
DRAFT STATUTORY INSTRUMENTS

2006 No.

**The Water and Sewerage Services
(Northern Ireland) Order 2006**

**PART IX
INFORMATION**

Powers to acquire and duties to provide information

Duties of undertakers to provide the Department with information

260.—(1) It shall be the duty of a company holding an appointment as a relevant undertaker to provide the Department with all such information relating to any matter which—

- (a) is connected with, or with any proposals relating to, the carrying out by that company of the functions of a relevant undertaker; or
- (b) is material to the carrying out by the Department of any of its functions under this Order, as the Department may reasonably require.

(2) Information required under this Article shall be provided in such form and manner, and be accompanied or supplemented by such explanations, as the Department may reasonably require.

(3) The information which a company may be required to provide under this Article shall include information which, although it is not in the possession of that company or would not otherwise come into the possession of that company, is information which it is reasonable to require that company to obtain.

(4) A requirement for the purposes of this Article shall be contained in a direction which—

- (a) may describe the information to be provided in such manner as the Department considers appropriate;
- (b) may require the information to be provided on a particular occasion, in particular circumstances or from time to time; and
- (c) may be given to a particular company, to companies of a particular description or to all the companies holding appointments under Chapter I of Part II.

(5) The obligations of a relevant undertaker under this Article pursuant to a requirement under paragraph (1) shall be enforceable under Article 30 by the Department.

Power to require information for enforcement purposes

261.—(1) Where it appears to an enforcement authority that a company which holds an appointment as a relevant undertaker may be contravening, or may have contravened—

- (a) any condition of the company's appointment in relation to which it is the relevant enforcement authority; or

- (b) any statutory or other requirement enforceable under Article 30 in relation to which it is the relevant enforcement authority,

it may, for any purpose connected with such of its powers under Chapter II of Part III as are exercisable in relation to that matter, serve a notice under paragraph (2) on any person.

(2) A notice under this paragraph is a notice—

- (a) requiring the person on whom it is served to produce, at a time and place specified in the notice, to—
- (i) the enforcing authority; or
 - (ii) any person appointed by the enforcing authority for the purpose,
- any documents which are specified or described in the notice and are in that person's custody or under his control; or
- (b) requiring that person, if he is carrying on a business, to provide, at the time and place and in the form and manner specified in the notice, the enforcing authority with such information as may be specified or described in the notice.

(3) No person shall be required under this Article to produce any documents which he could not be compelled to produce in civil proceedings in the High Court or, in complying with any requirement to provide information, to give any information which he could not be compelled to give in evidence in any such proceedings.

(4) A person who, without reasonable excuse, fails to do anything required of him by a notice under paragraph (2) shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(5) A person who intentionally alters, suppresses or destroys any document which he has been required by any notice under paragraph (2) to produce 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.

(6) If a person makes default in complying with a notice under paragraph (2), the High Court may, on the application of the enforcing authority which served the notice, make such order as the Court thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other body who are responsible for its default.

(7) Nothing in this Article shall be construed as restricting any power of the Department or the Authority under Article 260 or under the conditions of an appointment under Chapter I of Part III to require a company holding such an appointment to produce any document to it or to provide it with any information.

(8) Expressions used in this Article and in Chapter II of Part III have the same meanings in this Article as in that Chapter.

Provision of information to sewerage undertakers with respect to trade effluent discharges

262.—(1) The owner or occupier of any land on or under which is situated any sewer, drain, pipe, channel or outlet used or intended to be used for discharging any trade effluent into a sewer of a sewerage undertaker shall, when requested to do so by the undertaker—

- (a) produce to the undertaker all such plans of the sewer, drain, pipe, channel or outlet as the owner or, as the case may be, occupier possesses or is able without expense to obtain;
- (b) allow copies of the plans so produced by him to be made by, or under the directions of, the undertaker; and

- (c) provide to the undertaker all such information as the owner or, as the case may be, occupier can reasonably be expected to supply with respect to the sewer, drain, pipe, channel or outlet.
- (2) A request by a sewerage undertaker for the purposes of this Article shall be made in writing.
- (3) Any person who fails to comply with this Article shall be guilty of an offence and liable, on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Expressions used in this Article and in Chapter III of Part VI have the same meanings in this Article as in that Chapter; and, accordingly, Article 198 shall have effect for the purposes of this Article as it has effect for the purposes of that Chapter.

Exchange of metering information between undertakers

263.—(1) Where—

- (a) different services are provided in relation to the same premises by different relevant undertakers;
- (b) one of those undertakers has obtained a reading from a meter used in determining the amount of any charges fixed in relation to those premises;
- (c) the charges in relation to those premises of another of those undertakers are fixed by reference to any matter to which the reading is relevant; and
- (d) that other undertaker has agreed to bear a reasonable proportion of the expenses of obtaining the reading together with the reasonable expenses of the disclosure of the reading to it,

it shall be the duty of the undertaker who obtained the reading to disclose the reading to the other undertaker.

(2) Any dispute between a relevant undertaker and any other person (including another such undertaker)—

- (a) as to the terms to be contained in any agreement for the purposes of paragraph (1)(d); or
- (b) as to the amount of any expenses to be borne by any person under any such agreement,

shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the Authority.

(3) The duties of a relevant undertaker under this Article shall be enforceable under Article 30 by the Authority.

Information sharing for purposes of special provision in charges scheme

264.—(1) This Article applies to any information relating to a consumer which is held by the Department of Finance and Personnel or the Northern Ireland Housing Executive for the purposes of the administration of—

- (a) a scheme under Article 30A of the Rates (Northern Ireland) Order 1977; or
- (b) housing benefit.

(2) Information to which this Article applies must, if an authorised officer of a relevant undertaker so requires, be supplied to—

- (a) the undertaker; or
- (b) any person or body providing services to the undertaker,

for the purpose of enabling or assisting the undertaker to give effect to any special provision included in a charges scheme of the undertaker in compliance with regulations under Article 202(2)(d)(i).

- (3) Any requirement under paragraph (2) must specify—
- (a) the description of information which is to be supplied;
 - (b) in the case of information to be supplied to a person other than the authorised officer, the name and address of that person;
 - (c) the form in which the information is to be supplied; and
 - (d) the date by which the information is to be supplied.
- (4) This Article—
- (a) does not limit the circumstances in which information may be supplied apart from this Article; but
 - (b) has effect despite any restriction on the purposes for which information may be disclosed or used.
- (5) The Department may by order amend paragraph (1) by adding any description of information to, or removing any description of information from, the list in that paragraph; but no description of information may be added to that list unless it is information of a description held by a Northern Ireland department or the Northern Ireland Housing Executive.
- (6) In this Article—
- “authorised officer”, in relation to a relevant undertaker, means an officer of the undertaker authorised for the purposes of this Article by the undertaker;
 - “consumer” has the same meaning as in Chapter I of Part VII;
 - “housing benefit” means housing benefit provided by virtue of a scheme under section 122 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).