
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Water and Sewerage Services
(Northern Ireland) Order 2006

PART IV

WATER SUPPLY

CHAPTER II

SUPPLY DUTIES

Other supplies

Supplies for non-domestic purposes

94.—(1) This Article applies where the owner or occupier of any premises in the area of a water undertaker requests the undertaker to provide a supply of water to those premises and—

- (a) the premises are premises which do not consist in the whole or any part of a building; or
- (b) the requested supply is for purposes other than domestic purposes.

(2) Where this Article applies, it shall be the duty of the water undertaker, in accordance with such terms and conditions as may be determined under Article 95—

- (a) to take any such steps as may be so determined in order to enable the undertaker to provide the requested supply; and
- (b) having taken any such steps, to provide that supply.

(3) A water undertaker shall not be required by virtue of this Article to provide a new supply to any premises, or to take any steps to enable it to provide such a supply, if the provision of that supply or the taking of those steps would—

- (a) require the undertaker, in order to meet all its existing obligations to supply water for domestic or other purposes, together with its probable future obligations to supply buildings and parts of buildings with water for domestic purposes, to incur unreasonable expenditure in carrying out works; or
- (b) otherwise put at risk the ability of the undertaker to meet any of the existing or probable future obligations mentioned in sub-paragraph (a).

(4) A water undertaker shall not be required by virtue of this Article to provide a new supply to any premises, or to take any steps to enable it to provide such a supply, if there is a contravention in relation to the water fittings used or to be used in connection with—

- (a) the supply of water to those premises; or
- (b) 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 paragraph.

(5) Where—

- (a) a request has been made by any person to a water undertaker for the purposes of paragraph (2); and
- (b) the steps which the undertaker is required to take by virtue of that request include steps for the purpose of obtaining any necessary authority for, or agreement to, any exercise by the undertaker of any of its powers or the carrying out by the undertaker of any works,

the failure of the undertaker to acquire the necessary authority or agreement shall not affect any liability of that person, under any term or condition in accordance with which those steps are taken, to re-imburse the undertaker in respect of some or all of the expenses incurred by the undertaker in taking those steps.

(6) Nothing in this Article shall impose any duty on a water undertaker to provide a supply of water to any premises during any period during which it is reasonable for the supply of water to those premises to be cut off or reduced for the purposes of the carrying out of any necessary works.

(7) The duty of a water undertaker to supply water under this Article at the request of any person, and any terms and conditions determined under Article 95 in default of agreement between the undertaker and that person, shall have effect as if contained in such an agreement.

(8) Except so far as otherwise provided by the terms and conditions determined under Article 95 in relation to any supply, the duties of a water undertaker under this Article shall have effect subject to the provisions of Articles 99 to 102 and 115.

Determinations on requests for non-domestic supplies

95.—(1) Subject to paragraph (3), any terms or conditions or other matter which falls to be determined for the purposes of a request made by any person to a water undertaker for the purposes of Article 94 shall be determined—

- (a) by agreement between that person and the water undertaker; or
- (b) in default of agreement, by the Authority according to what appears to it to be reasonable.

(2) Subject to paragraph (3), the Authority shall also determine any dispute arising between any person and a water undertaker by virtue of paragraph (3) or (4) of Article 94.

(3) The Authority may, instead of itself making a determination under paragraph (1) or (2), refer any matter submitted to it for determination under that paragraph to the arbitration of such person as it may appoint.

(4) For the purposes of any determination under this Article by the Authority or any person appointed by the Authority, it shall be for a water undertaker to show that it should not be required to comply with a request made for the purposes of Article 94.

(5) The charges in respect of a supply provided in compliance with any request made for the purposes of Article 94—

- (a) shall not be determined by the Authority or a person appointed by the Authority, except in so far as, at the time of the request, no provision is in force by virtue of a charges scheme under Article 201 in respect of supplies of the applicable description; and
- (b) in so far they do fall to be determined, shall be so determined having regard to the desirability of the undertaker's—
 - (i) recovering the expenses of complying with its obligations under Article 94; and
 - (ii) securing a reasonable return on its capital.

(6) To the extent that paragraph (5)(a) excludes any charges from a determination under this Article, those charges shall be fixed from time to time by a charges scheme under Article 201, but not otherwise.

(7) The determination of any matter under 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).

Duty to provide a supply of water etc. for fire-fighting

96.—(1) It shall be the duty of a water undertaker to allow any person to take water for extinguishing fires from any of its water mains or other pipes on which a fire-hydrant is fixed.

(2) Every water undertaker shall, at the request of the Northern Ireland Fire and Rescue Service Board (“the Board”), fix fire-hydrants on its water mains (other than its trunk mains) at such places as may be most convenient for affording a supply of water for extinguishing any fire which may break out within the area of the undertaker.

(3) It shall be the duty of every water undertaker to keep every fire-hydrant fixed on any of its water mains or other pipes in good working order and, for that purpose, to replace any such hydrant when necessary.

(4) It shall be the duty of a water undertaker to ensure that the Board has been supplied by the undertaker with all such keys as the Board may require for the fire-hydrants fixed on the water mains or other pipes of the undertaker.

(5) Where a fire-hydrant is removed (other than at the request of the Board) by a water undertaker in the course of carrying out works in relation to any of its water mains or other pipes, the cost of replacing the fire-hydrant shall be borne by the undertaker.

(6) Subject to Article 97(3), the expenses incurred by a water undertaker in complying with its obligations under paragraphs (2) to (4) shall be borne by the Board.

(7) Nothing in this Article shall require a water undertaker to do anything which it is unable to do by reason of the carrying out of any necessary works.

(8) The obligations of a water undertaker under this Article shall be enforceable under Article 30 by the Department.

(9) In addition, where a water undertaker is in breach of its obligations under this Article, the undertaker shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine.

(10) In any proceedings against any water undertaker for an offence under paragraph (9) it shall be a defence for that undertaker to show that it took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

Specially requested fire hydrants

97.—(1) A water undertaker shall, at the request of the owner or occupier of any factory or place of business, fix a fire-hydrant, to be used for extinguishing fires and not other purposes, at such place on any suitable water main or other pipe of the undertaker as is as near as conveniently possible to that factory or place of business.

(2) For the purposes of paragraph (1) a water main or other pipe is suitable, in relation to a factory or place of business, if—

- (a) it is situated in a road which is in or near to that factory or place of business; and
- (b) it is of sufficient dimensions to carry a hydrant and is not a trunk main.

(3) Paragraph (6) of Article 96 shall not apply in relation to expenses incurred in compliance, in relation to a specially requested fire-hydrant, with the obligations under paragraphs (3) and (4) of that Article.

- (4) Any expenses incurred by a water undertaker—
- (a) in complying with its obligations under paragraph (1); or
 - (b) in complying, in relation to a specially requested fire-hydrant, with its obligations under Article 96(3) or (4),

shall be borne by the owner or occupier of the factory or place of business in question, according to whether the person who made the original request for the hydrant did so in his capacity as owner or occupier.

(5) Where a specially requested fire-hydrant is removed (other than at the request of the owner or occupier of the factory or place of business in question) by a water undertaker in the course of carrying out works in relation to any of its water mains or other pipes, the cost of replacing the fire-hydrant shall be borne by the undertaker.

(6) Paragraphs (7) to (10) of Article 96 shall apply in relation to the obligations of a water undertaker under this Article as they apply to the obligations of a water undertaker under that Article.

(7) In this Article—

“factory” has the same meaning as in the Factories Act (Northern Ireland) 1965 (c. 20); and

“specially requested fire-hydrant” means a fire-hydrant which—

- (a) is fixed on a water main or other pipe of a water undertaker; and
- (b) was fixed on that main or pipe in pursuance of a request made by the owner or occupier of a factory or place of business.

Supplies for other public purposes

98.—(1) A water undertaker shall, at the request of a sewerage undertaker, the Department or a district council, provide, from such of its pipes as are of an appropriate capacity, a supply of water for cleansing sewers and drains or for cleansing and watering roads.

(2) A supply of water provided by a water undertaker under this Article shall be provided upon such terms and conditions as may be reasonable.

(3) A water main or other pipe of a water undertaker shall be treated as of an appropriate capacity for the purposes of this Article if and only if it has a fire-hydrant fixed on it.

(4) Nothing in this Article shall require a water undertaker to do anything which it is unable to do by reason of the carrying out of any necessary works.

(5) The obligations of a water undertaker under this Article shall be enforceable under Article 30 by the Authority.