
DRAFT STATUTORY INSTRUMENTS

2006 No.

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

PART VI

SEWERAGE SERVICES

CHAPTER I

GENERAL FUNCTIONS OF SEWERAGE UNDERTAKERS

Principal duties and standards of performance

General duty to provide sewerage system

149.—(1) It shall be the duty of every sewerage undertaker—

- (a) to provide, improve and extend such a system of public sewers (whether inside its area or elsewhere) and so to cleanse and maintain those sewers and any lateral drains which belong to or vest in the undertaker as to ensure that that area is and continues to be effectually drained; and
- (b) to make provision for the emptying of those sewers and such further provision (whether inside its area or elsewhere) as is necessary from time to time for effectually dealing, by means of waste water treatment works or otherwise, with the contents of those sewers.

(2) It shall be the duty of a sewerage undertaker in performing its duty under paragraph (1) to have regard—

- (a) to its existing and likely future obligations to allow for the discharge of trade effluent into its public sewers; and
- (b) to the need to provide for the disposal of trade effluent which is so discharged.

(3) The duty of a sewerage undertaker under paragraph (1) shall be enforceable under Article 30—

- (a) by the Department; or
- (b) with the consent of or in accordance with a general authorisation given by the Department, by the Authority.

(4) The obligations imposed on a sewerage undertaker by the following Chapters of this Part, and the remedies available in respect of contraventions of those obligations, shall be in addition to any duty imposed or remedy available by virtue of any provision of this Article or Article 150 and shall not be in any way qualified by any such provision.

(5) In this Article “trade effluent” has the same meaning as in Chapter III of this Part; and, accordingly, Article 198 shall have effect for the purposes of this Article as it has effect for the purposes of Chapter III of this Part.

Standards of performance in connection with provision of sewerage services

150.—(1) For the purpose—

- (a) of facilitating the determination of the extent to which breaches of the obligations imposed by virtue of the following provisions of this Part are to amount to breaches of the duty imposed by Article 149; or
- (b) of supplementing that duty by establishing overall standards of performance in relation to the provision of sewerage services by any sewerage undertaker,

the Department may, in accordance with Article 152, by regulations provide for contraventions of such requirements as may be prescribed to be treated for the purposes of this Order as breaches of that duty.

(2) The Department may, in accordance with Article 152, by regulations prescribe such standards of performance in connection with the provision of sewerage services as, in its opinion, ought to be achieved in individual cases.

(3) Regulations under paragraph (2) may provide that, if a sewerage undertaker fails to meet a prescribed standard, it shall pay such amount as may be prescribed to any person who is affected by the failure and is of a prescribed description.

(4) Without prejudice to the generality of the power conferred by paragraph (2), regulations under that paragraph may—

- (a) include in a standard of performance a requirement for a sewerage undertaker, in prescribed circumstances, to inform a person of his rights by virtue of any such regulations;
- (b) provide for any dispute under the regulations to be referred by either party to the dispute to the Authority;
- (c) make provision for the procedure to be followed in connection with any such reference and for the Authority's determination on such a reference to be enforceable in such manner as may be prescribed;
- (d) prescribe circumstances in which a sewerage undertaker is to be exempted from requirements of the regulations.

(5) Where the Authority determines any dispute in accordance with regulations under this Article it shall, in such manner as may be specified in the regulations, give its reasons for reaching its decision with respect to the dispute.

Information with respect to levels of performance

151.—(1) The Authority shall from time to time collect information with respect to—

- (a) the compensation paid by sewerage undertakers under regulations under Article 150(2); and
- (b) the levels of overall performance achieved by sewerage undertakers in connection with the provision of sewerage services.

(2) At such times as the Authority may direct, each sewerage undertaker shall give the following information to the Authority—

- (a) as respects each standard prescribed by regulations under Article 150(2), the number of cases in which compensation was paid and the aggregate amount or value of that compensation; and
- (b) as respects each standard established by regulations under Article 150(1)(b), such information with respect to the level of performance achieved by the undertaker as may be prescribed.

(3) A sewerage undertaker which without reasonable excuse fails to do anything required of it by paragraph (2) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) The Authority shall, at least once in every year, arrange for the publication, in such form and in such manner as it considers appropriate, of such of the information collected by or given to the Authority under this Article as it may appear to the Authority expedient to give to customers or potential customers of sewerage undertakers.

(5) In arranging for the publication of any such information the Authority shall have regard to the need for excluding, so far as practicable—

- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that individual; and
- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or not, where publication of that matter would or might, in the opinion of the Authority, seriously and prejudicially affect the interests of that body.

Procedure for regulations under Article 150

152.—(1) The Department shall not make any regulations under Article 150 unless—

- (a) the Authority has made to the Department a written application complying with paragraph (3);
- (b) the Department is satisfied that a copy of the application has been served by the Authority on—
 - (i) every sewerage undertaker specified in the application; and
 - (ii) persons or bodies appearing to the Department to be representative of persons likely to be affected by the regulations;
- (c) such period as the Department considers appropriate has been allowed for the making—
 - (i) by the Authority; or
 - (ii) by any affected sewerage undertaker or person or body on whom a copy of the application has been served under sub-paragraph (b)(ii),of representations or objections with respect to the Authority's proposals and any modifications proposed by the Department; and
- (d) the Department has considered the summary mentioned in paragraph (3)(c), the Authority's reasons for its proposals and every representation or objection which has been duly made with respect to those proposals, or any proposed modifications of those proposals, and has not been withdrawn.

(2) Before making an application to the Department under this Article the Authority shall arrange for such research as it considers appropriate with a view to discovering the views of a representative sample of persons likely to be affected and consider the results.

- (3) An application made by the Authority to the Department complies with this paragraph if it—
- (a) sets out the draft provisions proposed by the Authority for inclusion in regulations under Article 150;
 - (b) specifies the sewerage undertaker or undertakers in relation to which it is proposed those provisions should apply;
 - (c) is accompanied by a written summary of the results of the research carried out in accordance with paragraph (2); and
 - (d) summarises the Authority's reasons for its proposals.

- (4) The Department shall not make any regulations under Article 150 except where—
- (a) the only provisions of the regulations are those proposed by the Authority in its application or those provisions with such modifications as the Department considers appropriate; and
 - (b) each of the modifications (if any) of the Authority’s proposals to which effect is given by the regulations is a modification the proposal to make which has been notified—
 - (i) to the Authority; and
 - (ii) to any sewerage undertaker appearing to the Department to be likely to be affected by the modifications.

Information to be given to customers about overall performance

153.—(1) Each sewerage undertaker shall, in such form and manner and with such frequency as the Authority may direct, take steps to inform its customers of—

- (a) the standards of overall performance established under Article 150(1)(b) which are applicable to that undertaker; and
- (b) that undertaker’s level of performance as respects each of those standards.

(2) In giving any such direction, the Authority shall not specify a frequency of less than once in every period of 12 months.

(3) The duty of a sewerage undertaker to comply with this Article shall be enforceable by the Authority under Article 30.