
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Water and Sewerage Services
(Northern Ireland) Order 2006

PART IV
WATER SUPPLY
CHAPTER IV
FLUORIDATION

Fluoridation of water supplies at request of DHSSPS

126.—(1) If requested in writing to do so by DHSSPS, a water undertaker shall enter into arrangements with DHSSPS to increase the fluoride content of the water supplied by that undertaker to premises within the area specified in the arrangements.

(2) But a water undertaker shall not be required by paragraph (1) to enter into any such arrangements until an indemnity with respect to the arrangements has been given by virtue of Article 133 to the water undertaker.

(3) The area specified in arrangements under this Article may be such area comprising the whole or any part of Northern Ireland as DHSSPS may determine.

(4) The arrangements shall be on such terms as may be agreed between DHSSPS and the water undertaker or, in the absence of agreement, determined in accordance with Article 128.

(5) Those terms shall include provision—

- (a) requiring DHSSPS to meet the reasonable capital and operating costs incurred by the water undertaker in giving effect to the arrangements;
- (b) specifying circumstances in which the requirement to increase the fluoride content may be temporarily suspended; and
- (c) for the variation of the arrangements at the request of DHSSPS.

(6) DHSSPS shall consult the Authority in relation to the terms to be included in any arrangements under this Article (in particular, terms which affect the operation of the water undertaker's supply system).

(7) Before carrying out the consultation required by paragraph (1) of Article 132 in relation to a step mentioned in sub-paragraph (a), (b) or (c) of paragraph (2) of that Article, DHSSPS shall consult the water undertaker in question as to whether the arrangements which would result from taking that step would be operable and efficient (or, where it is proposed to terminate the arrangements, as to whether it would be reasonably practicable to do so).

Target concentration of fluoride

127.—(1) Arrangements under Article 126(1) shall include provision for securing that, so far as reasonably practicable, the concentration of fluoride in the water supplied to premises in the specified area is maintained at the general target concentration of one milligram per litre.

(2) But the arrangements may provide for the concentration in the specified area (or any part of it) to be lower than that if DHSSPS considers that it is not reasonably practicable to achieve the general target concentration in the specified area (or that part of it).

(3) Any such lower concentration must still be as high as is reasonably practicable in the circumstances.

(4) If, in relation to any area (“area A”), an order under Article 131(1) specifies a general target concentration lower than that for which any arrangements effective there provide (or, by the previous operation of this paragraph, are taken to provide), the arrangements shall have effect from the coming into force of the order as if they provided for the general target concentration specified in the order (subject to the operation again of paragraphs (2) and (3)).

(5) If the result of the operation of paragraph (4) in relation to arrangements in area A is that in an area adjoining area A (“area B”) it is not reasonably practicable to maintain the concentration of fluoride in the water supplied by virtue of arrangements made in area B with the same water undertaker, the order shall be taken to extend also to area B so far as those arrangements are concerned, and paragraph (4) shall apply accordingly.

(6) An order under Article 131(1) which in relation to any area specifies a general target concentration higher than that for which any arrangements effective there provide (or are taken to provide by virtue of paragraph (4) or (5)) does not have effect to increase the concentration for which the arrangements provide (or are taken to provide).

(7) In this Article “specified area” means the area specified in arrangements under Article 126(1).

Fluoridation arrangements: determination of terms

128.—(1) This Article applies if DHSSPS and a water undertaker fail to agree—

- (a) the terms of arrangements requested by DHSSPS pursuant to paragraph (1) of Article 126; or
- (b) a variation in the terms of those arrangements following a request by DHSSPS pursuant to paragraph (5)(c) of that Article.

(2) DHSSPS may refer the matter to the Authority for determination and following such a reference—

- (a) the Authority may determine the terms of the arrangements as it sees fit; and
- (b) the determination of the Authority shall be final.

(3) Following determination under this Article of the terms to be included in any arrangements—

- (a) DHSSPS shall give notice of the determination to the water undertaker in question; and
- (b) the undertaker shall be deemed to have entered into the arrangements under Article 126(1) on the terms determined under this Article with effect from the day after the date of the notice.

(4) References in this Chapter to arrangements entered into under Article 126(1) shall include arrangements deemed to have been entered into under that Article by virtue of paragraph (3)(b).

Fluoridation arrangements: compliance

129.—(1) It shall be the duty of each water undertaker to comply with any arrangements entered into by it under Article 126(1).

(2) Where, pursuant to any such arrangements, the fluoride content of any water is increased, the increase may be effected only by the addition of one or more of the following compounds of fluorine—

- (a) hexafluorosilicic acid (H₂SiF₆);
- (b) disodium hexafluorosilicate (Na₂SiF₆).

(3) Subject to paragraph (4), water to which fluoride has been added pursuant to any such arrangements entered into by a water undertaker (with a view to its supply in an area) may be supplied by that or any other undertaker to premises in any other area (whether or not that other area is the subject of arrangements under Article 126(1)).

(4) Paragraph (3) applies if (and only if) the undertaker or undertakers concerned consider that it is necessary for the water to be supplied in the other area—

- (a) for the purpose of dealing with any serious deficiency in supply; or
- (b) in connection with the carrying out of any works (including cleaning and maintenance) by the undertaker concerned or, as the case may be, by the undertakers concerned.

(5) In paragraph (4) “serious deficiency in supply” means any existing or threatened serious deficiency in the supply of water (whether in quantity or quality) caused by an exceptional lack of rain or by any accident or unforeseen circumstances.

(6) Arrangements entered into under Article 126(1) with a water undertaker shall remain in force until DHSSPS terminates them by order.

(7) An order shall not be made under paragraph (6) unless—

- (a) DHSSPS has consulted the water undertaker in question; and
- (b) a draft of the order has been laid before, and approved by resolution of, the Assembly.

Power to vary permitted fluoridation agents

130. DHSSPS may by order subject to negative resolution amend Article 129(2) by—

- (a) adding a reference to another compound of fluorine; or
- (b) removing any reference to a compound of fluorine.

Power to vary target concentration of fluoride

131.—(1) DHSSPS may by order provide that Article 127(1) is to have effect as if for “one milligram per litre” there were substituted a lower concentration specified in the order.

(2) An order under paragraph (1) may make different provision for different geographical areas, or for some such areas and not others.

(3) An order shall not be made under paragraph (1) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

Consultation

132.—(1) Before taking any step mentioned in paragraph (2), DHSSPS shall—

- (a) consult and ascertain opinion in accordance with regulations made by DHSSPS;
- (b) comply with the requirements set out in regulations made by DHSSPS.

(2) The steps are—

- (a) requesting a water undertaker to enter into arrangements under Article 126(1);
- (b) requesting a water undertaker to vary any such arrangements in, or except in, prescribed circumstances or cases;

- (c) laying before the Assembly an order under Article 129(6) terminating any such arrangements;
 - (d) maintaining any such arrangements in prescribed circumstances.
- (3) Regulations—
- (a) under sub-paragraph (a) of paragraph (1) shall include provision about the process which DHSSPS is to follow for the purposes of that sub-paragraph;
 - (b) under sub-paragraph (b) of that paragraph shall include provision about the requirements which must be satisfied (with respect to the outcome of that process or otherwise) before a step mentioned in paragraph (2) may be taken.
- (4) Paragraph (1) shall not apply in relation to a proposal by DHSSPS to take the step mentioned in paragraph (2)(b) if DHSSPS so directs by an instrument in writing (and such a direction may apply either generally or in relation to a particular proposal).

Indemnities in respect of fluoridation

133.—(1) DHSSPS may, with the consent of DFP, agree to indemnify any water undertaker in respect of liabilities which it may incur in complying with arrangements entered into by it pursuant to Article 126(1).

- (2) DHSSPS may by regulations make provision with respect to—
- (a) the matters in respect of which an indemnity may be given under paragraph (1);
 - (b) the form and terms of any such indemnity; and
 - (c) such ancillary matters as it sees fit.

Review of fluoridation

- 134.**—(1) Where DHSSPS has entered into arrangements under Article 126(1), it shall—
- (a) monitor the effects of the arrangements on the health of persons living in the area specified in the arrangements; and
 - (b) in accordance with paragraph (3) publish reports containing an analysis of those effects.
- (2) DHSSPS shall make available—
- (a) any information collected by it for the purposes of paragraph (1); or
 - (b) summaries of that information.
- (3) DHSSPS shall publish a report under paragraph (1)(b)—
- (a) within the period of 4 years beginning with the date on which the arrangements come into force; and
 - (b) within each period of 4 years beginning with the date on which the last such report was published.
- (4) This Article ceases to apply in relation to any arrangements under Article 126(1) if those arrangements are terminated.