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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 III

QUALITY AND SUFFICIENCY OF SUPPLY

*General obligations of water undertakers*

**Duties of water undertakers with respect to water quality**

**108.**—(1) It shall be the duty of a water undertaker—

- (a) when supplying water to any premises for domestic or food production purposes to supply only water which is wholesome at the time of supply; and
- (b) so far as reasonably practicable, to ensure, in relation to each source or combination of sources from which that undertaker supplies water to premises for domestic or food production purposes, that there is, in general, no deterioration in the quality of the water which is supplied from time to time from that source or combination of sources.

(2) For the purposes of this Article and Article 109 and subject to paragraph (3), water supplied by a water undertaker to any premises shall not be regarded as unwholesome at the time of supply where it has ceased to be wholesome only after leaving the undertaker's pipes.

(3) Where water supplied by a water undertaker to any premises would not otherwise be regarded as unwholesome at the time of supply, that water shall be regarded as unwholesome at that time if—

- (a) it has ceased to be wholesome after leaving the undertaker's pipes but while in a pipe which is subject to water pressure from a water main or which would be so subject but for the closing of some valve; and
- (b) it has so ceased in consequence of the failure of the undertaker, before supplying the water, to take such steps as may be prescribed for the purpose of securing the elimination, or reduction to a minimum, of any prescribed risk that the water would cease to be wholesome after leaving the undertaker's pipes.

(4) The provisions of this Article shall apply in relation to water which is supplied by a water undertaker whether or not the water is water which the undertaker is required to supply by virtue of any provision of this Order.

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

## **Regulations for preserving water quality**

**109.**—(1) The Department may by regulations require a water undertaker to take all such steps as may be prescribed for the purpose of securing compliance with Article 108.

(2) Without prejudice to the generality of the power conferred by paragraph (1), regulations under that paragraph may impose an obligation on a water undertaker—

- (a) to take all such steps as may be prescribed for monitoring and recording whether the water which that undertaker supplies to premises for domestic or food production purposes is wholesome at the time of supply;
- (b) to take all such steps as may be prescribed for monitoring and recording the quality of the water from any source, or combination of sources, which that undertaker uses or is proposing to use for supplying water to any premises for domestic or food production purposes;
- (c) to ensure that a source which that undertaker is using or proposing to use for supplying water for domestic or food production purposes is not so used until prescribed requirements for establishing the quality of water which may be supplied from that source have been complied with;
- (d) to keep records of the localities within which all the premises supplied with water for domestic or food production purposes by that undertaker are normally supplied from the same source or combination of sources;
- (e) to comply with prescribed requirements with respect to the analysis of water samples or with respect to internal reporting or organisational arrangements.

(3) Without prejudice to paragraphs (1) and (2), the Department may by regulations make provision with respect to the use by water undertakers, for the purposes of or in connection with the carrying out of their functions—

- (a) of such processes and substances; and
- (b) of products that contain or are made with such substances or materials,

as it considers might affect the quality of any water.

(4) Without prejudice to the generality of the power conferred by paragraph (3), regulations under that paragraph may—

- (a) forbid the use by water undertakers of processes, substances and products which have not been approved under the regulations or which contravene the regulations;
- (b) for the purposes of provision made by virtue of sub-paragraph (a), require processes, substances and products used by water undertakers to conform to such standards as may be prescribed by or approved under the regulations;
- (c) impose such other requirements as may be prescribed with respect to the use by water undertakers of prescribed processes, substances and products;
- (d) provide for the giving, refusal and revocation, by prescribed persons, of approvals required for the purposes of the regulations, for such approvals to be capable of being made subject to such conditions as may be prescribed and for the modification and revocation of any such condition;
- (e) impose obligations to furnish prescribed persons with information reasonably required by those persons for the purpose of carrying out functions under the regulations;
- (f) provide for a contravention of the regulations to constitute—
  - (i) a summary offence punishable, on summary conviction, by a fine not exceeding level 5 on the standard scale or such smaller sum as may be prescribed; or

- (ii) an offence triable either summarily or on indictment and punishable, on summary conviction, by a fine not exceeding the statutory maximum and, on conviction on indictment, by a fine; and
- (g) require prescribed charges to be paid to persons carrying out functions under the regulations.
- (5) The Department may by regulations require a water undertaker—
  - (a) to publish information about the quality of water supplied for domestic or food production purposes to any premises by that undertaker; and
  - (b) to provide information to prescribed persons about the quality of water so supplied.
- (6) Regulations under paragraph (5)—
  - (a) shall prescribe both the information which is to be published or provided in pursuance of the regulations and the manner and circumstances in which it is to be published or provided;
  - (b) may require the provision of information by a water undertaker to any person to be free of charge or may authorise it to be subject to the payment by that person to the undertaker of a prescribed charge; and
  - (c) may impose such other conditions on the provision of information by a water undertaker to any person as may be prescribed.

### **Offence of supplying water unfit for human consumption**

**110.**—(1) Subject to paragraph (3), where a water undertaker supplies water by means of pipes to any premises and that water is unfit for human consumption, the undertaker shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding £20,000; or
- (b) on conviction on indictment, to a fine.

(2) For the purposes of section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) and any other statutory provision under which an individual is guilty of an offence by virtue of paragraph (1), the penalty on conviction on indictment of an offence under this Article shall be deemed to include imprisonment (in addition to or instead of a fine) for a term not exceeding two years.

(3) In any proceedings against any water undertaker for an offence under this Article it shall be a defence for that undertaker to show that it—

- (a) had no reasonable grounds for suspecting that the water would be used for human consumption; or
- (b) took all reasonable steps and exercised all due diligence for securing that the water was fit for human consumption on leaving its pipes or was not used for human consumption.

(4) Proceedings for an offence under this Article shall not be instituted except by the Department or the Director of Public Prosecutions for Northern Ireland.