
STATUTORY INSTRUMENTS

2006 No. 3336

The Water and Sewerage Services
(Northern Ireland) Order 2006

PART VI

SEWERAGE SERVICES

CHAPTER II

PROVISION OF SEWERAGE SERVICES

Provision of sewers other than by requisition

Further duty to provide sewers

157.—(1) Without prejudice to Article 154, it shall be the duty of a sewerage undertaker to provide a public sewer to be used for the drainage for domestic sewerage purposes of premises in a particular locality in its area if the conditions specified in paragraph (2) are satisfied.

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

- (a) that the premises in question, or any of those premises, are premises on which there are buildings;
- (b) that the drains or sewers used for the drainage for domestic sewerage purposes of the premises in question do not, either directly or through an intermediate drain or sewer, connect with a public sewer; and
- (c) that the drainage of any of the premises in question is giving, or is likely to give, rise to such adverse effects to the environment or amenity that it is appropriate, having regard to any guidance issued under this Article by the Department and all other relevant considerations, to provide a public sewer for the drainage for domestic purposes of the premises in question.

(3) Without prejudice to the generality of paragraph (2)(c), regard shall be had to the following considerations, so far as relevant, in determining whether it is appropriate for any sewer to be provided by virtue of this Article—

- (a) the geology of the locality in question or of any other locality;
- (b) the number of premises, being premises on which there are buildings, which might reasonably be expected to be drained by means of that sewer;
- (c) the costs of providing that sewer;
- (d) the nature and extent of any adverse effects to the environment or amenity arising, or likely to arise, as a result of the premises, or, as the case may be, the locality in question not being drained by means of a public sewer; and

(e) the extent to which it is practicable for those effects to be overcome otherwise than by the provision (whether by virtue of this Article or otherwise) of public sewers, and the costs of so overcoming those effects.

(4) Guidance issued by the Department under this Article may—

- (a) relate to how regard is to be had to the considerations mentioned in sub-paragraphs (a) to (e) of paragraph (3);
- (b) relate to any other matter which it considers may be a relevant consideration in any case and to how regard is to be had to any such matter;
- (c) set out considerations, other than those mentioned in sub-paragraphs (a) to (e) of paragraph (3), to which (so far as relevant) regard shall be had in determining whether it is appropriate for any sewer to be provided by virtue of this Article;
- (d) relate to how regard is to be had to any such consideration as is mentioned in sub-paragraph (c); and
- (e) without prejudice to sub-paragraphs (a) to (d), relate to how a sewerage undertaker is to discharge its functions under this Article.

(5) Before issuing guidance under this Article the Department shall consult—

- (a) DOE;
- (b) the Authority;
- (c) sewerage undertakers; and
- (d) such other bodies or persons as it considers appropriate;

and the Department shall arrange for any guidance issued by it under this Article to be published in such manner as it considers appropriate.

(6) Subject to the following provisions of this Article, the duty of a sewerage undertaker by virtue of paragraph (1) shall be enforceable under Article 30—

- (a) by the Department; or
- (b) with the consent of or in accordance with a general authorisation given by the Department, by the Authority.

(7) Any dispute between a sewerage undertaker and an owner or occupier of any premises in its area as to—

- (a) whether the undertaker is under a duty by virtue of paragraph (1) to provide a public sewer to be used for any such drainage of those premises as is mentioned in that paragraph;
- (b) the domestic sewerage purposes for which any such sewer should be provided; or
- (c) the time by which any such duty of the undertaker should be performed,

shall be determined by the Authority, and may be referred to the Authority for determination by either of the parties to the dispute.

(8) The Authority—

- (a) shall notify the parties of the reasons for its decision on any dispute referred to it under paragraph (7); and
- (b) may make any such recommendation, or give any such guidance, relating to or in connection with the drainage of the premises or locality in question as it considers appropriate.

(9) The decision of the Authority on any dispute referred to it under paragraph (7) shall be final.

(10) A sewerage undertaker shall only be taken to be in breach of its duty under paragraph (1) where, and to the extent that, it has accepted, or the Authority has determined under this Article, that

it is under such a duty and where any time accepted by it, or determined by the Authority under this Article, as the time by which the duty is to that extent to be performed has passed.