

SCHEDULES

SCHEDULE 1

Articles 17 and 41

TRANSITIONAL PROVISION ON TERMINATION OF APPOINTMENTS

Cases where Schedule applies

- 1.—(1) This Schedule applies in each of the cases specified in sub-paragraphs (2) and (3).
- (2) The first case in which this Schedule applies is where—
- (a) the Department or the Authority is proposing to make an appointment or variation replacing a company as a relevant undertaker; and
 - (b) by virtue of that appointment a company (“the new appointee”) will hold an appointment as the water undertaker or sewerage undertaker for an area which is or includes the whole or any part of the area for which, until the relevant date, another company (“the existing appointee”) holds an appointment as the water undertaker or, as the case may be, sewerage undertaker.
- (3) The second case in which this Schedule applies is where—
- (a) the High Court has made a special administration order in relation to any company holding an appointment under Chapter I (“the existing appointee”); and
 - (b) it is proposed that on and after the relevant date another company (“the new appointee”) should, without any such appointment or variation as is mentioned in sub-paragraph (2) having been made, hold an appointment as water undertaker or sewerage undertaker for an area which is or includes the whole or any part of the area for which until that date the existing appointee holds an appointment as water undertaker or, as the case may be, sewerage undertaker.
- (4) In this Schedule—
- “existing appointee” and “new appointee” shall be construed in accordance with sub-paragraph (2) or (3) according to whether this Schedule is applying in the case mentioned in the first or second of those sub-paragraphs;
- “other appointees” means any companies, other than the existing appointee and the new appointee, which are likely on or at a time after the relevant date to be holding appointments as water undertakers or sewerage undertakers for any area which is or includes any part of the area for which the existing appointee has at any time held an appointment as water undertaker or sewerage undertaker;
- “the relevant date” means—
- (a) where this Schedule applies by virtue of sub-paragraph (2), the coming into force of the appointment or variation mentioned in head (a) of that sub-paragraph; and
 - (b) where this Schedule applies by virtue of sub-paragraph (3), such day, being a day before the discharge of the special administration order takes effect, as the High Court may appoint for the purposes of this Schedule;
- “special administrator”, in relation to a company in relation to which a special administration order has been made, means the person for the time being holding office for the purposes of Article 41(1);

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“specified” means specified in a scheme under this Schedule;

“third party” means any person other than—

- (a) the existing appointee; or
- (b) the new appointee;

“the transfer” means the transfer effected by Article 270(2).

(5) References in this Schedule to any external assets or liabilities are references to any assets or liabilities as respects which any issue arising in any proceedings would have to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory other than Northern Ireland (“external law”).

Commencement Information

- II** Sch. 1 para. 1 partly in operation; Sch. 1 para. 1 not in operation at date of making see art. 1(2); Sch. 1 para. 1 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Making and effect of scheme

2.—(1) The existing appointee, acting with the consent of the new appointee and, in relation to the matters affecting them, of any other appointees, may make a scheme under this Schedule for the transfer of assets and liabilities from the existing appointee to the new appointee.

(2) A scheme under this Schedule shall not take effect unless it is approved by the Department or the Authority.

(3) Where a scheme under this Schedule is submitted to the Department or the Authority for its approval, the Department or the Authority may, with the consent of the new appointee, of the existing appointee and, in relation to the matters affecting them, of any other appointees, modify the scheme before approving it.

(4) A scheme under this Schedule for the transfer of the existing appointee's assets and liabilities shall come into force on the relevant date and, on coming into force, shall, by virtue of this paragraph have effect, in accordance with its provisions and without further assurance, so as to transfer to the new appointee the assets and liabilities specified for transfer to it.

(5) If at any time after a scheme under this Schedule has come into force in relation to the assets and liabilities of any existing appointee the Department considers it appropriate to do so and the existing appointee, the new appointee and, in relation to the provisions of the order which affect them, any other appointees consent to the making of the order, the Department may by order provide that that scheme shall for all purposes be deemed to have come into force with such modifications as may be provided for in the order.

(6) The power under sub-paragraph (5) to provide for the modification of the transfer scheme shall be exercisable for the purpose only of making provision that could originally have been made by the scheme; and an order under that sub-paragraph —

- (a) may make, with effect from the coming into force of the scheme to which it relates, any such provision as could have been made by the scheme; and
- (b) may, in connection with giving effect to that provision from that time, contain such supplemental, consequential and transitional provision as the Department considers appropriate.

(7) In determining, in accordance with its duties under Part II of this Order, whether and in what manner to exercise any power conferred on it by this paragraph the Department or the Authority shall have regard to the need to ensure that any provision for the transfer of assets and liabilities

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in accordance with a scheme under this Schedule allocates assets and liabilities to the different companies affected by the scheme in such proportions as appear to it to be appropriate in the context of the different functions which will, by virtue of this Order, be carried out at different times on and after the relevant date by the new appointee, by the existing appointee and by any other appointees.

(8) It shall be the duty of the new appointee, of the existing appointee and of any other appointees to provide the Department or the Authority with all such information and other assistance as it may reasonably require for the purposes of, or in connection with, the exercise of any power conferred on it by this paragraph.

(9) A company which without reasonable excuse fails to do anything required of it by virtue of sub-paragraph (8) shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

(10) Without prejudice to the other provisions of this Order relating to the special administrator of a company, anything which is required by this paragraph to be done by a company shall, where that company is a company in relation to which a special administration order is in force, be effective only if it is done on the company's behalf by its special administrator.

Commencement Information

I2 Sch. 1 para. 2 partly in operation; Sch. 1 para. 2 not in operation at date of making see art. 1(2); Sch. 1 para. 2 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Contents of scheme

3.—(1) A scheme under this Schedule—

- (a) shall specify the assets and liabilities to be transferred to the new appointee; and
- (b) may make supplementary, incidental, transitional and consequential provisions in connection with the transfer of those assets and liabilities.

(2) The provisions of a scheme specifying the assets and liabilities to be transferred may do so—

- (a) by specifying them or describing them in particular; or
- (b) by identifying them generally by reference to a specified part of the existing appointee's undertaking, or their connection with the exercise of specified functions of that appointee; or
- (c) in any other manner appearing to the existing appointee to be appropriate in relation to the assets or liabilities in question;

and a scheme may except assets and liabilities from transfer in any corresponding manner.

(3) The assets and liabilities that may be specified by a scheme under this Schedule for transfer to the new appointee include—

- (a) assets and liabilities that would not otherwise be capable of being transferred or assigned by the existing appointee;
- (b) assets acquired and liabilities arising in the period after the making of the scheme and before the relevant date;
- (c) rights and liabilities arising after the relevant date in respect of matters occurring before that date;
- (d) property situated anywhere in the United Kingdom or elsewhere and rights and liabilities under the law of any part of the United Kingdom or of any place outside the United Kingdom; and

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- (e) rights and liabilities under a statutory provision or Community instrument.
- (4) A scheme under this Schedule may make provision for the division of any assets or liabilities between the existing appointee and the new appointee; and
- (a) where any rights or liabilities under a contract are so divided, the contract shall have effect as from the relevant date as if it constituted two separate contracts separately enforceable by and against the existing appointee and the new appointee respectively as respects the part of the rights or liabilities which falls to it as a result of the division; and
 - (b) where any land is so divided, any rent payable under a lease (or a fee farm grant creating the relationship of landlord and tenant) in respect of that land or charged on that land shall be correspondingly divided so that one part is payable in respect of, or charged on, only one part of the land and the other part is payable in respect of, or charged on, only the other part.
- (5) For the purpose of making any division of assets or liabilities which it is considered appropriate to make in connection with the transfer of assets and liabilities in accordance with a scheme under this Schedule, the provisions of that scheme may—
- (a) create for the existing appointee, the new appointee or any other appointees an interest in or right over any property to which the scheme relates;
 - (b) create new rights and liabilities as between any two or more of those companies; and
 - (c) in connection with any provision made by virtue of sub-paragraph (a) or (b), make incidental provision as to the interests, rights and liabilities of other persons with respect to the subject-matter of the scheme.
- (6) A scheme under this Schedule may include provision imposing on the new appointee the obligation to enter into specified written agreements with, or execute such other instruments in favour of, the existing appointee or any other specified person: and any obligation so imposed shall be enforceable by civil proceedings for an injunction or other appropriate relief.
- (7) The transfers provided for by a scheme under this Schedule, and the rights and liabilities that may be created by virtue of sub-paragraph (5) or an agreement or instrument under sub-paragraph (6), include transfers that are to take effect, and rights and liabilities that are to arise, regardless of any contravention, liability or interference with a right that would otherwise exist by reason of a provision having effect (whether under a statutory provision or an agreement or in any other way) in relation to the terms on which the existing appointee is entitled or subject to any asset or liability.
- (8) A scheme under this Schedule may contain provision for the consideration to be provided by the new appointee and by any other appointees in respect of the transfer or creation of assets and liabilities by means of the scheme; and any such provision shall be enforceable in the same way as if the assets and liabilities had been created or transferred, and (if the case so requires) had been capable of being created or transferred, by agreement between the parties.
- (9) A scheme under this Schedule may include provision—
- (a) for the new appointee to be treated as the same person in law as the existing appointee for such purposes or in such circumstances as are specified;
 - (b) for agreements made, transactions effected or other things done (or treated as made effected or done) by or in relation to the existing appointee to be treated, so far as may be necessary for the purposes of or in connection with the transfer, as made, effected or done in relation to the new appointee;
 - (c) for references in any agreement, instrument or other document to (or references which are to be treated as references to) the existing appointee or to an officer or employee of the existing appointee to have effect, so far as may be necessary for the purposes of or in connection with the transfer, as a reference to, or to an officer or employee of, the new appointee;

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- (d) for proceedings commenced (or treated as commenced) by or against the existing appointee to be continued by or against the new appointee.
- (10) Sub-paragraph (9)(c) does not apply in relation to references in a statutory provision.
- (11) A scheme under this Schedule may include provision—
 - (a) for treating the existing appointee as having given to the new appointee an acknowledgement in writing of the right of the new appointee to production of any document relating in part to the title to, or to the management of, any asset transferred to it and to delivery of copies of that document; and
 - (b) applying section 9 of the Conveyancing Act 1881 (c. 41) (with any specified modifications) in relation to any such case.
- (12) A scheme under this Schedule may include provision for disputes as to the effect of the scheme to be referred to such arbitration as may be specified in or determined under the scheme.

Commencement Information

- I3** Sch. 1 para. 3 partly in operation; Sch. 1 para. 3 not in operation at date of making see art. 1(2); Sch. 1 para. 3 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Transfer of appointment

- 4.—(1) Where a scheme under this Schedule is made in the case specified in paragraph 1(3), the scheme may provide for the transfer to the new appointee, with such modifications as may be specified in the scheme, of the appointment under Chapter I of Part III which is held by the existing appointee.
- (2) In such a case different schemes under this Schedule may provide for the transfer of such an appointment to different companies as respects different parts of the area to which the appointment relates.

Commencement Information

- I4** Sch. 1 para. 4 partly in operation; Sch. 1 para. 4 not in operation at date of making see art. 1(2); Sch. 1 para. 4 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Employment contracts

- 5.—(1) This paragraph applies if rights and liabilities under a contract of employment are transferred by virtue of a scheme under this Schedule.
- (2) The contract of employment—
 - (a) is not terminated by the transfer, and
 - (b) has effect from the relevant date as if made between the employee and the new appointee.
- (3) The rights, powers, duties and liabilities of the existing appointee under or in connection with the contract are transferred to the new appointee on the relevant date.
- (4) Anything done before the relevant date by or in relation to the existing appointee in respect of the contract or the employee is to be treated from that date as having been done by or in relation to the new appointee.

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(5) But if an employee informs the existing appointee before the relevant date that he objects to the transfer of his contract of employment under the scheme—

- (a) sub-paragraphs (2) to (4) do not apply in relation to his contract of employment; and
- (b) his employment with the existing appointee is terminated immediately before the relevant date.

(6) A person is not to be treated as having been dismissed by the existing appointee by reason of—

- (a) the transfer of his contract of employment under this paragraph; or
- (b) the termination of his employment under sub-paragraph (5).

(7) This paragraph does not affect any right a person has to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

Commencement Information

I5 Sch. 1 para. 5 partly in operation; Sch. 1 para. 5 not in operation at date of making see art. 1(2); Sch. 1 para. 5 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Effect on third parties

6.—(1) Sub-paragraph (2) applies where (apart from that sub-paragraph) a third party would be entitled, in consequence of anything done or likely to be done by or under this Order in connection with a scheme under this Schedule—

- (a) to terminate, modify, acquire or claim any asset; or
- (b) to treat any asset as modified or terminated.

(2) That entitlement—

- (a) shall not be enforceable in relation to that asset, until after the transfer of the asset; and
- (b) shall then be enforceable in relation to the asset only in so far as the scheme contains provision for the asset to be transferred subject to whatever confers that entitlement.

Commencement Information

I6 Sch. 1 para. 6 partly in operation; Sch. 1 para. 6 not in operation at date of making see art. 1(2); Sch. 1 para. 6 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

External assets, etc.

7.—(1) This paragraph applies in any case where a scheme under this Schedule provides for the transfer of any external assets or liabilities.

(2) It shall be the duty of the existing appointee and the new appointee to take, as and when the new appointee considers appropriate, all such steps as may be requisite to secure that the vesting in the new appointee by virtue of the transfer of any external asset or liability is effective under the relevant law.

(3) Until the vesting in the new appointee, by virtue of the transfer, of any external asset or liability is effective under the relevant external law, it shall be the duty of the existing appointee to hold that asset or right for the benefit of, or to discharge that liability on behalf of, the new appointee.

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(4) Nothing in sub-paragraphs (2) and (3) shall be taken as prejudicing the effect under the law of Northern Ireland of the vesting in the new appointee by virtue of the transfer of any external asset or liability.

(5) The existing appointee shall have all such powers as may be requisite for the performance of its duty under this paragraph, but it shall be the duty of the new appointee to act on behalf of the existing appointee (so far as possible) in performing the duty imposed on the existing appointee by this paragraph.

(6) Duties imposed on the existing appointee or the new appointee by this paragraph shall be enforceable in the same way as if the duties were imposed by a contract between them.

(7) Any expenses incurred by the existing appointee under this paragraph shall be met by the new appointee.

Commencement Information

I7 Sch. 1 para. 7 partly in operation; Sch. 1 para. 7 not in operation at date of making see art. 1(2); Sch. 1 para. 7 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Further transitional provision

8.—(1) The Department may, if it thinks it appropriate to do so for the purposes of, or in connection with, any appointment or variation replacing a company as a relevant undertaker or any scheme under this Schedule, by order make any provision which—

- (a) corresponds, in relation to any statutory provision, to any provision made by an order under Article 1 or 306; or
- (b) has similar effect in relation to any other statutory provision.

(2) An order under this paragraph may contain such supplemental, consequential and transitional provision as the Department considers appropriate.

SCHEDULE 2

Article 100

PREMISES NOT TO BE DISCONNECTED FOR NON-PAYMENT OF CHARGES

1.—(1) Any dwelling which is occupied by a person as his only or principal home.

(2) In this paragraph “dwelling” means—

- (a) a private dwelling-house (which may be a building or part of a building);
- (b) a caravan within the meaning of section 25(1) of the Caravans Act (Northern Ireland) 1963 (c. 17);
- (c) a boat or similar structure designed or adapted for use as a place of permanent habitation.

Commencement Information

I8 Sch. 2 para. 1 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

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2.—(1) Any house in multiple occupation which does not constitute a dwelling within the meaning of paragraph 1 and in which any person has his only or principal home.

(2) In this paragraph “house in multiple occupation” has the meaning given by Article 75 of the Housing (Northern Ireland) Order 1992 (NI 15).

Commencement Information

I9 Sch. 2 para. 2 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

3.—(1) Accommodation for the elderly in which a person has his only or principal home.

(2) In this paragraph “accommodation for the elderly” means residential accommodation to which sub-paragraph (3) or (4) applies, but which is not a dwelling within the meaning of paragraph 1 or a house in multiple occupation within the meaning of paragraph 2.

(3) This sub-paragraph applies to residential accommodation—

- (a) which is particularly suitable, having regard to its location, size, design, heating systems and other features, for occupation by elderly persons,
- (b) which it is the practice of the landlord to let for occupation by persons aged 60 or more, and
- (c) where the services of a warden are provided.

(4) This sub-paragraph applies to any building or part of a building designed or adapted for use as residential accommodation for elderly persons.

Commencement Information

I10 Sch. 2 para. 3 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

4. A hospital within the meaning of Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14).

Commencement Information

I11 Sch. 2 para. 4 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

5.—(1) Premises used—

- (a) for the provision of primary medical services by a medical practitioner;
- (b) for the provision of general dental services or personal dental services;
- (c) for the provision of pharmaceutical services by a registered pharmacist.

(2) Expressions used in this paragraph have the same meanings as in the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14).

Commencement Information

I12 Sch. 2 para. 5 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

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6. Any of the following (within the meaning of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (NI 9)—

- (a) a children's home;
- (b) an independent clinic;
- (c) an independent hospital;
- (d) a residential care home;
- (e) a nursing home.

Commencement Information

I13 Sch. 2 para. 6 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

7. A school within the meaning of the Education and Libraries (Northern Ireland) Order 1986 (NI 3).

Commencement Information

I14 Sch. 2 para. 7 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

8.—(1) Premises used by—

- (a) an institution of further education within the meaning of the Further Education (Northern Ireland) Order 1997 (NI 15);
- (b) a higher education institution within the meaning of Article 30 of the Education and Libraries (Northern Ireland) Order 1993 (NI 12).

Commencement Information

I15 Sch. 2 para. 8 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

9. Premises used for the provision of day care for children by a person who is registered under Part XI of the Children (Northern Ireland) Order 1995 (NI 2) in respect of the premises.

Commencement Information

I16 Sch. 2 para. 9 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

10. A prison, young offenders centre or juvenile justice centre.

Commencement Information

I17 Sch. 2 para. 10 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

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11. Any premises which are used solely for detaining persons under the Immigration Act 1971 (c. 77) or the Nationality, Immigration and Asylum Act 2002 (c. 41).

Commencement Information

I18 Sch. 2 para. 11 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

12. Premises occupied for the purposes of the police.

Commencement Information

I19 Sch. 2 para. 12 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

13. Premises occupied for the purposes of the Northern Ireland Fire and Rescue Service Board.

Commencement Information

I20 Sch. 2 para. 13 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

14. Premises occupied for the purposes of the provision of an ambulance service by the Northern Ireland Ambulance Service Health and Social Services Trust.

Commencement Information

I21 Sch. 2 para. 14 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

SCHEDULE 3

Article 105

PROCEDURE FOR ORDERS RELATING TO PRESSURE AND CONSTANCY

Applications for orders

1.—(1) Where the Authority or a water undertaker applies to the Department for an order under Article 105(5), the applicant shall—

- (a) submit to the Department a draft of the order applied for;
- (b) publish a notice with respect to the application, at least once in each of two successive weeks, in at least two newspapers circulating in the locality which would be affected by the provision proposed to be made by the order;
- (c) not later than the date on which that notice is first published serve a copy of the notice on every affected district council and every affected water undertaker; and
- (d) publish a notice in the Belfast Gazette which—
 - (i) states that the draft order has been submitted to the Department;

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- (ii) names every district council on which a notice is required to be served under this paragraph;
 - (iii) specifies a place where a copy of the draft order and of any relevant map or plan may be inspected; and
 - (iv) gives the name of every newspaper in which the notice required by virtue of head (b) was published and the date of an issue containing the notice.
- (2) The notice required by virtue of sub-paragraph (1)(b) to be published with respect to an application for an order shall—
- (a) state the general effect of the order applied for;
 - (b) specify a place where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of 28 days beginning with the date of the first publication of the notice; and
 - (c) state that any person may, within that period, by notice to the Department object to the making of the order.
- (3) For the purposes of sub-paragraph (1)(c) a district council or a water undertaker which is not the applicant is affected by an application for an order if its district or area includes the whole or any part of the locality which would be affected by the provision proposed to be made by the order.

Commencement Information

I22 Sch. 3 para. 1 wholly in operation at 1.4.2007; Sch. 3 para. 1 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 3 para. 1 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Supply of copies of draft orders

2. The applicant for an order under Article 105(5) shall, at the request of any person and on payment by that person of such charge (if any) as the applicant may reasonably require, provide that person with a copy of the draft order submitted to the Department under paragraph 1.

Commencement Information

I23 Sch. 3 para. 2 wholly in operation at 1.4.2007; Sch. 3 para. 2 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 3 para. 2 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Modifications of proposals

3.—(1) On an application for an order under Article 105(5), the Department may make the order either in the terms of the draft order submitted to it or, subject to sub-paragraph (2), in those terms as modified in such manner as it thinks fit, or may refuse to make an order.

(2) The Department shall not make such a modification of a draft order submitted to it as it considers is likely adversely to affect any persons unless the Department is satisfied that the applicant for the order has given and published such additional notices, in such manner, as the Department may have required.

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I24 Sch. 3 para. 3 wholly in operation at 1.4.2007; Sch. 3 para. 3 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 3 para. 3 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Consideration of objections, etc.

4. Where an application for an order to which this Schedule applies has been made, the Department may, if it considers it appropriate to do so, cause a local inquiry to be held before making any order on the application.

Commencement Information

I25 Sch. 3 para. 4 wholly in operation at 1.4.2007; Sch. 3 para. 4 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 3 para. 4 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

SCHEDULE 4

Articles 111 to 125 and 223 to 233

RIGHTS OF ENTRY

PART I

RIGHTS REQUIRING NOTICE FOR ENTRY TO NON-BUSINESS PREMISES

Notice of entry

1.—(1) Where this Part of this Schedule applies to any right of entry conferred by a provision of this Order, admission to any premises which are not business premises shall not be demanded as of right by virtue of that provision, unless 24 hours' notice of the intended entry has been given to the occupier of the premises.

(2) In this paragraph “business premises” means—

- (a) any factory (within the meaning of the Factories Act (Northern Ireland) 1965 (c. 20)); or
- (b) any place in which persons are employed otherwise than in domestic service.

Commencement Information

I26 Sch. 4 para. 1 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Status: Point in time view as at 20/04/2010.

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Warrants to exercise right

2.—(1) Subject to sub-paragraph (3), if it is shown to the satisfaction of a lay magistrate, on complaint on oath—

(a) that any one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to any premises which a person is entitled to enter by virtue of a right of entry to which this Part of this Schedule applies; and

(b) that there is reasonable ground for entry to the premises for any purpose for which the right is exercisable,

the magistrate may by warrant authorise that person to enter the premises, if need be by force.

(2) The conditions mentioned in sub-paragraph (1) are—

(a) that admission to the premises has been refused to the person having the right to enter them;

(b) that such refusal is apprehended;

(c) that the premises are unoccupied or the occupier is temporarily absent;

(d) that the case is one of urgency;

(e) that an application for admission would defeat the object of the entry.

(3) A warrant under this Part of this Schedule shall not be issued by a lay magistrate in a case in which he is satisfied that the condition mentioned in head (a) or (b) of sub-paragraph (2) is fulfilled unless he is also satisfied—

(a) that notice of the intention to apply for a warrant has been given to the occupier;

(b) that a condition mentioned in either of heads (c) and (d) of that sub-paragraph is also fulfilled in relation to the premises; or

(c) that the giving of such notice as is mentioned in head (a) would defeat the object of the entry.

(4) Every warrant under this Part of this Schedule shall continue in force until the purpose for which the entry is necessary has been fulfilled.

(5) A person leaving any unoccupied premises which he has entered by virtue of a warrant under this Part of this Schedule shall leave them as effectually secured against trespassers as he found them.

Commencement Information

I27 Sch. 4 para. 2 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Supplementary power of person making entry

3. Any person entitled to enter any premises by virtue of a right to which this Part of this Schedule applies, or of a warrant under this Part of this Schedule, may take with him such other persons and such equipment as may be necessary.

Commencement Information

I28 Sch. 4 para. 3 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Status: Point in time view as at 20/04/2010.

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Obstruction of person exercising right

4. Any person who intentionally obstructs any person upon whom a right of entry has been conferred by virtue of—

- (a) any provision of this Order relating to a right of entry to which this Part of this Schedule applies; or
- (b) a warrant under this Part of this Schedule,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

Commencement Information

I29 Sch. 4 para. 4 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Duty of persons exercising rights to maintain confidentiality

5.—(1) Without prejudice to Article 265 and subject to sub-paragraphs (2) and (3), any person who is admitted to any premises in compliance—

- (a) with any provision of this Order relating to a right of entry to which this Part of this Schedule applies; or
- (b) with a warrant under this Part of this Schedule,

shall be guilty of an offence under this paragraph if he discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret.

(2) A person shall not be guilty of an offence under this paragraph in respect of any disclosure made in the performance of his duty.

(3) A person who is guilty of an offence under this paragraph shall be liable on summary conviction, to a fine not exceeding level 5 on the standard scale.

Commencement Information

I30 Sch. 4 para. 5 partly in operation; Sch. 4 para. 5 not in operation at date of making see art. 1(2); Sch. 4 para. 5 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

PART II

OTHER RIGHTS OF ENTRY AND RELATED POWERS

Notice of Entry

6.—(1) Without prejudice to any power exercisable by virtue of a warrant under this Part of this Schedule, no person shall make an entry into any premises by virtue of any right or power to which this Part of this Schedule applies except—

- (a) in an emergency; or

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- (b) at a reasonable time and after the required notice of the intended entry has been given to the occupier of the premises.
- (2) For the purposes of this paragraph the required notice is—
 - (a) in the case of the rights and powers conferred by virtue of any of Articles 114(4), 124(2) and (3), 125(7) and (8) and 231(1)(c) and (3), 24 hours' notice; and
 - (b) in any other case, 7 days' notice.
- (3) For the purposes of the application of this Part of this Schedule to any right or power conferred by Article 229, the reference in sub-paragraph (1) to an emergency—
 - (a) in relation to any entry to premises for the purposes of, or for purposes connected with, the exercise or proposed exercise of any power in relation to a street, includes a reference to any circumstances requiring the carrying out of emergency works within the meaning of Article 6 of the Street Works (Northern Ireland) Order 1995 (NI 19); and
 - (b) in relation to any other entry to premises, includes a reference to any danger to property and to any interruption of a supply of water provided to any premises by any person and to any interruption of the provision of sewerage services to any premises.
- (4) For the purposes of the application of this Part of this Schedule to the rights and other powers conferred by Article 233, sub-paragraph (1) shall have effect as if the power in an emergency to make an entry to any premises otherwise than at a reasonable time and after the required notice were omitted.

Commencement Information

I31 Sch. 4 para. 6 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Warrant to exercise right or power

- 7.—(1) If it is shown to the satisfaction of a lay magistrate on complaint on oath—
 - (a) that there are reasonable grounds for the exercise in relation to any premises of a right or power to which this Part of this Schedule applies; and
 - (b) that one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to those premises,the magistrate may by warrant authorise the relevant authority to designate a person who shall be authorised to exercise the right or power in relation to those premises in accordance with the warrant and, if need be, by force.
- (2) The conditions mentioned in sub-paragraph (1)(b) are—
 - (a) that the exercise of the right or power in relation to the premises has been refused;
 - (b) that such a refusal is reasonably apprehended;
 - (c) that the premises are unoccupied;
 - (d) that the occupier is temporarily absent from the premises;
 - (e) that the case is one of urgency; or
 - (f) that an application for admission to the premises would defeat the object of the proposed entry.

Status: Point in time view as at 20/04/2010.

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(3) A warrant under this Part of this Schedule shall not be issued by a lay magistrate in a case in which he is satisfied that the condition mentioned in head (a) or (b) of sub-paragraph (2) is fulfilled, unless he is also satisfied—

- (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises; or
- (b) that the giving of such a notice would defeat the object of the proposed entry.

(4) Every warrant under this Part of this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

Commencement Information

I32 Sch. 4 para. 7 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Manner of exercise of right or power

8. A person designated as the person who may exercise any right or power to which this Part of this Schedule applies shall produce evidence of his designation and other authority before he exercises the right or power.

Commencement Information

I33 Sch. 4 para. 8 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Supplementary powers of person making entry, etc.

9. A person authorised to enter any premises by virtue of any right or power to which this Part of this Schedule applies shall be entitled, subject in the case of a right or power exercisable under a warrant to the terms of the warrant, to take with him on to the premises such other persons and such equipment as may be necessary.

Commencement Information

I34 Sch. 4 para. 9 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Duty to secure premises

10. A person who enters any premises in the exercise of any right or power to which this Part of this Schedule applies shall leave the premises as effectually secured against trespassers as he found them.

Commencement Information

I35 Sch. 4 para. 10 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

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Compensation

11.—(1) Where any person exercises any right or power to which this Part of this Schedule applies, it shall be the duty of the relevant authority to make compensation to any person who has sustained loss or damage by reason of—

- (a) the exercise by the designated person of that right or power or of any power to take any person or equipment with him when entering the premises in relation to which the right or power is exercised; or
- (b) the performance of, or failure of the designated person to perform, the duty imposed by paragraph 10.

(2) Compensation shall not be payable by virtue of sub-paragraph (1) in respect of any loss or damage—

- (a) if it is attributable to the default of the person who sustained it;
- (b) if compensation is payable in respect of it by virtue of any other provision of this Order; or
- (c) to the extent that it is made good by the relevant undertaker.

(3) Any dispute as to a person's entitlement to compensation under this paragraph or as to the amount of any such compensation, shall be referred to the Lands Tribunal.

Commencement Information

I36 Sch. 4 para. 11 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Obstruction of person exercising right or power

12. A person who intentionally obstructs another person acting in the exercise of any right or power to which this Part of this Schedule applies shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Commencement Information

I37 Sch. 4 para. 12 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Interpretation of Part II

13.—(1) In this Part of this Schedule “relevant authority”, in relation to a right or power to which this Part of this Schedule applies, means the person who, by virtue of—

- (a) the provision by which the right or power is conferred; or
- (b) the warrant,

is entitled to designate the person by whom the right or power may be exercised.

(2) References in this Part of this Schedule to a right or power to which this Part of this Schedule applies include references to a right or power exercisable by virtue of a warrant under this Part of this Schedule.

(3) For the purposes of paragraphs 10 and 11 a person enters any premises by virtue of a right or power to which this Part of this Schedule applies notwithstanding that he has failed (whether by

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virtue of the waiver of the requirement by the occupier of the premises or otherwise) to comply with—

- (a) any requirement to enter those premises at a reasonable time or after giving notice of his intended entry; or
- (b) the requirement imposed by paragraph 8.

Commencement Information

I38 Sch. 4 para. 13 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

SCHEDULE 5

Article 137

PROCEEDINGS ON APPLICATION FOR A DROUGHT ORDER

Notice of application for drought order

- 1.—(1) The applicant for a drought order shall—
- (a) cause notice of the application to be served in accordance with sub-paragraph (2);
 - (b) cause a notice of the application to be published in at least two newspapers circulating within the area affected by the order; and
 - (c) cause a notice of the application to be published in the Belfast Gazette.
- (2) Notice of the application is to be served as follows—
- (a) in the case of all orders, on DCAL, DOE and DARD (or whichever of them is not the applicant), and on every district council and every water undertaker (not being the applicant) whose area would be affected by the order;
 - (b) in the case of an order which suspends or modifies any statutory provision, on such persons (if any) as are specified by name in the statutory provision as being persons for whose protection it was enacted or made;
 - (c) in the case of an order concerning the taking of water from a source or the discharge of water or effluent to a place, on every district council in whose area the source, or the place at which water or effluent is to be discharged, is situated, on every navigation authority exercising functions over any watercourse affected by the order and, if the order concerns any consent relating to the discharge of sewage effluent or trade effluent, on the person to whom the consent was given;
 - (d) in the case of an order which authorises the carrying out of any works, on every district council within whose area the works are situated;
 - (e) in the case of an order which authorises the occupation and use of land, on every owner, lessee and occupier of the land;
 - (f) in the case of an order which prohibits or limits the taking of water, on every named person to whom the prohibition or limitation applies.
- (3) A notice for the purposes of this paragraph of an application for a drought order—
- (a) shall state the general effect of the application;

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- (b) shall specify a place within the area affected by the order where a copy of any relevant map or plan may be inspected by any person free of charge at all reasonable times within a period of 7 days from the date on which it is served or, as the case may be, published;
- (c) shall state that objections to the application may be made to the Department within 7 days from the date on which it is served or, as the case may be, published; and
- (d) in the case of an application for an order authorising the occupation and use of land, shall specify the land to which the application relates.

Commencement Information

I39 Sch. 5 para. 1 wholly in operation at 1.4.2007; Sch. 5 para. 1 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 5 para. 1 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Objections to, and making of, drought order

2.—(1) If any objection is duly made with respect to an application for a drought order and is not withdrawn, then, subject to the provisions of this paragraph, the Department shall, before making the order, either—

- (a) cause a local inquiry to be held; or
- (b) afford an opportunity—
 - (i) to the objector; and
 - (ii) if the objector avails himself of the opportunity, to the applicant and to any other persons to whom it appears to the Department expedient to afford the opportunity, of appearing before and being heard by a person appointed by the Department for the purpose.

(2) Subject to sub-paragraph (3), where, on an application for a drought order, it appears to the Department that a drought order is required to be made urgently if it is to enable the deficiency of supplies of water to be effectively met, it may direct that the requirements of sub-paragraph (1) shall be dispensed with in relation to the application.

(3) Nothing in sub-paragraph (2) shall authorise the Department to fail to consider any objection to a proposed drought order which has been duly made and not withdrawn.

(4) Notwithstanding anything in sub-paragraph (1), the Department may—

- (a) require any person who has made an objection to a proposed drought order to state in writing the grounds of his objection; and
- (b) disregard the objection for the purposes of this paragraph if the Department is satisfied—
 - (i) that the objection relates exclusively to matters which can be dealt with on a reference under Schedule 6 or by any person by whom compensation is to be assessed; or
 - (ii) in a case where the order is one confined to the extension of a period specified in a previous order, that the objection is one that has in substance been made with respect to the application for that previous order.

(5) Subject to the requirements of this paragraph, the Department, on being satisfied that the proper notices have been published and served, may, if it thinks fit, make the order in respect of which the application is made with or without modifications.

Status: Point in time view as at 20/04/2010.

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(6) The Department may cause a local inquiry to be held on any application for a drought order notwithstanding that it is not required to do so by this paragraph.

Commencement Information

I40 Sch. 5 para. 2 wholly in operation at 1.4.2007; Sch. 5 para. 2 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 5 para. 2 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Notice after making of drought order

3. After a drought order has been made, the person on whose application it was made shall cause to be published (in the manner in which notice of the application was required under paragraph 1 to be published) a notice—

- (a) stating that the order has been made; and
- (b) naming a place where a copy of it may be inspected.

Commencement Information

I41 Sch. 5 para. 3 wholly in operation at 1.4.2007; Sch. 5 para. 3 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 5 para. 3 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

SCHEDULE 6

Article 142

COMPENSATION IN RESPECT OF DROUGHT ORDERS

Cases where compensation payable

1.—(1) Where a drought order has been made, compensation in respect of the entry on or occupation or use of land shall be made by the applicant for the order to—

- (a) the owners and occupiers of the land; and
- (b) all other persons interested in the land or injuriously affected by the entry upon, occupation or use of the land,

for loss or damage sustained by reason of the entry upon, occupation or use of the land.

(2) Where a drought order has been made, compensation in respect of the taking of water from a source or its taking from a source otherwise than in accordance with a restriction or obligation which has been suspended or modified shall be made by the applicant for the order to—

- (a) the owners of the source of water; and
- (b) all other persons interested in the source of water or injuriously affected by the taking of the water,

for loss or damage sustained by reason of the taking of the water.

(3) Where a drought order has been made, compensation in respect of water's being discharged or not discharged to any place or its being discharged otherwise than in accordance with a restriction

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or obligation (whether relating to the treatment or discharge of the water) which has been suspended or modified shall be made by the applicant for the order to—

- (a) the owners of the place of discharge; and
- (b) all other persons interested in the place of discharge or injuriously affected by the discharge or lack of discharge,

for loss or damage sustained by reason of the water being discharged or not discharged or being discharged otherwise than in accordance with the restriction or obligation.

(4) Where a drought order has been made under Article 137(1)(a), compensation in respect of the imposition of a prohibition or limitation on the taking of water from a source shall be made by the applicant for the order, to any persons to whom the prohibition or limitation applies, for loss or damage sustained by reason of the prohibition or limitation.

(5) Where a drought order has been made, compensation in respect of a power to make discharges of sewage effluent or trade effluent in pursuance of any consent shall be made by the applicant for the order, to any person who has been exercising that power, for loss or damage sustained by reason of the suspension or variation of the consent or the attachment of conditions to the consent.

Commencement Information

I42 Sch. 6 para. 1 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Claims for compensation

2.—(1) A claim for compensation under this Schedule shall be made by serving on the applicant a notice stating the grounds of the claim and the amount claimed.

(2) Any question as to the right of a claimant to recover compensation, or as to the amount of compensation recoverable, shall, in default of agreement, be referred to, and determined by, the Lands Tribunal.

Commencement Information

I43 Sch. 6 para. 2 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

3.—(1) A claim for compensation under paragraph 1(2) to (5) may be made at any time not later than 6 months after the end of the period for which the order authorises, as the case may be—

- (a) the taking or discharge of water;
- (b) the imposition of a prohibition or limitation on the taking of water;
- (c) the suspension or modification of any restriction or obligation; or
- (d) the suspension or variation of, or attachment of conditions to, any consent relating to the discharge of sewage effluent or trade effluent.

(2) Where a claim for compensation under paragraph 1(2) to (5) is made during the continuance of the drought order, the Lands Tribunal may, if it thinks fit, award a sum representing the loss or damage which is likely to be sustained by the claimant in respect of each day on which, as the case may be—

- (a) water is taken or discharged;

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- (b) water is not discharged or is discharged otherwise than in accordance with an obligation or restriction; or
- (c) sewage effluent or trade effluent is discharged otherwise than in accordance with a consent originally given.

(3) In assessing the compensation to be made under paragraph 1(2) the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, on an equitable apportionment of the water available from the source between the claimant, the applicant and other persons taking water from the source, may fairly be apportioned to the claimant.

(4) In assessing the compensation to be made under paragraph 1(3) in respect of the lack of discharge of compensation water, the Lands Tribunal may, if it thinks fit, have regard to the amount of water which, under the conditions existing by reason of the shortage of rain, would have been available to the claimant during the period during which the deficiency of supplies of water is continued, if the applicant in relation to whom the obligation was imposed had never carried on its undertaking.

(5) In sub-paragraph (4) “compensation water” has the same meaning as in Article 140.

Commencement Information

I44 Sch. 6 para. 3 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

SCHEDULE 7

Article 216

COMPULSORY ACQUISITION OF LAND

PART I

COMPULSORY ACQUISITION OF LAND BY RELEVANT UNDERTAKERS

1.—(1) Where a relevant undertaker proposes to acquire, otherwise than by agreement, any land required for the purposes of, or in connection with, the carrying out of its functions, it may apply to the Department for an order (“a vesting order”) vesting that land in the undertaker and the Department shall have power to make a vesting order.

(2) The power of acquiring land compulsorily under this paragraph includes power to acquire, by the creation of a new right, an easement or other right over land.

Commencement Information

I45 Sch. 7 para. 1 wholly in operation at 1.4.2007; Sch. 7 para. 1 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 7 para. 1 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

2.—(1) Except with the consent of the Authority, no application shall be made under paragraph 1 for a vesting order in respect of land which—

- (a) belongs to another relevant undertaker; and

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) is used for the purposes of, or in connection with, the carrying out of its functions.

(2) No application shall be made under paragraph 1 for a vesting order in respect of land vested inalienably in the National Trust for Places of Historic Interest or Natural Beauty.

Commencement Information

I46 Sch. 7 para. 2 wholly in operation at 1.4.2007; Sch. 7 para. 2 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 7 para. 2 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

3.—(1) The power to make a vesting order under paragraph 1 in respect of land—

- (a) which is the property of any public body which has power under any statutory provision to acquire land compulsorily; or
- (b) which is declared by or under any statutory provision to be inalienable,

shall not, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, be exercised in relation to that land unless the proposal for making the order has been approved by a resolution of the Assembly.

(2) In this paragraph “public body” means a body established by or under any statutory provision.

Commencement Information

I47 Sch. 7 para. 3 wholly in operation at 1.4.2007; Sch. 7 para. 3 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 7 para. 3 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

4.—(1) Nothing in this Schedule shall authorise the acquisition, without the consent of DOE, of any land on or in which there is, to the knowledge of the Department, any historic monument or archaeological object.

(2) In this paragraph “historic monument” and “archaeological object” have the same meanings as in the Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (NI 9).

Commencement Information

I48 Sch. 7 para. 4 wholly in operation at 1.4.2007; Sch. 7 para. 4 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 7 para. 4 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

5. Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c. 9) shall apply for the purposes of the acquisition of land by means of a vesting order made under paragraph 1 in the same manner as it applies to the acquisition of land by means of a vesting order made under that Act subject to the following modifications—

- (a) for any reference to the council there shall be substituted a reference to the relevant undertaker;
- (b) for any reference to the Department concerned there shall be substituted a reference to the Department;

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) for any reference to that Act there shall be substituted a reference to this Order;
- (d) in paragraph 6(2) for the words from “the fund” onwards there shall be substituted “funds of the relevant undertaker (in this Schedule referred to as “the compensation fund”), and shall be discharged by payments made by the relevant undertaker”; and
- (e) in paragraph 12(2) for “the clerk of the council” there shall be substituted “such person as may be designated for the purposes of this Schedule by the relevant undertaker”.

Commencement Information

I49 Sch. 7 para. 5 wholly in operation at 1.4.2007; Sch. 7 para. 5 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 7 para. 5 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

PART II

LAND OF RELEVANT UNDERTAKERS EXCLUDED FROM COMPULSORY PURCHASE

6. Where—

- (a) an application for a vesting order is made by a person with power to acquire land otherwise than by agreement (other than a relevant undertaker) in respect of land which includes land belonging to a relevant undertaker and used for any purposes of, or in connection with, the carrying out of its functions; and
- (b) that relevant undertaker has made a representation to the department concerned before the expiration of one month from the date of the last publication of the notice mentioned in paragraph 2(a) of Schedule 6 to the Local Government Act (Northern Ireland) 1972 (c. 9),

the department concerned shall not make the vesting order unless the Department has certified—

- (i) that the land can be purchased and not replaced without serious detriment to the carrying on of those functions; or
- (ii) that, if purchased, the land can be replaced by other land belonging to, or available for acquisition by, the relevant undertaker without serious detriment to the carrying on of those functions.

Commencement Information

I50 Sch. 7 para. 6 wholly in operation at 1.4.2007; Sch. 7 para. 6 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 7 para. 6 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

SCHEDULE 8

Article 218

PROCEDURE RELATING TO BYELAWS UNDER ARTICLE 218

Confirmation of byelaws

1.—(1) Byelaws made by a relevant undertaker under Article 218 shall not have effect until confirmed by the Department under this Schedule.

(2) At least 28 days before it applies for the confirmation of any such byelaws, a relevant undertaker shall publish in the Belfast Gazette and at least once in each of two successive weeks in at least two newspapers circulating in the locality to which the byelaws relate, a notice—

- (a) stating its intention to apply to the Department for such confirmation;
- (b) stating the general effect of the byelaws;
- (c) specifying a place where a copy of the byelaws may be inspected free of charge at all reasonable times during the period of 28 days beginning with the date of the first publication of the notice in a newspaper;
- (d) stating that any person may, within that period, by notice in writing to the Department, object to the confirmation of the byelaws.

(3) During the period referred to in sub-paragraph (2)(c), the relevant undertaker shall—

- (a) deposit a copy of the byelaws at the place specified under sub-paragraph (2)(c);
- (b) provide reasonable facilities for the inspection free of charge of a copy of the byelaws so deposited; and
- (c) at the request of any person, provide him with a copy of the byelaws on payment of such reasonable charge as the undertaker may determine.

(4) Where the byelaws regulate fishing, the relevant undertaker shall consult the DCAL before submitting the byelaws to the Department for confirmation.

Commencement Information

I51 Sch. 8 para. 1 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Confirmation with or without modifications

2.—(1) Subject to the following sub-paragraphs, where byelaws are submitted by a relevant undertaker for confirmation under this Schedule, the Department may—

- (a) confirm the byelaws without modification;
- (b) if the relevant undertaker consents, confirm the byelaws with modifications; or
- (c) refuse to confirm any byelaws.

(2) The relevant undertaker which has submitted byelaws for confirmation shall, if so directed by the Department, cause notice of any proposed modifications to be given in accordance with the Department's directions.

(3) Sub-paragraph (4) applies if before the end of the period of 28 days mentioned in paragraph 1(2)(c) or, where the Department has issued directions under sub-paragraph (2), within such further time as the Department may consider reasonable, notice in writing of an objection is received by the Department from any person appearing to it to be a person who may be adversely affected by the byelaws as submitted or as proposed to be altered.

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(4) The Department, before confirming the byelaws, shall, unless the objections are met or withdrawn or it is satisfied that they are solely of a frivolous or vexatious nature, either—

- (a) cause a local inquiry to be held; or
- (b) afford to the objector an opportunity of appearing before, and being heard by an independent person appointed by the Department for the purpose.

Commencement Information

I52 Sch. 8 para. 2 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Commencement of byelaws

3.—(1) The Department may fix the date on which any byelaws confirmed under this Schedule are to come into operation.

(2) If no date is so fixed, the byelaws shall come into operation at the end of the period of one month beginning with the date of confirmation.

Commencement Information

I53 Sch. 8 para. 3 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Availability of confirmed byelaws

4.—(1) Byelaws made by a relevant undertaker and confirmed under this Schedule shall be printed and deposited at one or more of the offices of the relevant undertaker, including (if there is one) at an office in the area to which the byelaw applies, and copies of the byelaws shall be available at those offices, at all reasonable times, for inspection by the public free of charge.

(2) A relevant undertaker shall, at the request of any person, provide him with a copy of the byelaws so deposited on payment of such reasonable charge as the undertaker may determine.

Commencement Information

I54 Sch. 8 para. 4 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Revocation of byelaws

5. Without prejudice to paragraph (5) of Article 218, if it appears to the Department that the revocation of any byelaws under that Article is necessary or expedient, it may, after—

- (a) giving notice to the relevant undertaker which made the byelaw;
- (b) considering any representations or objections made by that undertaker; and
- (c) if required by that undertaker, holding a local inquiry,

revoke that byelaw.

Status: Point in time view as at 20/04/2010.

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Commencement Information

I55 Sch. 8 para. 5 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Proof of byelaws etc.

6. The production of a printed copy of byelaws purporting to be made by a relevant undertaker on which is indorsed a certificate, purporting to be signed on its behalf, stating—

- (a) that the byelaws were made by that undertaker;
- (b) that the copy is a true copy of the byelaws;
- (c) that on a specified date the byelaws were confirmed under this Schedule; and
- (d) the date, if any, fixed under paragraph 3 for the coming into operation of the byelaw,

shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign the certificate.

Commencement Information

I56 Sch. 8 para. 6 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

SCHEDULE 9

Article 228

ORDERS CONFERRING COMPULSORY WORKS POWERS

Applications for orders

1.—(1) Where a water undertaker applies to the Department for a compulsory works order, the undertaker shall—

- (a) submit to the Department a draft of the order applied for;
- (b) publish a notice with respect to the application, at least once in each of two successive weeks, in at least two newspapers circulating in each relevant locality;
- (c) not later than the date on which that notice is first published serve a copy of the notice on such persons as may be prescribed by the Department;
- (d) publish a notice in the Belfast Gazette which—
 - (i) states that the draft order has been submitted to the Department;
 - (ii) specifies a place where a copy of the draft order and of any relevant map or plan may be inspected; and
 - (iii) gives the name of every newspaper in which the notice required by virtue of head (b) was published and the date of an issue containing the notice.

(2) The notice required by virtue of sub-paragraph (1)(b) to be published with respect to an application for an order by a water undertaker shall—

- (a) state the general effect of the order applied for;
- (b) in the case of an application made wholly or partly for the purpose of enabling any discharges of water to be made—

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) contain particulars of the proposed discharges, stating the purposes of the discharges and specifying each place of discharge;
 - (ii) specify the places at which the water to be comprised in the proposed discharges is to be taken and the treatment (if any) which the draft order proposes to require the water, or any of it, to receive before being discharged under the order; and
 - (iii) state the effect which, in the opinion of the undertaker, the proposed discharges would have on the flow, level and quality of water in any inland waters or underground strata;
- (c) specify a place where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times during the period of 28 days beginning with the date of the first publication of the notice; and
- (d) state that any person may, within that period, by notice to the Department object to the making of the order.
- (3) In this paragraph “relevant locality”, in relation to an application for an order a draft of which is submitted to the Department by a water undertaker, means—
- (a) any locality which would be affected by any provision proposed to be made by the order for the purpose of enabling any engineering or building operations to be carried out; and
 - (b) where provision is proposed to be made by the order for the purpose of enabling discharges of water to be made, each locality in which the place of any of the proposed discharges is situated or in which there appears to that undertaker to be any inland waters or underground strata the flow, level or quality of water in which may be affected by any of the proposed discharges.

Commencement Information

I57 Sch. 9 para. 1 wholly in operation at 1.4.2007; Sch. 9 para. 1 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 9 para. 1 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Supply of copies of draft orders

2. A water undertaker applying for a compulsory works order shall, at the request of any person and on payment by that person of such charge (if any) as the undertaker may reasonably require, furnish that person with a copy of the draft order submitted to the Department under paragraph 1 and of any relevant map or plan.

Commencement Information

I58 Sch. 9 para. 2 wholly in operation at 1.4.2007; Sch. 9 para. 2 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 9 para. 2 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Powers on an application

3.—(1) On an application for a compulsory works order, the Department may make the order either in the terms of the draft order submitted to it or, subject to sub-paragraphs (2) and (3), in those terms as modified in such manner as it thinks fit, or may refuse to make an order.

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(2) The Department shall not make such a modification of a draft order submitted to it by any water undertaker as it considers is likely adversely to affect any persons unless the Department is satisfied that the undertaker has given and published such additional notices, in such manner, as the Department may have required.

(3) The Department shall not, unless all interested parties consent, make a compulsory works order so as to confer in relation to any land any powers of compulsory acquisition which would not have been conferred in relation to that land if the order were made in the terms of the draft order submitted to it under paragraph 1.

(4) Where, on an application by a water undertaker for a compulsory works order, the Department refuses to make an order, the undertaker shall, as soon as practicable after the refusal, notify the refusal to every person on whom it was, by virtue of paragraph 1(1)(c), required to serve a copy of the notice with respect to the application.

(5) The duty of a water undertaker under sub-paragraph (4) shall be enforceable under Article 30 by the Department.

Commencement Information

I59 Sch. 9 para. 3 wholly in operation at 1.4.2007; Sch. 9 para. 3 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 9 para. 3 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Consideration of objections etc.

4.—(1) If, where an application for a compulsory works order has been made by a water undertaker, any notice of an objection to it is received, before the end of the relevant period, by the Department from—

- (a) any person on whom a notice under paragraph 1 or 3 is required to be served; or
- (b) from any other person appearing to the Department to be affected by the order as submitted to it or as proposed to be modified under paragraph 3,

then, unless the objection is withdrawn or the Department is satisfied that it solely of a frivolous or vexatious nature, the Department shall, before making the order, cause a local inquiry to be held by the Appeals Commission and consider the report of that inquiry.

(2) Where any objection received by the Department as mentioned in sub-paragraph (1) relates to any powers of compulsory acquisition, the Department may require the objector to state in writing the grounds of his objection; and if the Department is satisfied that the objection relates exclusively to matters that can be dealt with in the assessment of compensation, it may disregard the objection for the purposes of that sub-paragraph.

(3) In this paragraph “the relevant period”, in relation to an application for any order, means the period ending with whichever is the later of—

- (a) the end of the period of 28 days beginning with the date of the first publication of the notice published with respect to the application for the purposes of paragraph 1(1)(b); and
- (b) the end of the period of 25 days beginning with the date of the publication in the Belfast Gazette of the notice published for the purposes of the application by virtue of paragraph 1(1)(d),

together, in the case of an application for an order modifications to which have been proposed by the Department, with any further periods specified with respect to the modifications in notices under paragraph 3(2).

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I60 Sch. 9 para. 4 wholly in operation at 1.4.2007; Sch. 9 para. 4 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 9 para. 4 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Notice after making of order

5.—(1) As soon as practicable after a compulsory works order has been made, the undertaker on whose application it is made shall—

- (a) publish a notice of the making of the order, at least once in each of two successive weeks, in at least two newspapers circulating in each relevant locality; and
- (b) not later than the date on which that notice is first published serve a copy of the notice on every person on whom that undertaker was, by virtue of paragraph 1(1)(c), required to serve a copy of the notice with respect to the application for the order.

(2) The notice required by virtue of sub-paragraph (1)(a) to be published with respect to a compulsory works order shall—

- (a) state the general effect of the order;
- (b) in the case of an order made wholly or partly for the purpose of enabling any discharges of water to be made—
 - (i) contain particulars of the discharges, stating the purposes of the discharges and specifying each place of discharge;
 - (ii) specify the places at which the water to be comprised in the discharges is to be taken and the treatment (if any) which the order requires the water, or any of it, to receive before being discharged under the order; and
 - (iii) state the effect which, in the opinion of the applicant undertaker, the discharges would have on the flow, level and quality of water in any inland waters or underground strata; and
- (c) specify a place where a copy of the order and of any relevant map or plan may be inspected by any person free of charge at all reasonable times.

(3) Where a compulsory works order has been made, the undertaker on whose application it was made shall, at the request of any person and on payment by that person of such charge (if any) as that undertaker may reasonably require, furnish that person with a copy of the order and of any relevant map or plan.

(4) The duties of a water undertaker under this paragraph shall be enforceable under Article 30 by the Department.

(5) In this paragraph “relevant locality”, in relation to any compulsory works order, means—

- (a) any locality which is affected by any provision made by the order for the purpose of enabling any engineering or building operations to be carried out; and
- (b) where provision is made by the order for the purpose of enabling discharges of water to be made, each locality in which the place of any of the discharges is situated or in which there appears to the undertaker which applied for the order to be any inland waters or underground strata the flow, level or quality of water in which may be affected by any of the discharges.

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I61 Sch. 9 para. 5 wholly in operation at 1.4.2007; Sch. 9 para. 5 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 9 para. 5 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Compulsory acquisition provisions

6. The statutory provisions for the time being in force with respect to compensation for the compulsory acquisition of land shall apply in relation to so much of a compulsory works order as confers powers of compulsory acquisition as they apply in relation to a vesting order made by virtue of Article 216.

Commencement Information

I62 Sch. 9 para. 6 wholly in operation at 1.4.2007; Sch. 9 para. 6 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 9 para. 6 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Compensation in respect of powers other than acquisition powers

7.—(1) If the value of any estate in any relevant land is depreciated by the coming into force of so much of any compulsory works order as—

- (a) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and
- (b) grants authority for the carrying out of the operations,

the person entitled to that estate shall be entitled to compensation from the applicant for the order of an amount equal to the amount of the depreciation.

(2) Where the person entitled to an estate in any relevant land sustains loss or damage which—

- (a) is attributable to so much of any compulsory works order as—
 - (i) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and
 - (ii) grants authority for the carrying out of the operations;
- (b) does not consist in depreciation of the value of that estate; and
- (c) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if his interest in that land had been compulsorily acquired under Article 216 in pursuance of a vesting order made before the date on which the order comes into operation,

he shall be entitled to compensation from the applicant for the order in respect of that loss or damage, in addition to compensation under sub-paragraph (1).

(3) Where any damage (other than the depreciation of an estate in land) is attributable to so much of any compulsory works order as—

- (a) confers compulsory powers, other than powers of compulsory acquisition, for the purpose of enabling any engineering or building operations to be carried out; and
- (b) grants authority for the carrying out of the operations,

Status: Point in time view as at 20/04/2010.

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the applicant for the order shall pay compensation in respect of that damage to every person suffering that damage.

- (4) For the purposes of sub-paragraph (3) any extra expenditure—
- (a) which it becomes reasonably necessary for any water undertaker or public authority (other than the undertaker making the discharge) to incur for the purpose of properly carrying out any statutory functions; and
 - (b) which is attributable to so much of any compulsory works order as is mentioned in heads (a) and (b) of that sub-paragraph,

shall be deemed to be a loss sustained by the undertaker or public authority.

(5) In this paragraph “relevant land”, in relation to a compulsory works order, means any land which is not land in relation to which powers of compulsory acquisition are conferred by the order but is—

- (a) land where any operations for which authority is granted by the order are to be carried out;
- (b) land in relation to which compulsory powers are conferred by the order; or
- (c) land held with any land falling within head (a) or (b).

(6) Any question of disputed compensation under this paragraph shall be referred to and determined by the Lands Tribunal.

- (7) In calculating the value of any estate for the purposes of this paragraph—
- (a) rules (2) to (4) of the rules set out in Article 6(1) of the Land Compensation (Northern Ireland) Order 1982 (NI 9) shall, so far as applicable have effect as they have effect for the purpose of assessing compensation for the compulsory purchase of land; and
 - (b) if an estate to be valued is mortgaged, it shall be treated as if the mortgage had been discharged.

Commencement Information

I63 Sch. 9 para. 7 wholly in operation at 1.4.2007; Sch. 9 para. 7 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 9 para. 7 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Protection of public undertakings

8. The provisions of Article 248 and of Part I of Schedule 10 shall apply, as they apply in relation to the carrying out of works in exercise of powers under this Order, in relation to the carrying out of works by virtue of an authority granted by so much of any compulsory works order as makes provision other than provision conferring powers of compulsory acquisition.

Commencement Information

I64 Sch. 9 para. 8 wholly in operation at 1.4.2007; Sch. 9 para. 8 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 9 para. 8 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Interpretation

9. In this Schedule—

“compulsory works order” means an order under Article 228;

“powers of compulsory acquisition” means any such powers as are mentioned in paragraph (4) (a) of Article 228.

Commencement Information

I65 Sch. 9 para. 9 wholly in operation at 1.4.2007; Sch. 9 para. 9 in operation at 1.1.2007 in so far as it confers power on a Northern Ireland department to make regulations or orders or makes provision with respect to the exercise of any such power, see art. 1(3)(e); Sch. 9 para. 9 in operation at 1.4.2007 insofar as not already in operation by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

SCHEDULE 10

Article 245

PROTECTIVE PROVISIONS IN RESPECT OF CERTAIN UNDERTAKINGS

PART I

PROVISIONS APPLYING GENERALLY

General provisions protecting undertakings

1.—(1) Nothing in this Order conferring power on a relevant undertaker to carry out any works shall confer power to do anything, except with the consent of the persons carrying on an undertaking protected by this paragraph, which, whether directly or indirectly, so interferes or will so interfere—

- (a) with works or property vested in or under the control of the persons carrying on that undertaking, in their capacity as such; or
- (b) with the use of any such works or property,

as to affect injuriously those works or that property or the carrying on of that undertaking.

(2) A consent for the purposes of sub-paragraph (1) may be given subject to reasonable conditions but shall not be unreasonably withheld.

(3) Subject to the following provisions of this Schedule, any dispute—

- (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in sub-paragraph (1);
- (b) as to whether any consent for the purposes of this paragraph is being unreasonably withheld; or
- (c) as to whether any condition subject to which any such consent has been given was reasonable,

shall be referred to the arbitration of a single arbitrator to be appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(4) The following are the undertakings protected by this paragraph—

- (a) the undertaking of the Civil Aviation Authority;
- (b) the undertaking of any relevant undertaker;

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) the undertaking of a universal postal provider within the meaning of the Postal Services Act 2000 (c. 26);
- (d) any undertaking consisting in the provision of an electronic communications network;
- (e) any airport to which Article 25 of the Airports (Northern Ireland) Order 1994 (NI 1) applies;
- (f) the undertaking of any person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000 (c. 38);
- (g) the undertaking of any person holding a licence under Article 8 of the Gas (NI) Order 1986 (NI 2) or Article 10 of the Electricity (Northern Ireland) Order 1992 (NI 1);
- (h) the undertaking of any navigation authority or harbour authority;
- (i) the undertaking of DARD in connection with its functions under the Drainage Order and the Lough Neagh Drainage Acts (Northern Ireland) 1955 and 1970;
- (j) any railway undertaking.

Commencement Information

I66 Sch. 10 para. 1 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Protection for statutory powers and jurisdiction

2. Nothing in any provision of this Order conferring power on a relevant undertaker to carry out any works shall confer power to do anything which prejudices the exercise of any statutory power, authority or jurisdiction from time to time vested in or exercisable by any persons carrying on an undertaking protected by paragraph 1.

Commencement Information

I67 Sch. 10 para. 2 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Special protection for certain undertakings in respect of street works

3.—(1) Subject to the following provisions of this paragraph and without prejudice to the other provisions of this Schedule, the powers under Articles 219, 222 and 223 to break up or open a street shall not be exercisable where the street, not being a road—

- (a) is under the control or management of, or is maintainable by, a railway undertaking or a navigation authority; or
- (b) forms part of a level crossing belonging to any such undertaking or to such an authority or to any other person,

except with the consent of the undertaking or authority or, as the case may be, of the person to whom the level crossing belongs.

(2) Sub-paragraph (1) shall not apply to any exercise of the powers mentioned there for the carrying out of emergency works, within the meaning of Article 6 of the Street Works (Northern Ireland) Order 1995 (NI 19).

(3) A consent given for the purposes of sub-paragraph (1) may be made subject to such reasonable conditions as may be specified by the person giving it but shall not be unreasonably withheld.

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(4) Any dispute—

(a) as to whether a consent for the purposes of sub-paragraph (1) should be given or withheld;
or

(b) as to whether the conditions to which any such consent is made subject are reasonable, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties to the dispute or, in default of agreement, by the President of the Institution of Civil Engineers.

(5) If any relevant undertaker contravenes, without reasonable excuse, the requirements of sub-paragraph (1), it shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Commencement Information

I68 Sch. 10 para. 3 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Protection for telecommunication systems

4. Paragraph 23 of Schedule 2 to the Telecommunications Act 1984 (c. 12) (which provides a procedure for certain cases where works involve the alteration of electronic communications apparatus) shall apply to every relevant undertaker for the purposes of any works carried out by that undertaker in exercise of any of the powers conferred by any statutory provision.

Commencement Information

I69 Sch. 10 para. 4 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

PART II

FURTHER PROTECTIVE PROVISIONS IN RESPECT OF SEWERAGE POWERS

Protection for airports, railways etc.

5.—(1) Subject to the provisions of this paragraph, nothing in the relevant sewerage provisions shall authorise a sewerage undertaker, without the consent of the Civil Aviation Authority or, as the case may be, of the airport operator or railway undertaking (“the body concerned”), to carry out any works along, across or under—

- (a) any property of the Civil Aviation Authority;
- (b) an airport to which Article 25 of the Airports (Northern Ireland) Order 1994 applies; or
- (c) any railway of any railway undertaking.

(2) A consent under this paragraph shall not be unreasonably withheld.

(3) Any dispute as to whether or not consent under this paragraph is unreasonably withheld shall be referred, if either party so require, to the arbitration of a single arbitrator appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers.

(4) Upon an arbitration under this paragraph, the arbitrator shall determine—

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) whether any works which the sewerage undertaker proposes to carry out are such works as under this paragraph the undertaker is not entitled to carry out without the consent of the body concerned;
- (b) if they are such works, whether the injury, if any, to the body concerned will be of such a nature as to admit of being fully compensated by money; and
- (c) if the works are of such a nature, the conditions subject to which the sewerage undertaker may carry out the works, including the amount of the compensation (if any) to be paid by the sewerage undertaker to the body concerned.
- (5) The sewerage undertaker in question shall not proceed to carry out any proposed works if, on an arbitration under this paragraph, the arbitrator determines—
- (a) that the proposed works are such works as the sewerage undertaker is not entitled to carry out without the consent of the body concerned; and
- (b) that the works would cause injury to the body concerned of such a nature as not to admit of being fully compensated by money,
- but, in any other case, the sewerage undertaker may carry out the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator may have determined.
- (6) Nothing in this paragraph shall be construed as limiting the powers of a sewerage undertaker under this Order in respect of the opening and the breaking up of streets and bridges for the purpose of constructing, laying and maintaining sewers, drains and pipes.

Commencement Information

I70 Sch. 10 para. 5 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Saving for Part I and other powers

6. The provisions of this Part of this Schedule are without prejudice to the provisions of Part I of this Schedule or to any power conferred on a sewerage undertaker otherwise than by the relevant sewerage provisions.

Commencement Information

I71 Sch. 10 para. 6 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

SCHEDULE 11

Article 270

THE TRANSFER SCHEME

Interpretation

- 1.—(1)** In this Schedule—
- “specified” means specified in the transfer scheme;
- “third party” means any person other than—
- (a) the Department; or

Status: Point in time view as at 20/04/2010.

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(b) the successor company;

“the transfer” means the transfer effected by Article 270(2).

(2) References in this Schedule to any external assets or liabilities are references to any assets or liabilities as respects which any issue arising in any proceedings would have to be determined (in accordance with the rules of private international law) by reference to the law of a country or territory other than Northern Ireland (“external law”).

Contents of transfer scheme

2.—(1) The transfer scheme—

(a) shall specify the assets and liabilities to be transferred to the successor company; and
(b) may make such supplementary, incidental, transitional and consequential provisions in connection with the transfer of those assets and liabilities as the Department considers appropriate.

(2) The provisions of the scheme specifying the assets and liabilities to be transferred may do so—

(a) by specifying them or describing them in particular; or
(b) by identifying them generally by reference to a specified part of the Department's undertaking, or their connection with the exercise of specified functions of the Department; or
(c) in any other manner appearing to the Department to be appropriate in relation to the assets or liabilities in question;

and the scheme may except assets and liabilities from transfer in any corresponding manner.

(3) The assets and liabilities that may be specified by a transfer scheme for transfer to the successor company include—

(a) assets and liabilities that would not otherwise be capable of being transferred or assigned by the Department;
(b) assets acquired and liabilities arising in the period after the making of the scheme and before the transfer date;
(c) rights and liabilities arising after the transfer date in respect of matters occurring before that date;
(d) property situated anywhere in the United Kingdom or elsewhere and rights and liabilities under the law of any part of the United Kingdom or of any place outside the United Kingdom; and
(e) rights and liabilities under a statutory provision or Community instrument.

(4) The transfer scheme may make provision for the division of any asset or liability between the Department and the successor company; and

(a) where any rights or liabilities under a contract are so divided, the contract shall have effect as from the transfer date as if it constituted two separate contracts separately enforceable by and against the Department and the successor company respectively as respects the part of the rights or liabilities which falls to it as a result of the division; and
(b) where any land is so divided, any rent payable under a lease (or a fee farm grant creating the relationship of landlord and tenant) in respect of that land or charged on that land shall be correspondingly divided so that one part is payable in respect of, or charged on, only one part of the land and the other part is payable in respect of, or charged on, only the other part.

(5) The transfer scheme may include provision for the creation—

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- (a) in favour of the Department, of rights or liabilities over or in respect of assets transferred to the successor company;
 - (b) in favour of the successor company, of rights or liabilities over or in respect of assets retained by the Department;
 - (c) of other rights and liabilities between the Department and the successor body.
- (6) The transfer scheme may include provision imposing on the successor company the obligation to enter into specified written agreements with, or execute such other instruments in favour of, the Department or any other specified person: and any obligation so imposed shall be enforceable by civil proceedings for an injunction or other appropriate relief.
- (7) The transfers provided for by a transfer scheme, and the rights and liabilities that may be created by virtue of sub-paragraph (5) or an agreement or instrument under sub-paragraph (6), include transfers that are to take effect, and rights and liabilities that are to arise, regardless of any contravention, liability or interference with a right that would otherwise exist by reason of a provision having effect (whether under a statutory provision or an agreement or in any other way) in relation to the terms on which the Department is entitled or subject to any asset or liability.
- (8) The transfer scheme may include provision—
- (a) for the successor company to be treated as the same person in law as the Department for such purposes or in such circumstances as are specified;
 - (b) for agreements made, transactions effected or other things done (or treated as made effected or done) by or in relation to the Department to be treated as made, effected or done by or in relation to the successor company;
 - (c) for references in any agreement, instrument or other document to (or references which are to be treated as references to) the Department or to an officer or employee of the Department to have effect as a reference to, or to an officer or employee of, the successor company;
 - (d) for proceedings commenced (or treated as commenced) by or against the Department to be continued by or against the successor company.
- (9) Paragraph (8) (c) does not apply in relation to references in a statutory provision.
- (10) The transfer scheme may include provision—
- (a) for treating the Department as having given to the successor company an acknowledgement in writing of the right of that company to production of any document relating in part to the title to, or to the management of, any asset transferred to it and to delivery of copies of that document; and
 - (b) applying section 9 of the Conveyancing Act 1881 (c. 41) (with any specified modifications) in relation to any such case.
- (11) A transfer scheme may include provision for disputes between the Department and the successor company—
- (a) as to the effect of the scheme; and
 - (b) arising at any time after the successor company has ceased to be wholly owned by the Crown,
- to be referred to such arbitration as may be specified in or determined under the scheme.

Modification of the transfer scheme

3.—(1) If, at any time after the transfer date but before the successor company has ceased to be wholly owned by the Crown, it appears to the Department that it is appropriate to do so, it

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may by order provide for the scheme to be deemed for all purposes to have been made with such modifications as may be provided for in the order.

(2) At any time after the successor company has ceased to be wholly owned by the Crown, the Department and the successor company may agree in writing that the scheme shall be deemed to have been made with such modifications as may be provided for in the agreement; and on the making of such agreement the scheme shall be deemed for all purposes to have been made with such modifications.

(3) The power under this paragraph to provide by order or agreement for the modification of the transfer scheme shall be exercisable for the purpose only of making provision that could originally have been made by the scheme.

Proof of title by certificate

4. A certificate issued by the Department to the effect that—
- (a) any asset or liability vested in the successor company in pursuance of the scheme; or
 - (b) any asset or liability did not so vest,

shall for all purposes be conclusive evidence of the matters specified in the certificate.

Employment contracts

5.—(1) This paragraph applies if rights and liabilities under a contract of employment are transferred by virtue of a scheme.

- (2) The contract of employment—
- (a) is not terminated by the transfer, and
 - (b) has effect from the transfer date as if made between the employee and the successor company.

(3) Except as provided by the scheme, the rights, powers, duties and liabilities of the Department under or in connection with the contract are transferred to the successor company on the transfer date.

(4) Except as so provided, anything done before the transfer date by or in relation to the Department in respect of the contract or the employee is to be treated from that date as having been done by or in relation to the successor company.

(5) But if an employee informs the Department before the transfer date that he objects to the transfer of his contract of employment under the scheme—

- (a) sub-paragraphs (2) to (4) do not apply in relation to his contract of employment; and
- (b) his employment with the Department is terminated immediately before the transfer date.

- (6) A person is not to be treated as having been dismissed by the Department by reason of—
- (a) the transfer of his contract of employment under this paragraph; or
 - (b) the termination of his employment under sub-paragraph (5).

(7) This paragraph does not affect any right a person has to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

(8) For the purposes of this paragraph, if a person is employed in the civil service on terms which do not constitute a contract of employment—

- (a) he is to be treated as employed by the Department by virtue of a contract of employment;
- (b) the terms of that employment are to be regarded as constituting the terms of that contract.

Status: Point in time view as at 20/04/2010.

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Effect on third parties

6.—(1) Sub-paragraph (2) applies where (apart from that sub-paragraph) a third party would be entitled, in consequence of anything done or likely to be done by or under this Order in connection with the transfer scheme—

- (a) to terminate, modify, acquire or claim any asset; or
- (b) to treat any asset as modified or terminated.

(2) That entitlement—

- (a) shall not be enforceable in relation to that asset, until after the transfer of the asset; and
- (b) shall then be enforceable in relation to the asset only in so far as the scheme contains provision for the asset to be transferred subject to whatever confers that entitlement.

Compensation

7.—(1) Where, in consequence of any provision included in a transfer scheme, or anything done under this Schedule—

- (a) the rights or liabilities of a third party which were enforceable against or by the Department become enforceable as to part against or by the Department and as to part against or by the successor company; and
- (b) the value of any asset of that party is thereby diminished,

such compensation as may be just shall be paid to the third party by the successor company.

(2) Where—

- (a) a third party would, apart from any provision of a transfer scheme or paragraph 6, have become entitled to, or to exercise, any interest or right arising or exercisable in respect of the transfer or creation in accordance with such a scheme of any assets or liabilities, and
- (b) the provisions of that scheme or of paragraph 6 have the effect of preventing that party's entitlement to, or to exercise, that interest or right from arising on any occasion in respect of anything mentioned in head (a), and
- (c) provision is not made by the transfer scheme for securing that an entitlement to, or to exercise, that interest or right or an equivalent interest or right, is preserved or created so as to arise in respect of the first occasion when corresponding circumstances next occur after the transfer date,

such compensation as may be just in respect of the extinguishment of the interest or right shall be paid to the third party by the successor company.

(3) Any dispute as to whether any compensation is to be paid under this paragraph, and any dispute as to the amount of compensation to be paid, shall be referred to and determined by an arbitrator appointed by the Department.

External assets etc.

8.—(1) This paragraph applies in any case where the transfer scheme provides for the transfer of any external assets or liabilities.

(2) It shall be the duty of the Department and the successor company to take, as and when the successor company considers appropriate, all such steps as may be requisite to secure that the vesting in the successor company by virtue of the transfer of any external assets or liabilities is effective under the relevant law.

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(3) Until the vesting in the successor company, by virtue of the transfer, of any external assets or liabilities is effective under the relevant external law, it shall be the duty of the Department to hold those assets for the benefit of, or to discharge those liabilities on behalf of, the successor company.

(4) Nothing in sub-paragraphs (2) and (3) shall be taken as prejudicing the effect under the law of Northern Ireland of the vesting in the successor company by virtue of the transfer of any external assets or liabilities.

(5) The Department shall have all such powers as may be requisite for the performance of its duty under this paragraph, but it shall be the duty of the successor company to act on behalf of the Department (so far as possible) in performing the duty imposed on the Department by this paragraph.

(6) Duties imposed on the Department or the successor company by this paragraph shall be enforceable in the same way as if the duties were imposed by a contract between the Department and that company.

(7) Any expenses incurred by the Department under this paragraph shall be met by the successor company.

SCHEDULE 12

Article 308

AMENDMENTS

The Public Health (Ireland) Act 1878 (c. 52)

1.—(1) In section 2 for the definition of “sewer” substitute—
““sewer” has the same meaning as in the Water and Sewerage Services (Northern Ireland) Order 2006;”.

(2) In section 25 for the words from “emptying into” to “to use” substitute “connecting with any sewer, with which the owner or occupier has a right to have his drains communicate”.

(3) In section 27 for the words from “empty into some sewer” to “to use”, substitute “connect with a sewer, with which the person constructing the drain has a right to have his drains communicate”.

Commencement Information

I72 Sch. 12 para. 1 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Water Supplies and Sewerage Act (Northern Ireland) 1945 (c. 17)

2.—(1) In section 4(1)(a) for “the Ministry of Development” substituted “any water undertaker”.

(2) In section 4(1) for “by the Ministry” substitute “by the Water Appeals Commission”.

(3) In section 4 at the end add—

“(4) Article 107(1) of the Water and Sewerage Services (Northern Ireland) Order 2006 (standards of wholesomeness of water) and any regulations made under that paragraph shall apply for the purposes of this section as they apply for the purposes of Chapter III of Part IV of that Order.”.

Status: Point in time view as at 20/04/2010.

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Commencement Information

I73 Sch. 12 para. 2 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Requisitioned Land and War Works Act 1948 (c. 17)

3. The undertaking of a relevant undertaker shall be deemed to be a statutory undertaking for the purposes of the Requisitioned Land and War Works Act 1948.

Commencement Information

I74 Sch. 12 para. 3 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Interpretation Act (Northern Ireland) 1954 (c. 33)

4. In section 46(1) at the appropriate places in alphabetical order insert—
 ““sewerage undertaker” shall be construed in accordance with Article 13 of the Water and Sewerage Services (Northern Ireland) Order 2006;”
 ““water undertaker” shall be construed in accordance with Article 13 of the Water and Sewerage Services (Northern Ireland) Order 2006;”

Commencement Information

I75 Sch. 12 para. 4 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Lough Neagh and Lower Bann Drainage and Navigation Act (Northern Ireland) 1955 (c. 15)

5. In section 2(1)(a) at the end add “ and every water undertaker ”.

Commencement Information

I76 Sch. 12 para. 5 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Nuclear Installations Act 1965 (c. 57)

6. In section 27(1)(c), in the substituted paragraph (ca), after “Northern Ireland” insert “ and any water undertaker “(within the meaning of the Water and Sewerage Services) (Northern Ireland) Order 2006) ”.

Commencement Information

I77 Sch. 12 para. 6 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

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The Fisheries Act (Northern Ireland) 1966 (c. 17)

7. In section 11A(5) for “Article 9(1)” substitute “ Article 7A(3)(a) ”.

Commencement Information

I78 Sch. 12 para. 7 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Mineral Development Act (Northern Ireland) 1969 (c. 35)

8.—(1) For the purposes of section 40, where pipes in any land are vested in a water or sewerage undertaker, the undertaker shall be deemed to have an estate in the land.

(2) In section 57, in the definition of “public body”, at the end add the words “ and includes a water or sewerage undertaker ”.

(3) In Schedule 2, in paragraph 1(4), in the definition of “water authority” for the words from “any local” to the end substitute “ a water undertaker ”.

Commencement Information

I79 Sch. 12 para. 8 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Land Registration Act (Northern Ireland) 1970 (c. 18)

9. In Schedule 11 for paragraph 28 substitute—

“28. Any of the following matters under the Water and Sewerage Services (Northern Ireland) Order 2006—

- (a) a requirement of a private supply notice to which Article 121(5) applies;
- (b) a covenant under Article 217(6);
- (c) an agreement under Article 225.”.

Commencement Information

I80 Sch. 12 para. 9 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Drainage (Northern Ireland) Order 1973 (NI 1)

10.—(1) In Article 2(2), in the definition of “the Commission”, for the words from “established” to the end substitute “ for Northern Ireland ”.

(2) In Article 2(2), in the definition of “watercourse”—

- (a) after “any drain or sewer” insert “ vested in a sewerage undertaker ”; and
- (b) for “under the control of the Ministry of Development” substitute “ vested in a water undertaker ”.

(3) After Article 40 insert—

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“Protection for water and sewerage undertakers

40A.—(1) Nothing in this Order shall confer power on any person, except with the consent of a water or sewerage undertaker, to do anything which, whether directly or indirectly, so interferes or will so interfere—

- (a) with works or property vested in or under the control of that undertaker; or
- (b) with the use of any such works or property,

as to affect injuriously those works or that property or the carrying out of the functions of that undertaker.

(2) A consent for the purposes of sub-paragraph (1) may be given subject to reasonable conditions but shall not be unreasonably withheld.

(3) Any dispute—

- (a) as to whether anything done or proposed to be done interferes or will interfere as mentioned in sub-paragraph (1);
- (b) as to whether any consent for the purposes of this paragraph is being unreasonably withheld; or
- (c) as to whether any condition subject to which any such consent has been given was reasonable,

may be referred by either party to the dispute to the Commission.”.

(4) In Schedule 5 in paragraph 12 for “the Ministry of Development” substitute “ a sewerage undertaker ”.

Commencement Information

I81 Sch. 12 para. 10 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

11.—(1) In Part II of Schedule 1, in the entry relating to the Northern Ireland Authority for Energy Regulation, for “Energy” substitute “ Utility ”.

(2) In Part III of Schedule 1 at the appropriate place in alphabetical order insert—

“Director of a company appointed as a water or sewerage undertaker under the Water and Sewerage Services (Northern Ireland) Order 2006, being a director nominated or appointed by a Northern Ireland department or by a person acting on behalf of a Northern Ireland department”.

Commencement Information

I82 Sch. 12 para. 11 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Rates (Northern Ireland) Order 1977 (NI 28)

12.—(1) In Article 39E(1)(a), for “for the purposes of water supply or sewerage services” substitute “ by a water undertaker or a sewerage undertaker ”.

(2) In Article 50(1)(a)(iv) after “1992” insert “ or a water or sewerage undertaker ”.

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I83 Sch. 12 para. 12 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Health and Safety at Work (Northern Ireland) Order 1978 (NI 9)

13.—(1) In Article 30(3)(c) at the end add—

“(iii) an officer of a water undertaker or sewerage undertaker who is authorised by that undertaker to receive it;”.

(2) In Article 30(5) at the end add—

“(d) in the case of information given to an officer of a water undertaker or sewerage undertaker, the purposes of the undertaker in connection with the relevant statutory provisions or any statutory provision relating to public health, public safety or the protection of the environment.”.

Commencement Information

I84 Sch. 12 para. 13 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Pollution Control and Local Government (Northern Ireland) Order 1978 (NI 19)

14.—(1) In Article 42(2)(a) for the words “or the Water and Sewerage Services (Northern Ireland) Order 1973” substitute “ by a water undertaker or a sewerage undertaker in the exercise of any of its functions ”.

(2) In Article 53(1)—

(a) in the definition of “statutory undertakers” after “electricity” insert “ ,water ”;

(b) in the definition of “work of engineering construction”, for “sewage works” substitute “ waste water treatment works ”.

Commencement Information

I85 Sch. 12 para. 14 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Statutory Rules (Northern Ireland) Order 1979 (NI 12)

15. In Part I of Schedule 1, in the entry relating to the Northern Ireland Authority for Energy Regulation, for “Energy” substitute “ Utility ”.

Commencement Information

I86 Sch. 12 para. 15 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Housing (Northern Ireland) Order 1981 (NI 3)

16. In Article 88E(2)(b) for “or electricity” substitute “ electricity, water or sewerage ”.

Status: Point in time view as at 20/04/2010.

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Commencement Information

I87 Sch. 12 para. 16 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Judgments Enforcement (Northern Ireland) Order 1981 (NI 6)

17.—(1) In Article 2(2), in the definition of “company”, at the end of paragraph (a) add “ or which would be so capable but for Article 43 of the Water and Sewerage Services (Northern Ireland) Order 2006 ”.

(2) In Article 14(3)(b) at the end add

“or

(“ an application will be made to the court for a special administration order under Article 42 of the Water and Sewerage Services (Northern Ireland) Order 2006.”.

Commencement Information

I88 Sch. 12 para. 17 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Civil Aviation Act 1982 (c. 16)

18.—(1) For the purposes of the Civil Aviation Act 1982, a relevant undertaker shall be deemed to be a statutory undertaker and its undertaking shall be deemed to be a statutory undertaking.

(2) In section 48(7)(c) at the end add “ or, in Northern Ireland, a water or sewerage undertaker (within the meaning of the Water and Sewerage Services (Northern Ireland) Order 2006) ”.

Commencement Information

I89 Sch. 12 para. 18 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Telecommunications Act 1984 (c. 12)

19.—(1) In section 98(9)—

- (a) in paragraph (c) of the definition of “public sewer” for “1973” substitute “ 2006 ”;
- (b) in paragraph (c) of the definition of “water authority” for “Department of the Environment for Northern Ireland” substitute “ a water undertaker (within the meaning of the Water and Sewerage Services (Northern Ireland) Order 2006) ”;
- (c) in paragraph (c) of the definition of “water main” for “a main” substitute “ a water main or resource main ” and for “1973” substitute “ 2006 ”.

(2) In section 101(3) at the end add—

- “(s) the Energy (Northern Ireland Order 2003);
- (t) the Water and Sewerage Services (Northern Ireland) Order 2006.”.

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I90 Sch. 12 para. 19 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The General Consumer Council (Northern Ireland) Order 1984 (NI 12)

20. In Schedule 1, in paragraph 10(8) after “consultation with” insert “ the Department for Regional Development and ”.

Commencement Information

I91 Sch. 12 para. 20 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 (NI 1)

21.—(1) A water undertaker or sewerage undertaker shall be deemed to be a public authority for the purposes of Articles 19(5) and 30(5).

(2) In Article 20(6), in the definition of “relevant body”, at the end add—
“(g) a water undertaker or a sewerage undertaker”.

Commencement Information

I92 Sch. 12 para. 21 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Wildlife (Northern Ireland) Order 1985 (NI 2)

22. In Article 3(1), in the definition of “authorised person” after paragraph (b) insert—
“(c) any person authorised in writing by a water undertaker;”.

Commencement Information

I93 Sch. 12 para. 22 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Airports Act 1986 (c. 31)

23. In section 74(3) at the end add—
“(t) the Water and Sewerage Services (Northern Ireland) Order 2006.”.

Commencement Information

I94 Sch. 12 para. 23 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Status: Point in time view as at 20/04/2010.

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The Companies (Northern Ireland) Order 1986 (NI 6)

24. In Articles 418(5)(a) and 453(2) after “under this Order” insert “ or which would be so liable but for Article 43 of the Water and Sewerage Services (Northern Ireland) Order 2006 ”.

Commencement Information

I95 Sch. 12 para. 24 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Business Names (Northern Ireland) Order 1986 (NI 7)

25. In Article 3(1)(c) after “Order 1986” insert “ (or which would be so liable but for Article 43 of the Water and Sewerage Services (Northern Ireland) Order 2006) ”.

Commencement Information

I96 Sch. 12 para. 25 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Consumer Protection (Northern Ireland) Order 1987 (NI 20)

26. In Article 29(3) at the end add—

“(p) the Water and Sewerage Services (Northern Ireland) Order 2006”.

Commencement Information

I97 Sch. 12 para. 26 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Insolvency (Northern Ireland) Order 1989 (NI19)

27.—(1) In Article 197(3) for sub-paragraph (b) substitute—

“(b) a supply of water or sewerage services by a water or sewerage undertaker;”.

(2) In Article 343(4) for sub-paragraph (b) substitute—

“(b) a supply of water or sewerage services by a water or sewerage undertaker;”.

Commencement Information

I98 Sch. 12 para. 27 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Food Safety (Northern Ireland) Order 1991 (NI 7)

28. In Article 50(1) for the words from “the Department of the Environment” to the end substitute “ a water undertaker or by means of a private supply within the meaning of Part IV of the Water and Sewerage Services (Northern Ireland) Order 2006 ”.

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I99 Sch. 12 para. 28 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Planning (Northern Ireland) Order 1991 (NI 11)

29.—(1) In Article 2(2), at the end of the definition of “statutory undertaker” add “ or a water undertaker or sewerage undertaker ”.

(2) In Article 11(2)(b), after “renewing any” insert “ sewers, ”.

(3) In Article 22(2), after sub-paragraph (c) add—

“(d) by a water or sewerage undertaker to lay a main, sewer or pipe for the purposes of its functions under the Water and Sewerage Services (Northern Ireland) Order 2006.”.

(4) In Article 103(2) for “or electricity” substitute “ electricity, water or sewerage ”.

Commencement Information

I100 Sch. 12 para. 29 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Social Security Administration (Northern Ireland) Act 1992 (c. 8)

30.—(1) In section 103B (2A) after paragraph (h) insert—

“(hh) any water undertaker or sewerage undertaker (within the meaning of the Water and Sewerage Services (Northern Ireland) Order 2006);”.

(2) In section 103(2D) after paragraph (b) insert—

“(bb) any water undertaker (within the meaning of the Water and Sewerage Services (Northern Ireland) Order 2006);”

(3) In section 103B(7) in the definition of “residential premises” after “gas” insert “ , water ”.

Commencement Information

I101 Sch. 12 para. 30 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Electricity (Northern Ireland) Order 1992 (NI 1)

31.—(1) In Schedule 4—

(a) in paragraph 1(1) in the definition of “sewer” for “1973” substitute “ 2006 ”;

(b) in paragraph 3(1) after head (b) insert—

“(bb) any relevant pipe (within the meaning of Article 219 of the Water and Sewerage Services (Northern Ireland) Order 2006) which is under the control of a water undertaker or a sewerage undertaker”;

(c) in paragraph 3(3)(a) for “or apparatus” substitute “ pipe or apparatus ”;

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(d) in paragraph 5(5) for “the Department of the Environment” substitute “ a water undertaker or sewerage undertaker ” and for “Department of the Environment” substitute “ water undertaker or sewerage undertaker ”.

(2) In Schedule 5, in paragraph 10, for the words from “where that Department causes such inquiry” to the end there should be substituted “ consider the report on that inquiry ”.

Commencement Information

I102 Sch. 12 para. 31 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Radioactive Substances Act 1993 (c. 12)

32.—(1) In section 47(1), in paragraph (c) of the definition of “relevant water body”, at the end add “ or a water undertaker or a sewerage undertaker within the meaning of the Water and Sewerage Services (Northern Ireland) Order 2006 ”.

(2) In Part III of Schedule 3, in paragraph 22, for “9” substitute “ 7A ”,

(3) In Part III of Schedule 3, for paragraph 23 substitute—

“**23.** Articles 112, 168 and 170(5) and Chapter III of Part VI of the Water and Sewerage Services (Northern Ireland) Order 2006.”.

Commencement Information

I103 Sch. 12 para. 32 wholly in operation at 25.5.2007; Sch. 12 para. 32 not in operation at date of making see art. 1(2); Sch. 12 para. 32 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2); Sch. 12 para. 32 in operation at 25.5.2007 insofar as not already in operation by S.R. 2007/282, art. 2(2), Sch.

The Roads (Northern Ireland) Order 1993 (NI 15)

33. In Article 2(2), in the definition of “statutory undertaker”, after paragraph (c) add—

“(cc) a water undertaker or a sewerage undertaker;”.

Commencement Information

I104 Sch. 12 para. 33 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Airports (Northern Ireland) Order 1994 (NI 1)

34. In Article 49(3) at the end add—

“(u) the Water and Sewerage Services (Northern Ireland) Order 2006.”.

Commencement Information

I105 Sch. 12 para. 34 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Status: Point in time view as at 20/04/2010.

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The Street Works (Northern Ireland) Order 1995 (NI 19)

- 35.**—(1) In Article 7(5)(a) for “the Department” substitute “ the sewer authority ”.
- (2) In Article 9(1) for sub-paragraphs (a) and (b) substitute—
- “(a) “sewer” and “public sewer” have the same meanings as in the Water and Sewerage Services (Northern Ireland) Order 2006;
- (b) “sewer authority”, in relation to a public sewer, means the sewerage undertaker in which the sewer is vested.”.
- (3) In Articles 9(3)(a), 18(3)(a), 48(1) and 49(4)(a) and in paragraph 1(a) of Schedule 1 for “the Department” substitute “ the sewer authority ”.
- (4) In Schedule 2 in paragraph 7(3)(b) for the words from “a private” to the end substitute “ not a public sewer ”.

Commencement Information

I106 Sch. 12 para. 35 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Gas (Northern Ireland) Order 1996 (NI 2)

- 36.** In Schedule 3—
- (a) in paragraph 1(1) in the definition of sewer for “1973” substitute “ 2006 ”;
- (b) in paragraph 3(1) after head (b) insert—
- “(bb) any relevant pipe (within the meaning of Article 219 of the Water and Sewerage Services (Northern Ireland) Order 2006) which is under the control of a water undertaker or a sewerage undertaker”;
- (c) in paragraph 3(3)(a) after “electrical plant” insert “ , pipe ”.

Commencement Information

I107 Sch. 12 para. 36 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Ombudsman (Northern Ireland) Order 1996 (NI 8)

- 37.**—(1) In Schedule 2 , in the entry relating to the Northern Ireland Authority for Energy Regulation, for “Energy” substitute “ Utility ”.
- (2) In Schedule 3, in the entry relating to the Water Appeals Commission, for the words from “established” to the end substitute “ constituted under Article 292 of the Water and Sewerage Services (Northern Ireland) Order 2006 ”.

Commencement Information

I108 Sch. 12 para. 37 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Industrial Pollution Control (Northern Ireland) Order 1997(NI 18)

- 38.** In Article 2(11)(c) for “1973” substitute “ 2006 ”.

Status: Point in time view as at 20/04/2010.

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Commencement Information

I109 Sch. 12 para. 38 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

Waste and Contaminated Land (Northern Ireland) Order 1997 (NI 19)

39.—(1) In Article 20 for paragraph (6) substitute—

“(6) Articles 220 and 240 of the Water and Sewerages Services (Northern Ireland) Order 2006 shall apply in relation to pipes and associated works provided or to be provided under paragraph (5)(a) as they apply in relation to pipes and associated works for the purpose of Article 220 of that Order but as if for any reference to the relevant undertaker there were substituted a reference to the district council in question.”

(2) In Article 46(1) for “Article 20(6)” substitute “ Article 20(5)(a) ”.

(3) In Article 46 for paragraph (2) substitute—

“(2) Article 236(2), (3), (10) and (13) of the Water and Sewerage Services (Northern Ireland) Order 2006 shall have effect as if references to a sewer included any pipe provided as mentioned in paragraph (1) and references to a sewerage or relevant undertaker were references to a district council.”

(4) In Article 70(4) for the words from “in pursuance of a consent” to the end substitute “in pursuance of—

(a) a discharge consent under Article 7A of the Water (Northern Ireland) Order 1999; or

(b) a consent under Chapter III of Part VI of the Water and Sewerage Services (Northern Ireland) Order 2006 (trade effluent)”.

Commencement Information

I110 Sch. 12 para. 39 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Water (Northern Ireland) Order 1999 (NI 6)

40.—(1) In Article 32(12) for “to (9)” substitute “ and (6) ”.

(2) In Schedule 5, in Part I, in paragraph 1 after the entry relating to Article 40 insert—

“Article 40A

Protection of water and sewerage undertakers.”

(3) In Schedule 5, in Part III, in paragraph 3 after sub-paragraph (e) insert—

“(ea) references to the Drainage Council shall be omitted;”.

Commencement Information

I111 Sch. 12 para. 40 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Postal Services Act 2000 (c. 26)

41. In Schedule 7 in paragraph 3(3)(hh), for “1973” substitute “ 2006 ”.

Status: Point in time view as at 20/04/2010.

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Commencement Information

I112 Sch. 12 para. 41 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Utilities Act 2000 (c. 27)

42. In section 105(6)(l) at the end add “ or the Water and Sewerage Services (Northern Ireland) Order 2006 ”.

Commencement Information

I113 Sch. 12 para. 42 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Freedom of Information Act 2000 (c. 36)

43. In Part VII of Schedule 1 at the appropriate place insert—
“The Northern Ireland Authority for Utility Regulation.”.

Commencement Information

I114 Sch. 12 para. 43 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Capital Allowances Act 2001 (c. 2)

44. In section 274(1), in Table B, in item 4 at the end add “ or the Water and Sewerage Services (Northern Ireland) Order 2006 ”.

Commencement Information

I115 Sch. 12 para. 44 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Social Security Fraud Act (Northern Ireland) 2001 (c. 17)

45. In section 4(1) at the end add—
“(f) a water undertaker or sewerage undertaker or any servant or agent of such an undertaker.”.

Commencement Information

I116 Sch. 12 para. 45 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Enterprise Act 2002 (c. 40)

46.—(1) In section 136(7) at the end add(

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- “(h) in relation to the Northern Ireland Authority for Utility Regulation, Article 46 of the Electricity (Northern Ireland) Order 1992, Article 23 of the Gas (Northern Ireland) Order 1996 or Article 29 of the Water and Sewerage Services (Northern Ireland) Order 2006.”.
- (2) In section 136(8) at the end add “ or the Northern Ireland Authority for Utility Regulation ”.
- (3) In section 168(3) at the end add—
- “(n) modifying the conditions of a company's appointment under Chapter I of Part III of the Water and Sewerage Services (Northern Ireland) Order 2006.”.
- (4) In section 168(4) at the end add—
- “(p) in relation to a company's appointment under Chapter I of Part III of the Water and Sewerage Services (Northern Ireland) Order 2006, the duties of the Northern Ireland Authority for Utility Regulation under Article 6 of that Order”.
- (5) In section 168(5) for paragraphs (b) and (c) substitute—
- “(b) the Northern Ireland Authority for Utility Regulation.”
- (6) In Schedule 15, at the end add—
- “Water and Sewerage Services (Northern Ireland) Order 2006”.

Commencement Information

I117 Sch. 12 para. 46 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Company Directors Disqualification (Northern Ireland) Order 2002 (NI 4)

47. In Article 13E(2)(b) for “Energy” substitute “ Utility ”.

Commencement Information

I118 Sch. 12 para. 47 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Energy (Northern Ireland) Order 2003 (NI 6)

- 48.—(1) In Article 2(2) in the definition of “the Authority” for “Energy” substitute “ Utility ”.
- (2) In Article 5(1) for the words from “other than” to the end substitute “ which it plans to undertake during the year in the exercise of its relevant functions (other than projects comprising routine activities in the exercise of those functions ”.
- (3) In Article 5(3) for “functions” substitute “ relevant functions ”.
- (4) In Article 5 after paragraph (3) insert—
- “(3A) The forward work programme prepared under this Article may, if the Authority so decides, be combined in a single programme with the forward work programme of the Authority prepared under Article 4 of the Water and Sewerage Services (Northern Ireland) Order 2006: and references in the following provisions of this Article to a forward work programme include references to such a combined programme.”
- (5) At the end of Article 5 add—
- “(6) The Authority shall send a copy of any notice given by it under paragraph (4) to the Council and the Department and also (in the case of notice concerning a combined single programme under paragraph (3A)) to the Department for Regional Development.

Status: Point in time view as at 20/04/2010.

Changes to legislation: The Water and Sewerage Services (Northern Ireland) Order 2006 is up to date with all changes known to be in force on or before 25 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) In this Article and the following provisions of this Order references to the Authority's relevant functions are references to the functions of the Authority under—
- (a) the Electricity Order;
 - (b) the Gas Order; and
 - (c) this Order.”.
- (6) In Article 6(1)(a) after “year” insert “ in the exercise of its relevant functions ”.
- (7) In Article 6(1)(b) after “the Authority” insert “ in the exercise of its relevant functions ”.
- (8) In Article 6(2)(a) for “functions” substitute “ relevant functions ”.
- (9) In Article 6(2)(b) after “year” insert “ prepared under Article 5 ”.
- (10) In Article 6 after paragraph (4) insert—
- “(4A) The annual report prepared under this Article may, if the Authority so decides, be combined in a single report with the annual report of the Authority prepared under Article 5 of the Water and Sewerage Services (Northern Ireland) Order 2006; and references in the following provisions of this Article to an annual report include references to such a combined report.”.
- (11) In Article 10 after paragraph (3) insert—
- “(3A) The forward work programme prepared under this Article may, if the Council so decides, be combined in a single programme with the forward work programme of the Council prepared under Article 46 of the Water and Sewerage Services (Northern Ireland) Order 2006: and references in the following provisions of this Article to a forward work programme include references to such a combined programme.”
- (12) In Article 10(6) at the end add “ and also (in the case of a combined single programme under paragraph (3A)) to the Department for Regional Development ”.
- (13) In Article 11(1) omit“(in respect of its relevant functions)” and after “securing” insert “ as respects the exercise of their respective relevant functions ”.
- (14) In Article 12(4), after “gas” add “ and in relation to water or sewerage services ”.
- (15) In Article 14(4), after “electricity” add “ and in relation to water or sewerage services ”.
- (16) In Article 24 at the end of paragraph (1) add “ under this Part ”.
- (17) In Article 26(1) for “functions” substitute “ relevant functions ”.
- (18) In Article 63(6)(c) for “1973 (NI 2)” substitute “ 2006 ”.

Commencement Information

I119 Sch. 12 para. 48 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

The Fire and Rescue Service (Northern Ireland) Order 2006 (NI 9)

- 49.**—(1) In Article 16(2) for “Article 35(2) of the Water and Sewerage Services (Northern Ireland) Order 1973 (NI 2)” substitute “—
- (a) an agreement under Article 16A; and
 - (b) Article 207 of the Water and Sewerage Services (Northern Ireland) Order 2006,” .
- (2) After Article 16 insert—

Status: Point in time view as at 20/04/2010.

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“Supply of water by water undertakers

16A.—(1) The Board may enter into an agreement with a water undertaker for the purposes of Article 15.

(2) An agreement under paragraph (1) may include terms as to payment to be made to the undertaker, subject to Article 207 of the Water and Sewerage Services (Northern Ireland) Order 2006.

(3) A water undertaker shall enter into any agreement reasonably proposed by the Board under paragraph (1).

(4) An obligation of a water undertaker under an agreement under paragraph (1), or under paragraph (3), is enforceable by the Department for Regional Development under Article 30 of the Water and Sewerage Services (Northern Ireland) Order 2006.

Emergency supply by water undertakers

16B.—(1) If the Board requests a water undertaker to provide a supply and pressure of water for the purposes of extinguishing a fire that is greater than the undertaker would otherwise provide, the undertaker shall take all necessary steps in order to do so.

(2) For the purposes of complying with its obligation under paragraph (1) a water undertaker may shut off the water from the mains and pipes in any area.

(3) No authority or person shall be liable to any penalty or claim arising because of anything done by a water undertaker in complying with its obligation under paragraph (1).

(4) A water undertaker commits an offence if, without reasonable excuse, it fails to take any step which it is obliged to take under paragraph (1).

(5) A water undertaker guilty of an offence under paragraph (4) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

(3) For Article 17 substitute—

“Fire hydrants

17.—(1) A water undertaker shall cause the location of every fire hydrant provided by it to be clearly indicated by a notice or distinguishing mark.

(2) A water undertaker may place such a notice or mark on a wall or fence adjoining a road or public place.

(3) The expenses incurred by a water undertaker under paragraph (1) in relation to a fire hydrant shall be borne by the Board.

(4) The Department may make regulations providing for uniformity in fire hydrants provided by water undertakers and in notices or marks indicating their location.

(5) An obligation of a water undertaker under paragraph (1), or regulations under paragraph (4), shall be enforceable by the Department for Regional Development under Article 30 of the Water and Sewerage Services (Northern Ireland) Order 2006.

(6) A person commits an offence if he uses a fire hydrant otherwise than—

(a) for the purposes of extinguishing fires; or

(b) for any other purpose specified in Article 15(2); or

(c) for any purpose authorised by the water undertaker or other person to whom the hydrant belongs.

(7) A person commits an offence if he damages or obstructs a fire hydrant, otherwise than in consequence of use for the purposes mentioned in paragraph (6).

Status: Point in time view as at 20/04/2010.

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(8) A person guilty of an offence under paragraph (6) or (7) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Notice of works affecting water supply and fire hydrants

17A.—(1) A person who proposes to carry out works for the purpose of supplying water shall give at least 6 weeks' notice in writing to the Board.

(2) A person who proposes to carry out works affecting a fire hydrant shall give at least 7 days' notice in writing to the Board.

(3) If it is not practicable for a person to give notice as required by paragraph (1) or (2), he shall be regarded as having given the notice required by that paragraph if he gives it as soon as practicable.

(4) A person commits an offence if, without reasonable excuse, he fails to give notice as required by paragraph (1) or (2).

(5) A person guilty of an offence under paragraph (4) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

Commencement Information

I120 Sch. 12 para. 49 wholly in operation at 1.4.2007, see art. 1(2) and S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2)

SCHEDULE 13

Article 308

REPEALS

Commencement Information

I121 Sch. 13 wholly in operation at 25.5.2007; Sch. 13 not in operation at date of making see art. 1(2); Sch. 13 in operation for certain purposes at 1.4.2007 by S.R. 2007/194, art. 2(2), Sch. 1 Pt. II (subject to art. 3, Sch. 2); Sch. 13 in operation at 25.5.2007 insofar as not already in operation by S.R. 2007/282, art. 2(2), Sch.

Short Title	Extent of repeal
The Public Health (Ireland) Act 1878 (c. 52)	Section 29. In section 41(1) the words “and the provisions for the sewerage thereof”.
The Foyle Fisheries Act (Northern Ireland) 1952 (c. 5)	In section 41, in subsection (1) the words “Subject to subsection (2),” and subsection (2).
The Public Health and Local Government (Miscellaneous Provisions) Act (Northern Ireland) 1955 (c. 13)	Section 2. In Schedule 2, the amendment to the Water Supplies and Sewerage Act (Northern Ireland) 1945.
The New Towns Act (Northern Ireland) 1965 (c. 13)	In section 17(1)(c) the words “water” and “sewerage”.

Status: Point in time view as at 20/04/2010.

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The Fisheries (Northern Ireland) Act 1966 (c. 17)	Section 185B.
The Inalienable Lands Act (Northern Ireland) 1966 (c. 31)	The whole Act.
The Mineral Development Act (Northern Ireland) 1969 (c.35)	Section 56(3)(j).
The Harbours Act (Northern Ireland) 1970 (c. 1)	In section 26(5), in the definition of “public utility undertaking”, the words “water or”. Section 27.
The Water and Sewerage Services (Northern Ireland) Order 1973 (NI 2)	The whole Order.
The Rates (Northern Ireland) Order 1977 (NI 28)	In Schedule 11, entry 9.
The Pollution Control and Local Government (Northern Ireland) Order 1978 (NI 19)	Article 64. Schedule 3.
The Building Regulations (Northern Ireland) Order 1979 (NI 16)	Article 24(4).
The Judgments Enforcement (Northern Ireland) Order 1981 (NI 6)	In Schedule 2, paragraph 22.
The Water and Sewerage Services (Amendment) (Northern Ireland) Order 1985 (NI 7)	The whole Order.
The Water (Fluoridation) (Northern Ireland) Order 1987 (NI 21)	The whole Order.
The Limitation (Northern Ireland) Order 1989 (NI 11)	In Schedule 3, paragraph 6.
The Financial Provisions (Northern Ireland) Order 1991 (NI 6)	Article 3.
The Food Safety (Northern Ireland) Order 1991 (NI 7)	Article 50(2).
The Electricity (Northern Ireland) Order 1992 (NI 1)	In Schedule 4, in paragraph 3(1)(c), the words in brackets. In Schedule 12, paragraph 13.
The Water and Sewerage Services (Amendment) (Northern Ireland) Order 1993 (NI 16)	The whole Order.
The Historic Monuments and Archaeological Objects (Northern Ireland) Order 1995 (NI 9)	In Schedule 3, paragraph 1(2)(c).
The Gas (Northern Ireland) Order 1996 (NI 2)	In Schedule 3, in paragraph 3(1)(c), the words in brackets. In Schedule 6, the amendment of the Water and Sewerage Services (Northern Ireland) Order 1973.

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The Water (Northern Ireland) Order 1999 (NI 6)	In Article 2(2), the definition of “the Water Council”. Article 9. Article 32(7) to (9). Article 58. In Schedule 1, paragraph 3(2) and (3), in paragraph 8, in sub-paragraphs (3) and (4) the words “subject to sub-paragraph (4)”, sub-paragraph (4) and in sub-paragraph (9) the words “(6) or”. In Schedule 5, in Part III, paragraph 3(d)(iv) and (D). In Schedule 7, the amendments to the Water and Sewerage Services (Northern Ireland) Order 1973.
The Freedom of Information Act 2000 (c. 36)	In Part VII of Schedule 1, the entry relating to the Northern Ireland Water Council.
The Enterprise Act 2002 (c. 40)	In section 136, subsection (7)(d) and (f) and in subsection (8) the words “the Director General of Electricity Supply for Northern Ireland” and “the Director General of Gas for Northern Ireland”.
The Environment (Northern Ireland) Order 2002 (NI 7)	In Schedule 5, paragraph 6(1) and (2).
The Energy (Northern Ireland) Order 2003 (NI 6)	In Schedule 1, paragraphs 10, 12 and 13.
The Communications Act 2003 (c. 21)	In Schedule 17, paragraph 46.
The Fire and Rescue Services (Northern Ireland) Order 2006 (NI 9)	In Schedule 3, paragraph 9.
The Water and Sewerage Services (Miscellaneous Provisions) (Northern Ireland) Order 2006 (NI 15)	Articles 3 and 4. Article 5(11).

Status:

Point in time view as at 20/04/2010.

Changes to legislation:

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