
DRAFT STATUTORY INSTRUMENTS

2006 No.

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

PART VIII

UNDERTAKERS' POWERS AND WORKS

CHAPTER I

UNDERTAKERS' POWERS

Entry to land, etc. by relevant undertakers

Entry for works purposes

229.—(1) Any person designated in writing for the purpose by a relevant undertaker may enter any premises for any of the purposes specified in paragraph (2).

(2) The purposes mentioned in paragraph (1) are—

(a) the carrying out of any survey or tests for the purpose of determining—

(i) whether it is appropriate and practicable for the undertaker to exercise any relevant works power; or

(ii) how any such power should be exercised; or

(b) the exercise of any such power.

(3) The power, by virtue of paragraph (1), of a person designated by a relevant undertaker to enter any premises for the purposes of carrying out any survey or tests shall include power—

(a) to carry out experimental borings or other works for the purpose of ascertaining the nature of the sub-soil; and

(b) to take away and analyse such samples of water or effluent or of any land or articles as the undertaker—

(i) considers necessary for the purpose of determining either of the matters mentioned in paragraph (2)(a); and

(ii) has authorised that person to take away and analyse.

(4) Part II of Schedule 4 shall apply to the rights and powers conferred by this Article.

(5) In this Article “relevant works power” means any power conferred by any of the provisions of Articles 215, 219, 220, 221(3), 222, 224 and 226, other than Article 222(3).

Power to carry out surveys and search for water

230.—(1) Without prejudice to the rights and powers conferred by Article 229, any person designated in writing under this Article by a water undertaker may enter any premises for any of the purposes specified in paragraph (2).

(2) The purposes mentioned in paragraph (1) are the carrying out of any survey or tests for the purpose of determining—

- (a) whether it would be appropriate for the undertaker to acquire any land for purposes connected with the carrying out of its functions; or
- (b) whether it would be appropriate for the undertaker to apply for a compulsory works order under Article 228 and what compulsory powers it would be appropriate to apply for under that Article.

(3) The power by virtue of paragraph (1) of a person designated under this Article to enter any premises for the purpose of carrying out any survey or tests shall include power—

- (a) to carry out experimental borings or other works for the purpose of ascertaining the nature of the sub-soil, the presence of underground water in the sub-soil or the quantity or quality of any such water;
- (b) to install and keep monitoring or other apparatus on the premises for the purpose of obtaining the information on which any such determination as is mentioned in paragraph (2) may be made; and
- (c) to take away and analyse such samples of water or of any land or articles as the undertaker considers necessary for any of the purposes so mentioned and has authorised that person to take away and analyse.

(4) Part II of Schedule 4 shall apply to the rights and powers conferred by this Article.

Entry etc. for other purposes

231.—(1) Any person designated in writing for the purpose by a water undertaker may enter any premises for any of the following purposes, that is to say—

- (a) the carrying out of any survey or tests for the purpose of determining—
 - (i) whether it is appropriate and practicable for the undertaker to exercise any power under any provision of Part IV to disconnect any pipe or cut off any supply of water to any premises or to carry out any works which it is authorised to carry out under Article 104(5), 106(3) or 115; or
 - (ii) how any such power should be exercised;
- (b) the exercise of any such power;
- (c) the monitoring and recording of—
 - (i) whether water supplied to any premises for domestic or food production purposes is wholesome at the time of supply; or
 - (ii) the quality of the water from any source, or combination of sources, which is or is to be used for supplying water to any premises for those purposes,
 and the carrying out of any tests for that purpose.

(2) Any person designated for the purpose—

- (a) by any water undertaker within whose area any waterworks are situated; or
- (b) by any water undertaker which takes water from any waterworks,

shall, on producing some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises for the purpose of ascertaining whether there is, or has been, any contravention of Article 112 in relation to those waterworks.

(3) Any person designated in writing for the purpose by a water undertaker may—

(a) enter any premises for the purpose of—

(i) ascertaining whether any provision contained in or made or having effect under this Order with respect to any water fittings or with respect to the waste or misuse or undue consumption of water is being, or has been, contravened;

(ii) determining whether, and if so in what manner, any power or duty conferred or imposed on any person by regulations under Article 114 should be exercised or performed; or

(iii) exercising any such power or performing any such duty; or

(b) carry out such inspections, measurements and tests on premises entered by that person or on water fittings or other articles found on any such premises, and take away such samples of water or of any land and such water fittings and other articles, as that person has been authorised to carry out or take away in accordance with regulations under that Article.

(4) During any period when a prohibition or restriction under Article 116 is in force, any person designated for the purpose by the water undertaker which imposed the prohibition or restriction shall, on producing some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises to which the prohibition or restriction applies for the purpose of ascertaining whether there is, or has been, any contravention of the prohibition or restriction.

(5) The power by virtue of paragraph (1) of a person designated by a water undertaker to enter any premises for the purpose of carrying out any survey or tests shall include power to take away such samples of water or effluent or of any land or articles as the undertaker—

(a) considers necessary for the purpose of determining any of the matters mentioned in subparagraph (a) or (c) of that paragraph; and

(b) has authorised that person to carry out or take away.

(6) Expressions used in this Article and in any provision of Part IV in relation to which this Article has effect shall have the same meaning in this Article as in that provision; and, without prejudice to the generality of this provision, paragraphs (2) and (3) of Article 108 and the definitions of “food production purposes” and “wholesome” in Article 136(1) shall apply for the purposes of any power conferred by virtue of paragraph (1)(c)(i) as they apply for the purposes of that Article.

(7) Part I of Schedule 4 shall apply to the rights of entry conferred by paragraphs (2) and (4); and Part II of that Schedule shall apply to the rights and powers conferred by the other provisions of this Article.

(8) The provisions of this Article shall be without prejudice to the other rights and powers conferred by this Part.

Entry for sewerage purposes

232.—(1) Any person designated in writing for the purpose by a sewerage undertaker shall, on producing any duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—

(a) for the purpose of ascertaining whether there is or has been, on or in connection with the premises, any contravention of any of the relevant sewerage provisions which it is the function of the undertaker to enforce;

- (b) for the purpose of ascertaining whether or not circumstances exist which would authorise or require the undertaker to take any action or carry out any works under any of the relevant sewerage provisions;
- (c) for the purpose of taking action or carrying out any works authorised by or under any of the relevant sewerage provisions to be taken or carried out by the undertaker;
- (d) generally for the purpose of carrying out the undertaker's functions under the relevant sewerage provisions.

(2) Part I of Schedule 4 shall apply to the right of entry conferred by paragraph (1).

(3) Any person designated by a sewerage undertaker under paragraph (1) for the purpose of exercising any power under this Article for the purposes of Chapter III of Part VI may, on any occasion on which he so exercises that power in relation to any premises, obtain and take away any sample of any trade effluent or any other liquid or substance which is passing (either directly or through a drain or private sewer) from those premises into any of the undertaker's public sewers.

(4) The power by virtue of paragraph (1) of a person designated under that paragraph to enter any premises shall include power to install and keep monitoring or other apparatus on the premises for the purpose of obtaining the information on which any such matter as is mentioned in sub-paragraph (a) or (b) of that paragraph may be ascertained.

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

Entry for metering purposes

233.—(1) Where the conditions set out in Article 223(1) are satisfied in relation to any premises, any person designated in writing for the purpose by the relevant undertaker in question may enter those premises, or any land occupied with those premises, for any of the purposes specified in paragraph (2).

(2) The purposes mentioned in paragraph (1) are—

- (a) the carrying out of any survey or tests for the purpose of determining—
 - (i) whether the carrying out of any works by virtue of sub-paragraph (a) or (b) of paragraph (4) of Article 223 is practicable;
 - (ii) whether it is necessary or expedient for any purpose connected with the carrying out of any works by virtue of either of those sub-paragraphs for any other works to be carried out; or
 - (iii) how any works specified in that paragraph should be carried out;
- (b) the carrying out of any works so specified;
- (c) the inspection, examination or testing of any meter which is on those premises or of any pipes or apparatus installed in the course of any works which were carried out for any purpose that is connected with the installation, connection, testing, maintenance or repair of any such meter;
- (d) the ascertainment from any meter of the volume of water supplied to, or of effluent discharged from, those premises.

(3) Part II of Schedule 4 shall apply in relation to the rights and powers conferred by the preceding provisions of this Article.

(4) Where any meter or other recording apparatus is provided in any premises in pursuance of Chapter III of Part VI for the purpose of assessing any charge, a sewerage undertaker may (instead of exercising its powers under this Article) for the purpose of reading that meter or apparatus exercise

the power conferred by Article 232 as if that purpose were included in the purposes mentioned in paragraph (1) of that Article.

Regulations as to taking of, and dealing with, samples

234. The Department may by regulations make provision as to the procedure to be followed in connection with the taking of, and dealing with, samples under Articles 229 to 232.

Impersonation of persons entitled to entry

235.—(1) A person who, without having been designated or authorised for the purpose by a relevant undertaker, purports to be entitled to enter any premises in exercise of a power exercisable in pursuance of any such designation or authorisation shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(2) For the purposes of this Article it shall be immaterial, where a person purports to be entitled to enter any premises, that the power which that person purports to be entitled to exercise does not exist or would not be exercisable even if that person had been designated or authorised by a relevant undertaker.