
DRAFT STATUTORY INSTRUMENTS

2006 No.

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

PART VI

SEWERAGE SERVICES

CHAPTER III

TRADE EFFLUENT

Supplemental provisions of Chapter III

Restrictions on power to fix charges under Chapter III

193.—(1) On any appeal under Article 180 or 184(1) conditions providing for the payment of charges to the sewerage undertaker in question shall not be determined by the Authority except in so far as no provision is in force by virtue of a charges scheme under Article 201 in respect of any such receptions, discharges, removals or disposals of effluent or substances as are of the same description as the reception, discharge, removal or disposal which is the subject matter of the appeal.

(2) In so far as any such conditions as are mentioned in paragraph (1) do fall to be determined by the Authority, they shall be determined having regard to the desirability of that undertaker's—

- (a) recovering the expenses of complying with its obligations in consequence of the consent or agreement to which the conditions relate; and
- (b) securing a reasonable return on its capital.

(3) To the extent that paragraph (1) excludes any charges from a determination on an appeal those charges shall be fixed from time to time by a charges scheme under Article 201 but not otherwise.

Power of DOE to require information for the purpose of its functions in relation to special category effluent

194.—(1) For the purpose of the discharge of its functions under this Chapter, DOE may, by notice in writing served on any person, require that person to furnish such information specified in the notice as DOE reasonably considers it needs, in such form and within such period following service of the notice, or at such time, as is so specified.

(2) A person who

- (a) fails, without reasonable excuse, to comply with a requirement imposed under paragraph (1), or
- (b) in furnishing any information in compliance with such a requirement, makes any statement which he knows to be false or misleading in a material particular,

shall be guilty of an offence.

- (3) A person guilty of an offence under paragraph (2) shall be liable
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or to both.

Evidence from meters etc.

195. Any meter or apparatus provided in pursuance of this Chapter in any trade premises for the purpose of measuring, recording or determining the volume, rate of discharge, nature or composition of any trade effluent discharged from those premises shall be presumed in any proceedings to register accurately, unless the contrary is shown.

Statement of case on appeal

196.—(1) At any stage of the proceedings on an appeal under Article 180 or 184(1), the Authority may, and if so directed by the High Court shall, state in the form of a special case for the decision of the High Court any question of law arising in those proceedings.

(2) The decision of the High Court on a special case under this Article shall be deemed to be a judgment of the Court within the meaning of section 35 of the Judicature (Northern Ireland) Act 1978 (c. 23) (which relates to the jurisdiction of the Court of Appeal); but no appeal to the Court of Appeal shall be brought by virtue of this paragraph except with the leave of the High Court or of the Court of Appeal.

Meaning of “special category effluent”

197.—(1) Subject to paragraphs (2) and (3), trade effluent shall be special category effluent for the purposes of this Chapter if

- (a) such substances as may be prescribed are present in the effluent or are present in the effluent in prescribed concentrations; or
- (b) the effluent derives from any such process as may be prescribed or from a process involving the use of prescribed substances or the use of such substances in quantities which exceed the prescribed amounts.

(2) If trade effluent is produced, or to be produced, by operating any installation or plant or otherwise carrying on any activity, the operation or carrying on of which requires a permit, that effluent shall not be special category effluent for the purposes of this Chapter as from the determination date relating to the installation, plant or activity in question.

(3) In paragraph (2)—

- (a) “determination date”, in relation to an installation, plant or activity, means—
 - (i) in the case of an installation, plant or activity in relation to which a permit is granted, the date on which it is granted, whether in pursuance of the application, or on an appeal, of a direction to grant it;
 - (ii) in the case of an installation, plant or activity in relation to which the grant of a permit is refused, the date of refusal or, on appeal, of the affirmation of the refusal, and in this paragraph the references to an appeal are references to an appeal under regulations under Article 4 of the [Environment \(Northern Ireland\) Order 2002 \(NI 17\)](#);
- (b) “permit” means a permit granted, under regulations under that Article, by an authority exercising functions under the regulations that are exercisable for the purpose of preventing or reducing emissions into the air, water and land.

(4) Regulations under this Article shall be made by DOE.

Power to apply Chapter III to specified activities

198.—(1) The Department may by order provide, in relation to discharge into public sewers—

- (a) that a liquid or other matter of a description specified in the order shall be treated as if it were trade effluent for the purposes of this Chapter; or
- (b) that—
 - (i) the discharge restrictions shall not apply to a liquid or other matter of a description specified in the order; and
 - (ii) (in the case of a liquid) the liquid shall be deemed not to be trade effluent for the purposes of this Chapter.

(2) An order under paragraph (1) may so provide whether or not the liquid or other matter specified would otherwise have fallen within (or, as the case may be, outside) a proper construction of “trade effluent” as defined in Article 199(1).

(3) An order under paragraph (1) may so provide, in relation to the liquid or other matter specified, either generally or in particular cases or classes of case or for particular purposes or as otherwise specified in the order.

(4) In this Article, references to the discharge restrictions are references to—

- (a) the restrictions imposed by sub-paragraphs (a) and (b) of Article 163(3); and
- (b) the restrictions imposed by Article 168 so far as it relates to anything falling within sub-paragraph (a) or (b) of paragraph (1) of that Article.

(5) Where any provisions of this Chapter are to apply to a liquid or other matter by virtue of an order under paragraph (1)(a), the order may provide for them so to apply subject to such modifications as may be specified in the order and, in particular, subject to any such modification of the meaning for the purposes of this Chapter of the expression “trade premises” as may be so specified.

(6) The Department may include in an order under paragraph (1) such provisions as appear to it expedient for modifying any statutory provision as it applies in relation to the discharge into sewers of any liquid or other matter specified in the order.

(7) Where the discharge restrictions do not apply to a liquid by virtue of an order under paragraph (1)(b), paragraphs (4) to (9) of Article 163 and Articles 165 and 166 shall have effect in relation to communication with a sewer for the purpose of making any discharge of that liquid as they apply in relation to any other discharges which are authorised by paragraph (1) of Article 163.

(8) The Department may include in an order under this Article such other supplemental, incidental or transitional provision as appears to it to be expedient.

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

(10) In this Article, references to a liquid are to a liquid either with or without particles of matter in suspension in the liquid.