

WATER AND SEWERAGE SERVICES (NORTHERN IRELAND) ORDER 2006

S.I. 2006 3336

EXPLANATORY MEMORANDUM

OVERVIEW OF THE ORDER

Part Iii - Appointment and Regulation of Undertakers

Chapter II – Enforcement and Insolvency

29. Chapter II sets out the circumstances in which an enforcement order can be served and when financial penalties may be imposed on an undertaker.

Articles 30-34 Enforcement Orders

30. [Articles 30-34](#) set out the circumstances in which an enforcement authority is required to make an enforcement order to ensure an undertaker's compliance with any condition of its terms of appointment or any of its statutory obligations. The enforcement authority can be the Department, the Authority or either depending on the particular provision under which enforcement may take place. An enforcement order requires an undertaker to do or not do anything set out in the order (Article 30). Where there is a contravention of any condition of an undertaker's terms of appointment or any of its statutory obligations a final enforcement order must be made. However the Authority and the Department can make provisional orders in some cases and accept undertakings from the undertaker that remedial measures are being taken. The procedures which must be followed when making or revoking an enforcement order (Article 31) are set out (Article 32) as well as how the undertaker can appeal to the High Court against an order (Article 33). Article 34 deals with the undertaker's liability under an enforcement order.

Articles 35-39 Financial Penalties

31. [Articles 35-40](#) deal with the financial penalties which may be imposed on the undertaker where the enforcement authority has determined that there has been a contravention in any condition of its appointment, a failure to attain any performance standard or a contravention of its statutory duty. A penalty may not exceed 10% of the undertaker's turnover (turnover to be determined by order made by the Department). The steps to be followed by the enforcement authority when imposing penalties are listed in Article 35. Article 36 requires each enforcement authority to publish a statement of policy on penalties and Article 37 sets out time limits on when penalties can be imposed. An undertaker can appeal to the High Court against any penalty imposed upon it (Article 39).

Articles 41-44 Special Administration Orders

32. **Articles 41-44** state that the insolvency of an undertaker is to be dealt with through special administration orders made by the High Court. During the period of a special administration order all company affairs are managed by a person appointed by the High Court.