



# Water and Sewerage Services Act (Northern Ireland) 2016

## 2016 CHAPTER 7

An Act to amend, and to confer power to amend, the Water and Sewerage Services (Northern Ireland) Order 2006; and for connected purposes. [23rd March 2016]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### **Extension of period for which grants to water and sewerage undertakers can be paid**

**1.**—(1) Article 213 of the 2006 Order (grants by the Department for Regional Development to relevant undertakers) is amended as follows.

(2) In paragraph (3) for “the initial period” substitute “ the period ending on 31st March 2017 ”.

(3) For paragraph (4) substitute—

“(4A) The Department may by order amend paragraph (3) by substituting, for the date which is for the time being mentioned in it, such other date as the Department considers appropriate.

(4B) An order must not be made under paragraph (4A) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.”.

### **Combining water resources management plans and drought plans**

2 Schedule 1 (which amends Chapter 1 of Part 4 of the 2006 Order so as to align the procedures for making water resources management plans and drought plans, and to permit them to be prepared in a single document) has effect.

### **Power to remove or relax duty to install water meters when making domestic connections**

3.—(1) The Department may by regulations amend the 2006 Order so as to remove or qualify the duty imposed by Article 81 on a water undertaker (to make installation and connection of a water meter etc. a condition of the undertaker's complying with a connection notice).

(2) In particular, regulations under subsection (1) may—

- (a) provide that that duty does not apply in specified circumstances, or applies only in specified circumstances;
- (b) amend or remove the requirements set out in Article 81(2);
- (c) suspend (whether indefinitely or for a specified period) or repeal Article 81.

(3) In subsection (2) “specified” means specified in the regulations.

(4) The power conferred by subsection (1) includes power—

- (a) to replace a qualification that has been enacted under that subsection with a less restrictive qualification, or
- (b) to revive Article 81 (if it has been suspended).

(5) Subsection (4) is without prejudice to the powers conferred by virtue of section 17(1) and (2) of the Interpretation Act (Northern Ireland) 1954 (power from time to time to amend, revoke, etc. or substitute regulations).

(6) Regulations under subsection (1) may make such consequential, supplementary, transitional or transitory provision as the Department considers appropriate.

(7) Before making regulations under subsection (1) the Department must consult—

- (a) the Department of the Environment;
- (b) district councils;
- (c) the Northern Ireland Authority for Utility Regulation;
- (d) any water undertaker (within the meaning of the 2006 Order);
- (e) the General Consumer Council for Northern Ireland;
- (f) such other persons as the Department thinks appropriate.

(8) Regulations under subsection (1) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

## **Sustainable drainage systems**

4.—(1) The 2006 Order is amended as follows.

(2) After Article 2(3) (interpretation of references to pipes and waste water treatment works), insert—

“(3A) In this Order “sustainable drainage system” means any structure or part of a structure that is designed to receive surface water from premises and—

- (a) to discharge that water at a rate which is (whether in all circumstances or only in some circumstances) less than the rate at which the water enters the structure, or
- (b) to reduce the volume of surface water entering public sewers or watercourses.

(3B) For this purpose—

- (a) “structure” does not include—
  - (i) a sewer or drain that is capable of being the subject of a declaration under Article 159 (adoption of sewers etc.), or
  - (ii) a watercourse; and
- (b) the definition of “watercourse” in paragraph (2) (same meaning as in the Drainage Order) does not apply.”.

(3) In Article 159(1) (power to make declaration adopting sewers etc.), after sub-paragraph (b) insert—

“(ba) any sustainable drainage system which is so situated or which serves the whole or any part of that area; or”.

(4) In Article 161(1) (persons with whom agreement to adopt may be made)

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- (a) omit the “or” at the end of sub-paragraph (a)(ii) and after sub-paragraph (a)(ii) insert—

“(ia) any sustainable drainage system; or”;

- (b) after “sewer, drain” insert “, sustainable drainage system”;

- (c) after “the lateral drain” insert “ or the system ”.

(5) In Article 161(6) (terms which may be included in agreement to adopt) omit the “and” at the end of sub-paragraph (a) and after sub-paragraph (b) insert “; and

- (c) an agreement relating to a sewer or drain may include terms requiring the other party to construct one or more sustainable drainage systems designed to receive surface water from any premises served by that sewer or drain.

(6A) In paragraph (6)(c) “the other party” means the person with whom the sewerage undertaker is to make the agreement.”.

(6) Schedule 2 (which makes further amendments to the 2006 Order relating to sustainable drainage systems) has effect.

(7) The Department may by regulations make such supplementary or consequential provision as the Department considers necessary or expedient in connection with the provision made by this section.

(8) Provision made under subsection (7) may include modification of Northern Ireland legislation.

(9) Regulations making provision under subsection (8) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.

### **Refusal of surface water connection**

**5.—**(1) Article 163 of the 2006 Order (right to connect to public sewer) is amended as follows.

(2) In paragraph (5), for the words from “the mode of construction” to the end substitute “ either of the following grounds is satisfied. ”.

(3) After that paragraph insert—

“(5A) The first ground is that the mode of construction or condition of the drain or sewer, or of any associated sustainable drainage system—

(a) does not satisfy the standards reasonably required by the undertaker; or

(b) is such that the making of the communication would be prejudicial to the undertaker's sewerage system.

(5B) The second ground, in the case of a drain or sewer discharging surface water into the public sewer, is that suitable alternatives exist, or could reasonably be provided, for the discharge of that water from the premises or sewer in question.

(5C) The reference in paragraph (5B) to suitable alternatives includes, in particular—

(a) the use of landscaping, natural features or any other kind of arrangement, or

(b) the design or construction of any other feature (whether or not amounting to a “structure” within the meaning of Article 2(3A)),

for the purpose of reducing the volume of water from the premises or sewer that enters public sewers or watercourses, or the rate at which it does so.”.

### **Connection of drains and private sewers to public sewers: adoption agreements**

6.—(1) The 2006 Order is amended as follows.

(2) In Article 163(1) (right to connect to public sewer), after “Subject to the provisions of this Article” insert “ and Article 163A ”.

(3) After Article 163 insert—

#### **“Communication as of right only where adoption agreement entered into**

**163A.**—(1) This Article applies to a person's entitlement under Article 163(1) to have a sewer communicate with a public sewer.

(2) The person may exercise that entitlement only if an agreement complying with Conditions 1, 2 and 3 was entered into under Article 161 in respect of the sewer.

(3) Condition 1 is that the agreement included provision about the standards according to which the following were to be constructed—

- (a) the sewer in question,
- (b) any drain which communicates or is intended to communicate, whether directly or indirectly, with that sewer and was constructed at the same time as it,
- (c) any associated sustainable drainage system, and
- (d) any associated waste water works.

(4) Condition 2 is that the agreement included provision about the adoption of the following by the sewerage undertaker—

- (a) the sewer in question,
- (b) such part of any drain mentioned in paragraph (3)(b) as constitutes a lateral drain,
- (c) any associated sustainable drainage system, and
- (d) any associated waste water works.

(5) Condition 3 is that the agreement included terms such as are described in Article 161(6)(a) (provision of security for the discharge of obligations imposed on the party other than the sewerage undertaker).

(6) If an agreement has been entered into in respect of a sewer and all the obligations imposed on the other party to the agreement have been complied with, the undertaker may not refuse to permit the communication in reliance on Article 163(5).

(7) In this Article—