
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Water and Sewerage Services
(Northern Ireland) Order 2006

PART VI

SEWERAGE SERVICES

CHAPTER III

TRADE EFFLUENT

Agreements with respect to the disposal etc. of trade effluent

Agreements with respect to the disposal etc. of trade effluent

187.—(1) Subject to Articles 188 and 191, a sewerage undertaker may enter into and carry into effect—

- (a) an agreement with the owner or occupier of any trade premises within its area for the reception and disposal by the undertaker of any trade effluent produced on those premises;
- (b) an agreement with the owner or occupier of any such premises under which it undertakes, on such terms as may be specified in the agreement, to remove and dispose of substances produced in the course of treating any trade effluent on or in connection with those premises.

(2) Without prejudice to the generality of paragraph (1), an agreement such as is mentioned in sub-paragraph (a) of that paragraph may, in particular, provide—

- (a) for the construction or extension by the sewerage undertaker of such works as may be required for the reception or disposal of the trade effluent; and
- (b) for the repayment by the owner or occupier, as the case may be, of the whole or part of the expenses incurred by the undertaker in carrying out its obligations under the agreement.

(3) The power of a sewerage undertaker to enter into an agreement under this Article includes a power, by that agreement, to authorise such a discharge as apart from the agreement would require a consent under this Chapter.

Reference to DOE of agreements relating to special category effluent

188.—(1) Where a sewerage undertaker and the owner or occupier of any trade premises are proposing to enter into an agreement under Article 187 with respect to, or to any matter connected with, the reception or disposal of any special category effluent, it shall be the duty of the undertaker to refer to DOE the questions

- (a) whether the operations which would, for the purposes of or in connection with the reception or disposal of that effluent, be carried out in pursuance of the proposed agreement should be prohibited; and

(b) whether, if they are not prohibited, any requirements should be imposed as to the conditions on which they are carried out.

(2) It shall be the duty of a sewerage undertaker where it has made a reference under this Article not to give any consent or enter into any agreement with respect to any such operations as are mentioned in paragraph (1)(a) at any time before DOE serves notice on the undertaker of its determination on the reference.

(3) Every reference under this Article shall be made in writing and shall be accompanied by a copy of the proposed agreement.

(4) It shall be the duty of a sewerage undertaker, on making a reference under this Article, to serve a copy of the reference on the owner or the occupier of the trade premises in question, according to whether it is the owner or occupier who is proposing to be a party to the agreement.

(5) If a sewerage undertaker fails, before giving any consent or entering into any agreement with respect to any such operations as are mentioned in sub-paragraph (a) of paragraph (1), to refer to DOE any question which it is required by that paragraph to refer to DOE, 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.

(6) If DOE becomes aware

- (a) that a sewerage undertaker and the owner or occupier of any trade premises are proposing to enter into any such agreement as is mentioned in paragraph (1), and
- (b) that the sewerage undertaker has not referred to DOE any question which it is required to refer to DOE by that paragraph,

DOE may proceed as if the reference required by that paragraph had been made.

(7) If DOE becomes aware that any consent has been given or agreement entered into with respect to any such operations as are mentioned in sub-paragraph (a) of paragraph (1) without the sewerage undertaker in question having referred to DOE any question which it is required by that paragraph to refer to it, DOE may exercise its powers of review under Article 185 or, as the case may be, Article 189, notwithstanding anything in paragraph (2) of the Article in question.

Review by DOE of agreements relating to special category effluent

189.—(1) Where any person, as the owner or occupier of any trade premises, is (whether or not in accordance with a notice under Article 190) for the time being a party to any agreement under Article 187 with respect to, or to any matter connected with, the reception or disposal of special category effluent, DOE may review the questions

- (a) whether the operations which, for the purposes of or in connection with the reception or disposal of that effluent, are carried out in pursuance of the agreement should be prohibited; and
- (b) whether, if they are not prohibited, any requirements should be imposed as to the conditions on which they are carried out.

(2) Subject to paragraph (3), DOE shall not review any question under this Article unless

- (a) the agreement by virtue of which the operations in question are carried out has not previously been the subject matter of a review and was entered into
 - (i) before the transfer date; or
 - (ii) in contravention of Article 191;

- (b) a period of more than two years has elapsed since the time, or last time, when notice of DOE's determination on any reference or review relating to that agreement was served under Article 190 on the owner or occupier of the trade premises in question; or
 - (c) there has, since the time, or last time, when such a notice was so served, been a contravention of any provision which was included in compliance with a requirement of a notice under Article 190 in the agreement by virtue of which the operations in question are carried out.
- (3) Paragraph (2) shall not apply if the review is carried out
- (a) for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to any Community obligation or to any international agreement to which the United Kingdom is for the time being a party; or
 - (b) for the protection of public health or of flora and fauna dependent on an aquatic environment.
- (4) References in this Article to an agreement include references to an agreement as varied from time to time by a notice under Article 190.