs;

“the transfer date” has the meaning assigned to it by Article 270(2);

“trunk main” means a water main which is or is to be used by a water undertaker for the purpose of—

- (a) conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir; or
- (b) conveying water in bulk, whether in the course of taking a supply of water in bulk or otherwise, between different places outside the area of the undertaker, from such a place to any part of that area or from one part of that area to another part of that area;

“underground strata” has the same meaning as in the Water Order;

“vessel” has the same meaning as in the Water Order;

“waste water treatment works” means any works, apparatus or plant used for the disposal of sewage;

“watercourse” has the same meaning as in the Drainage Order;

“water and sewerage functions”, in relation to the Authority, has the meaning given by Article 3(2);

“water main” means (subject to paragraph (3)) any pipe, not being a pipe for the time being vested in a person other than the undertaker, which is used or to be used by a water undertaker for the purpose of making a general supply of water available to customers or potential customers of the undertaker, as distinct from for the purpose of providing a supply to particular customers;

“the Water Order” means the [Water \(Northern Ireland\) Order 1999 \(NI 6\)](#).

In this Order—

(3) In this Order—

- (a) references to a pipe, including references to a main, a drain or a sewer, shall include references to a tunnel or conduit which serves or is to serve as the pipe in question and to any accessories for the pipe; and
- (b) references to any waste water treatment works shall include references to the machinery and equipment of those works and any necessary pumping stations and outfall pipes;

and, accordingly, references to the laying of a pipe shall include references to the construction of such a tunnel or conduit, to the construction or installation of any such accessories and to the making of a connection between one pipe and another.

(4) Subject to paragraphs (5) and (6), in this Order references to domestic purposes, in relation to a supply of water to any premises or in relation to any cognate expression, are references to the drinking, washing, cooking, central heating and sanitary purposes for which water supplied to those premises may be used.

(5) Where the whole or any part of the premises are or are to be occupied as a house, those purposes shall be taken to include—

- (a) the purposes of a profession carried on in that house or, where—
- (i) that house and another part of the premises are occupied together; and
 - (ii) the house comprises the greater part of what is so occupied,
in that other part; and
- (b) such purposes outside the house (including the washing of vehicles and the watering of gardens) as are connected with the occupation of the house and may be satisfied by a supply of water drawn from a tap inside the house and without the use of a hosepipe or similar apparatus.
- (6) No such reference to domestic purposes shall be taken to include a reference—
- (a) to the purposes of the business of a laundry; or
 - (b) to any purpose of a business of preparing food or drink for consumption otherwise than on the premises.
- (7) Nothing in Part IV or VI by virtue of which a relevant undertaker owes a duty to any particular person to lay any water main, resource main or service pipe or any sewer, lateral drain, disposal main or discharge pipe shall be construed—
- (a) as conferring any power in addition to the powers conferred apart from those Parts; or
 - (b) as requiring the undertaker to carry out any works which it has no power to carry out.
- (8) References in this Order to the fixing of charges in relation to any premises by reference to volume are references to the fixing of those charges by reference to the volume of water supplied to those premises, to the volume of effluent discharged from those premises, to both of those factors or to one or both of those factors taken together with other factors.
- (9) In this Order references to the supply system of a water undertaker are to the water mains and other pipes which it is the undertaker's duty to develop and maintain by virtue of Article 65.
- (10) For the purposes of any provision of this Order by or under which power is or may be conferred on any person to recover the expenses incurred by that person in doing anything, those expenses shall be assumed to include such sum as may be reasonable in respect of establishment charges or overheads.
- (11) References in this Order to the later or latest of two or more different times or days are, in a case where those times or days coincide, references to the time at which or, as the case may be, the day on which they coincide.
- (12) For the purposes of this Order any property of the Northern Ireland Transport Holding Company which is used by a railway undertaking for the purposes of its undertaking shall be treated as property of that railway undertaking.
- (13) Section 24(1) of the Interpretation Act (Northern Ireland) 1954 (c. 33) (service of documents) shall have effect in relation to the service of any document required or authorised by virtue of this Order to be served on any person with the omission of the word "registering".
- (14) The Department may by order provide that references in this Order, or in any statutory provision amended by this Order, to assets of, or belonging to, or vested in, a relevant undertaker are to be read as including references to assets controlled, operated or used by the undertaker for the purposes of its functions as such.