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DRAFT STATUTORY INSTRUMENTS

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**2006 No.**

The Water and Sewerage Services  
(Northern Ireland) Order 2006

PART IV

WATER SUPPLY

CHAPTER II

SUPPLY DUTIES

*Domestic connections*

**Duty to make connections with main**

79.—(1) Subject to the following provisions of this Article and to Articles 80 and 82, it shall be the duty of a water undertaker (in accordance with Article 85) to make a connection under this Article where the owner or occupier of any premises which—

(a) consist in the whole or any part of a building; or

(b) are premises on which any person is proposing to erect any building or part of a building, serves a notice on the undertaker requiring it, for the purpose of providing a supply of water for domestic purposes to that building or part of a building, to connect a service pipe to those premises with one of the undertaker's water mains.

(2) In relation to service pipes which do not belong to or fall to be laid by the undertaker—

(a) paragraph (1) is subject to Article 89(1); and

(b) any such service pipe which is to vest in the undertaker by virtue of an agreement under Article 86 shall be connected to one of the undertaker's water mains subject to and in accordance with the terms of that agreement.

(3) Where a notice has been served for the purposes of this Article, the duty imposed by paragraph (1) shall be a duty, at the expense of the person serving the notice, to make the connection required by the notice if—

(a) the main with which the service pipe is required to be connected is neither a trunk main nor a water main which is or is to be used solely for the purpose of supplying water otherwise than for domestic purposes; and

(b) such conditions as the undertaker may have imposed under Articles 82 to 84 have been satisfied;

and, subject to Article 85, that duty shall arise whether or not the service pipe to which the notice relates has been laid when the notice is served.

(4) A notice for the purposes of this Article—

- (a) shall be accompanied or supplemented by all such information as the undertaker may reasonably require; and
- (b) if the notice has effect so that a requirement is imposed on the undertaker by virtue of Article 80(4), shall set out the matters that have given rise to the imposition of that requirement;

but, subject to Article 85(5) and without prejudice to the effect (if any) of any other contravention of this paragraph, a failure to provide information in pursuance of the obligation to supplement such a notice shall not invalidate that notice.

(5) The duty imposed on a water undertaker by this Article shall be owed to the person who served the notice by virtue of which the duty arises.

(6) Where a duty is owed by virtue of paragraph (5) to any person, any breach of that duty which causes that person to sustain loss or damage shall be actionable at the suit of that person; but, in any proceedings brought against a water undertaker in pursuance of this paragraph, it shall be a defence for the undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the breach.

(7) Where a water undertaker carries out any works which it is its duty under this Article to carry out at another person's expense, the undertaker shall be entitled to recover from that person an amount equal to the expenses reasonably incurred by the undertaker in carrying out the works.

(8) Any dispute between a water undertaker and any other person as to whether the expenses were incurred reasonably may be referred to the Authority for determination under Article 61 by either party to the dispute.

(9) Nothing in this Article or in Articles 80 to 85 shall impose any duty on a water undertaker to connect a service pipe to any premises with a service pipe to any other premises.

(10) In the following provisions of this Chapter a notice served for the purposes of this Article is referred to as a connection notice.

### **Duty to carry out ancillary works for the purpose of making domestic connection**

**80.**—(1) Where a water undertaker is required to make a connection in pursuance of any connection notice, it shall also be the duty of the undertaker, at the expense of the person serving the notice, to carry out such of the works to which this Article applies as need to be carried out before the connection can be made.

(2) This Article applies to the laying of so much of the service pipe to be connected with the water main as it is necessary, for the purpose of making that connection, to lay in a street.

(3) In a case where—

- (a) the water main with which the service pipe is to be connected is situated in a street;
- (b) the premises consisting in the building or part of a building in question together with any land occupied with it abut on the part of the street where the main is situated; and
- (c) the service pipe to those premises will—
  - (i) enter the premises otherwise than through an outer wall of a building abutting on the street; and
  - (ii) have a stopcock fitted to it by the undertaker in the premises,

this Article applies to the laying of so much of the service pipe as it is necessary, for the purpose of making the required connection, to lay in land between the boundary of the street and that stopcock.

(4) In a case where the connection notice is served in compliance with a requirement imposed by a notice by DOE under Article 119, this Article applies to the laying of so much of the service

pipe to be connected with a water main in pursuance of the connection notice as it is necessary, for the purpose of making the connection, to lay in land owned or occupied by a person who is certified by DOE—

- (a) to have unreasonably refused his consent to the laying of the service pipe; or
- (b) to have sought to make the giving of his consent subject to unreasonable conditions.

(5) Where a water main is alongside a street and within 18 metres of the middle of that street, paragraphs (2) to (4) shall have effect in relation to the laying, for the purpose of making a connection with that main, of a service pipe to any premises as if the street included so much of the land between the main and the boundary of the street as is not comprised in those premises or in any land occupied with those premises.

(6) It shall be the duty of any water undertaker making a connection in pursuance of a connection notice to ensure that a stopcock belonging to the undertaker is fitted to the service pipe which is connected.

(7) Paragraphs (5) to (8) of Article 79 shall have effect—

- (a) in relation to any duties which, by virtue of a connection notice, are imposed on a water undertaker by this Article; and
- (b) in relation to any works which, by virtue of the service of such a notice, such an undertaker carries out under this Article at another person's expense,

as they have effect by virtue of that notice in relation to the duty which arises under that Article or, as the case may be, to works which the undertaker carries out under that Article at another person's expense.

(8) Subject to paragraph (9), a water undertaker may comply with any duty under this Article to lay a service pipe by laying a water main instead; but nothing in Article 79 or this Article shall impose any duty on a water undertaker to lay a water main where it has no power to lay a service pipe.

(9) Where a water undertaker exercises its power under paragraph (8) to lay a water main instead of a service pipe—

- (a) sub-paragraph (a) of Article 85(1) shall have effect as if any additional time reasonably required by reason of the laying of the main instead of the service pipe were included in the time allowed by that sub-paragraph for the laying of the service pipe; but
- (b) the expenses recoverable by virtue of Article 79(7) and paragraph (7) shall not exceed such amount as it would have been reasonable for the undertaker to have incurred in laying a service pipe instead of the main.

### **Conditions of connection concerning metering**

**81.—**(1) Where the owner or occupier of any premises (“the relevant premises”) serves a connection notice on a water undertaker, the undertaker shall make compliance with the requirements specified in paragraph (2) a condition of its complying with the duties to which it is subject by virtue of that notice.

(2) The requirements mentioned in paragraph (1) are—

- (a) a requirement that a meter for use in determining the amount of any charges which have been or may be fixed in relation to the relevant premises by reference to volume has been installed and connected either—
  - (i) by the undertaker; or
  - (ii) in accordance with specifications approved by the undertaker;
- (b) a requirement that—

- (i) subject to Article 89(1), so much of the service pipe to the relevant premises as does not belong to, vest in or fall to be laid by the undertaker; and
  - (ii) the plumbing of the premises,
- comply with specifications approved by the undertaker for the purpose of ensuring that it will be reasonably practicable for such a meter as is mentioned in sub-paragraph (a) to be installed and connected as so mentioned.
- (3) Specifications approved by any water undertaker for the purposes of paragraph (2)(a) or (b) may be approved—
- (a) in relation to particular premises; or
  - (b) by being published in such manner as the undertaker considers appropriate, in relation to premises generally or to any description of premises.
- (4) Any dispute between a water undertaker and any other person as to the terms of any condition imposed under this Article may be referred by either party for determination by the Authority under Article 61.

#### **Conditions of connection with water main**

**82.**—(1) Subject to paragraph (3) and Articles 83 and 84, where the owner or occupier of any premises (“the relevant premises”) serves a connection notice on a water undertaker, the undertaker may make compliance with one or more of the requirements specified in paragraph (2) a condition of its complying with the duties to which it is subject by virtue of that notice.

- (2) The requirements mentioned in paragraph (1) are—
- (a) a requirement that such security as the undertaker may reasonably require has been provided for the discharge of any obligations imposed by virtue of Article 79(7) or 80(7) (b) on the person who served the connection notice;
  - (b) a requirement, in a case where the connection required by the connection notice is necessary as a consequence of a disconnection made by reason of any person’s failure to pay any charges, that the person serving the connection notice has paid any amount owed by him to the undertaker—
    - (i) in respect of a supply of water to the relevant premises; or
    - (ii) in respect of expenses reasonably incurred in the making of the disconnection;
  - (c) a requirement that a separate service pipe has been provided—
    - (i) to each house or building on the relevant premises; or
    - (ii) where different parts of a building on the relevant premises are separately occupied, to each of those parts or to any of them;
  - (d) a requirement, in relation to the relevant premises—
    - (i) that such a requirement as may be imposed under Article 106 has been complied with; or
    - (ii) in a case where such a requirement could be imposed but for there already being such a cistern as is mentioned in that Article, that the cistern and its float-operated valve are in good repair;
  - (e) a requirement that there is no contravention in relation to the water fittings used or to be used in connection with—
    - (i) the supply of water to the relevant premises; or
    - (ii) the use of water in those premises,

of such of the requirements of regulations under Article 114 as are prescribed for the purposes of this sub-paragraph; and

- (f) a requirement that every such step has been taken as has been specified in any notice served on any person under Article 115 in relation to the relevant premises.

(3) No condition shall be imposed by a water undertaker under paragraph (2)(c) unless it is reasonable to do so in order to ensure that the undertaker will be able to perform its functions, in relation to the supply of water to the relevant premises or any part of those premises, efficiently.

(4) A condition shall not be imposed by a water undertaker under this Article or Article 81 on a person who has served a connection notice except by a counter-notice served on that person before the end of the period of 14 days beginning with the day after the service of the connection notice.

(5) Any dispute as to whether any requirement of a kind mentioned in paragraph (2)(a), (b), (c) or (d) has been complied with may be referred to the Authority for determination under Article 61 by either party to the dispute.

(6) Any dispute between a water undertaker and any other person as to whether—

- (a) any security required by a condition imposed under paragraph (2)(a) was reasonably required,  
(b) the expenses referred to in paragraph (2)(b)(ii) were incurred reasonably, or  
(c) in a particular case, paragraph (3) prevents a water undertaker from imposing a condition under paragraph (2)(c),

may be referred to the Authority for determination under Article 61 by either party to the dispute.

(7) This Article shall be without prejudice to the provisions of Articles 197 and 343 of the [Insolvency \(Northern Ireland\) Order 1989 \(NI 19\)](#) (conditions of supply after insolvency).

### **Interest on sums deposited in pursuance of the deposit condition**

**83.**—(1) Where for the purposes of paragraph (2)(a) of Article 82 any sums have been deposited with a water undertaker by way of security for the discharge of any obligation, the undertaker shall pay interest at such rate as may be determined either—

- (a) by the undertaker with the approval of the Authority; or  
(b) in default of a determination under sub-paragraph (a), by the Authority,

on every sum so deposited for every 3 months during which it remains in the hands of the undertaker.

(2) An approval or determination by the Authority for the purposes of this Article—

- (a) may be given or made in relation to a particular case or description of cases or generally; and  
(b) may be revoked at any time.

### **Restrictions on imposition of condition requiring separate service pipes**

**84.**—(1) This Article applies where the effect of a connection notice served in respect of any house is to require a service pipe to that house to be connected with a water main with which it has previously been connected.

(2) Where this Article applies, the water undertaker on which the connection notice is served shall not be entitled to make the reconnection subject to any such condition as, apart from this Article, may be imposed by virtue of Article 82(2)(c) unless the undertaker would have been entitled under Article 104 to require the provision of a separate service pipe if the reconnection had already been made.

### **Time for performance of connection etc. duties**

**85.**—(1) A water undertaker shall not be in breach of a duty imposed by virtue of the service of a connection notice unless—

- (a) in the case of a duty to lay any service pipe or to connect any service pipe to which such a duty relates, it has failed to lay that pipe or to make that connection as soon as reasonably practicable after the relevant day;
- (b) in the case of a duty to connect a service pipe the whole of which has already been laid when the notice is served on the undertaker, it has failed to make the connection before the end of the period of 14 days beginning with the relevant day.

(2) In any case in which a water undertaker is subject to any such duty as is mentioned in paragraph (1)(a), it shall be presumed, unless the contrary is shown in relation to that case, that the period of 21 days beginning with the relevant day is the period within which it is reasonably practicable for a water undertaker—

- (a) to lay so much of any service pipe; and
- (b) to fit such stopcock,

as it is necessary to lay or fit in that case for connecting a water main in a street with a service pipe at the boundary of any premises which abut on the part of the street where the main is situated.

(3) Where—

- (a) a connection notice is served in respect of any premises; and
- (b) at the time when the notice is served, the customer's part of the service pipe to those premises has not been laid,

the duties of the undertaker under Articles 79 and 80 shall not arise by virtue of that notice until the person serving the notice, having obtained the necessary consents from the owners and occupiers of any affected land, has, at his own expense, laid so much of the service pipe as it is necessary, for the purpose of making the connection, to lay otherwise than in a street or in land mentioned in paragraphs (3) to (5) of Article 80.

(4) In paragraph (3) the reference to the customer's part of the service pipe to any premises is a reference to so much of the service pipe to those premises as falls to be laid otherwise than by the water undertaker in pursuance of Article 80.

(5) Where—

- (a) a person who has served a connection notice on a water undertaker has failed to comply with his obligation under Article 79(4)(a) to supplement that notice with information required by the undertaker; and
- (b) that requirement was made by the undertaker at such a time before the end of the period within which the undertaker is required to comply with the duties imposed by virtue of the notice as gave that person a reasonable opportunity to provide the required information within that period,

the undertaker may delay its compliance with those duties until a reasonable time after the required information is provided.

(6) In this Article "the relevant day", in relation to a duty imposed on a water undertaker by virtue of a connection notice, means the day after whichever is the latest of the following days, that is to say—

- (a) the day on which the notice was served on the undertaker;
- (b) in a case where it is necessary for the person serving the notice to lay any service pipe after serving the notice, the day on which a notice stating that the pipe has been laid is served on the undertaker;

- (c) the day on which all such conditions are satisfied as the undertaker has, under Articles 81 to 84, made conditions of its compliance with that duty.