
DRAFT STATUTORY INSTRUMENTS

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The Water and Sewerage Services
(Northern Ireland) Order 2006

PART IV

WATER SUPPLY

CHAPTER I

GENERAL DUTIES OF WATER UNDERTAKERS

Water resource management and drought plans

Water resources management plans: preparation and review

70.—(1) It shall be the duty of each water undertaker to prepare and maintain a water resources management plan.

(2) A water resources management plan is a plan for how the water undertaker will manage and develop water resources so as to be able, and continue to be able, to meet its obligations under this Part.

(3) A water resources management plan shall address in particular—

- (a) the water undertaker's estimate of the quantities of water required to meet those obligations;
- (b) the measures which the water undertaker intends to take or continue for the purpose set out in paragraph (2);
- (c) the likely sequence and timing for implementing those measures; and
- (d) such other matters as the Department may specify in directions.

(4) The procedure for preparing a water resources management plan (including a revised plan) is set out in Article 71.

(5) Before each anniversary of the date when its plan (or revised plan) was last published, the water undertaker shall—

- (a) review its plan; and
- (b) send a statement of the conclusions of its review to the Department.

(6) The water undertaker shall prepare a revised plan in each of the following cases—

- (a) following conclusion of its annual review, if the review indicated a material change of circumstances;
- (b) if directed to do so by the Department, after consultation with DOE;
- (c) in any event, not later than the end of the period of 5 years beginning with the date when the plan (or revised plan) was last published,

and shall follow the procedure in Article 71 (whether or not the revised plan prepared by the undertaker includes any proposed alterations to the previous plan).

(7) The Department may give directions specifying—

- (a) the form which a water resources management plan must take;
- (b) the planning period to which a water resources management plan must relate.

(8) Before preparing its water resources management plan (including a revised plan), the water undertaker shall consult—

- (a) the Authority;
- (b) the Council;
- (c) the Department; and
- (d) DOE.

(9) In this Article, in relation to a water resources management plan, “published” means published in accordance with Article 71(8)(a).

Water resources management plans: publication and representations

71.—(1) A water undertaker shall—

- (a) send a draft water resources management plan to the Department;
- (b) state whether it appears to the undertaker that any information contained in that plan is or might be commercially confidential (as regards itself or another person); and
- (c) give the Department the name of each such other person and his address for service of a notice under paragraph (2)(a).

(2) If the water undertaker states that it so appears in relation to any such information, the Department shall—

- (a) if the person to whom or to whose business the information relates is not the water undertaker, give that person notice that the information is included in a draft water resources management plan and, unless paragraph (10) applies, is required to be published under this Article; and
- (b) give each person (including the water undertaker) to whom any such information relates a reasonable opportunity—
 - (i) of objecting to the publication of the information relating to him on the ground that it is commercially confidential; and
 - (ii) of making representations to the Department for the purpose of justifying any such objection,

and shall determine, taking any objections and representations under sub-paragraph (b) into account, whether the information is or is not commercially confidential.

(3) A water undertaker shall—

- (a) (subject to paragraph (10)) publish the draft water resources management plan in the prescribed way or, if no way is prescribed, in a way calculated to bring it to the attention of persons likely to be affected by it;
- (b) publish with it a statement—
 - (i) whether any information has been excluded from the published draft plan by virtue of paragraph (10) and, if it has, the general nature of that information; and
 - (ii) that any person may make representations in writing about the plan to the Department before the end of a period specified in the statement; and

(c) send a copy of the published draft plan and accompanying statement to such persons (if any) as may be prescribed.

(4) The Department shall—

(a) send to the water undertaker a copy of any representations it receives following publication of the draft plan under paragraph (3); and

(b) give the water undertaker a reasonable period of time within which to comment on the representations;

but the Department may exclude from any representation sent under sub-paragraph (a) any information contained therein which the Department determines to be commercially confidential (as regards any person other than the water undertaker).

(5) The Department may in regulations prescribe how such representations and any comments by the water undertaker on them are to be dealt with.

(6) Regulations under paragraph (5) may provide for the Department to cause a local inquiry to be held in connection with the draft water resources management plan.

(7) The Department may direct a water undertaker that its water resources management plan must differ from the draft sent to it under paragraph (1) in ways specified in the direction, and (subject to paragraph (9)) it shall be the duty of the water undertaker to comply with the direction.

(8) The water undertaker shall—

(a) (subject to paragraph (10)) publish the water resources management plan in the prescribed way or, if no way is prescribed, in a way calculated to bring it to the attention of persons likely to be affected by it; and

(b) publish with it a statement whether any information has been excluded from the published plan by virtue of paragraph (10) and, if it has, the general nature of that information.

(9) If the water undertaker considers that publishing a water resources management plan complying with a direction under paragraph (7) would mean including in the published plan any information (other than any information in relation to which the Department has already made a determination under paragraph (2)) which might be commercially confidential (as regards itself or another person)—

(a) the water undertaker shall send the Department a notice saying so, and giving the Department the name of any such other person and his address for service of a notice under paragraph (2)(a) as applied by sub-paragraph (b); and

(b) paragraph (2) shall apply in relation to that information as it applies in relation to the information referred to there;

and the Department may either confirm its direction under paragraph (7) (which is to be treated as a new direction under paragraph (7)) or revoke the previous such direction (or the previous one so treated) and give a new one.

(10) The published version of a draft water resources management plan published under paragraph (3)(a), and a water resources management plan published under paragraph (8)(a), shall exclude any information which—

(a) the Department has determined under paragraph (2) (or that paragraph as applied by paragraph (9)) is commercially confidential; or

(b) the Secretary of State directs the water undertaker to exclude on the ground that it appears to the Secretary of State that its publication would be contrary to the interests of national security.

(11) Any steps to be taken by a water undertaker under this Article shall be completed by such time or within such period as the Department may direct.

Water resources management plans: supplementary

72.—(1) Directions given under Article 70 or 71 may be—

- (a) general directions applying to all water undertakers; or
- (b) directions applying only to one or more water undertakers specified in the directions,

and shall be given by an instrument in writing.

(2) It shall be the duty of each water undertaker to whom directions apply to comply with the directions.

(3) The duties of a water undertaker under Articles 70 and 71 and under this Article shall be enforceable by the Department under Article 30.

Drought plans: preparation and review

73.—(1) It shall be the duty of each water undertaker to prepare and maintain a drought plan.

(2) A drought plan is a plan for how the water undertaker will continue, during a period of drought, to discharge its duties to supply adequate quantities of wholesome water, with as little recourse as reasonably possible to drought orders under Article 137.

(3) The duties referred to in paragraph (2) include in particular those imposed under or by virtue of—

- (a) Article 65
- (b) Articles 107 to 109.

(4) A drought plan shall address, in particular, the following matters—

- (a) what measures the water undertaker might need to take to restrain the demand for water within its area;
- (b) what measures the water undertaker might need to take to obtain extra water from other sources;
- (c) how the water undertaker will monitor the effects of the drought and of the measures taken under the drought plan;
- (d) such other matters as the Department may specify in directions.

(5) Article 71 (water resources management plans: publication and representations), including any power in that Article to make regulations or give directions, applies in relation to drought plans (including revised plans) as it applies in relation to water resources management plans.

(6) Each water undertaker shall review (or further review) its drought plan and prepare a revised plan in each of the following cases—

- (a) if there is a material change of circumstances;
- (b) if directed to do so by the Department after consultation with DOE;
- (c) in any event, not later than the end of the period of 3 years beginning with the date when the plan (or revised plan) was last published in accordance with Article 71(8)(a) as applied by paragraph (5),

and shall follow the procedure in Article 71 as applied by paragraph (5) (whether or not the revised plan prepared by the undertaker includes any proposed alterations to the previous plan).

(7) Before preparing its drought plan (including a revised plan), the water undertaker shall consult—

- (a) the Authority;
- (b) the Council;

- (c) the Department; and
 - (d) DOE.
- (8) The Department may give directions specifying the form which a drought plan must take.
- (9) Directions given under this Article (including directions given under Article 71 as applied by paragraph (5)) may be—
- (a) general directions applying to all water undertakers; or
 - (b) directions applying only to one or more water undertakers specified in the directions,
- and shall be given by an instrument in writing.
- (10) It shall be the duty of each water undertaker to whom directions apply to comply with the directions.
- (11) The duty of a water undertaker under this Article shall be enforceable by the Department under Article 30.