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STATUTORY INSTRUMENTS

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**2006 No. 3336**

The Water and Sewerage Services  
(Northern Ireland) Order 2006

PART IV

WATER SUPPLY

CHAPTER III

QUALITY AND SUFFICIENCY OF SUPPLY

*Standards of wholesomeness*

**Standards of wholesomeness**

**107.**—(1) The Department may by regulations make provision that water supplied to any premises by a water undertaker is or is not to be regarded as wholesome for the purposes of this Chapter if it satisfies or, as the case may be, fails to satisfy such requirements as may be prescribed.

(2) DOE may by regulations make provision that water supplied to any premises by means of a private supply is or is not to be regarded as wholesome for the purposes of this Chapter if it satisfies or, as the case may be, fails to satisfy such requirements as may be prescribed.

(3) Without prejudice to the generality of paragraphs (1) and (2), regulations under this Article may, for the purpose of determining the wholesomeness of any water—

- (a) prescribe general requirements as to the purposes for which the water is to be suitable;
- (b) prescribe specific requirements as to the substances that are to be present in or absent from the water and as to the concentrations of substances which are or are required to be present in the water;
- (c) prescribe specific requirements as to other characteristics of the water;
- (d) provide that the question whether prescribed requirements are satisfied may be determined by reference to such samples as may be prescribed;
- (e) enable the Department (in the case of regulations under paragraph (1)) or DOE (in the case of regulations under paragraph (2)) to authorise such relaxations of and departures from the prescribed requirements (or from any of them) as may be prescribed, to make any such authorisation subject to such conditions as may be prescribed and to modify or revoke any such authorisation or condition.

*General obligations of water undertakers*

**Duties of water undertakers with respect to water quality**

**108.**—(1) It shall be the duty of a water undertaker—

- (a) when supplying water to any premises for domestic or food production purposes to supply only water which is wholesome at the time of supply; and
  - (b) so far as reasonably practicable, to ensure, in relation to each source or combination of sources from which that undertaker supplies water to premises for domestic or food production purposes, that there is, in general, no deterioration in the quality of the water which is supplied from time to time from that source or combination of sources.
- (2) For the purposes of this Article and Article 109 and subject to paragraph (3), water supplied by a water undertaker to any premises shall not be regarded as unwholesome at the time of supply where it has ceased to be wholesome only after leaving the undertaker's pipes.
- (3) Where water supplied by a water undertaker to any premises would not otherwise be regarded as unwholesome at the time of supply, that water shall be regarded as unwholesome at that time if—
- (a) it has ceased to be wholesome after leaving the undertaker's pipes but while in a pipe which is subject to water pressure from a water main or which would be so subject but for the closing of some valve; and
  - (b) it has so ceased in consequence of the failure of the undertaker, before supplying the water, to take such steps as may be prescribed for the purpose of securing the elimination, or reduction to a minimum, of any prescribed risk that the water would cease to be wholesome after leaving the undertaker's pipes.
- (4) The provisions of this Article shall apply in relation to water which is supplied by a water undertaker whether or not the water is water which the undertaker is required to supply by virtue of any provision of this Order.
- (5) The duties of a water undertaker under this Article shall be enforceable under Article 30 by the Department.

### **Regulations for preserving water quality**

**109.**—(1) The Department may by regulations require a water undertaker to take all such steps as may be prescribed for the purpose of securing compliance with Article 108.

(2) Without prejudice to the generality of the power conferred by paragraph (1), regulations under that paragraph may impose an obligation on a water undertaker—

- (a) to take all such steps as may be prescribed for monitoring and recording whether the water which that undertaker supplies to premises for domestic or food production purposes is wholesome at the time of supply;
- (b) to take all such steps as may be prescribed for monitoring and recording the quality of the water from any source, or combination of sources, which that undertaker uses or is proposing to use for supplying water to any premises for domestic or food production purposes;
- (c) to ensure that a source which that undertaker is using or proposing to use for supplying water for domestic or food production purposes is not so used until prescribed requirements for establishing the quality of water which may be supplied from that source have been complied with;
- (d) to keep records of the localities within which all the premises supplied with water for domestic or food production purposes by that undertaker are normally supplied from the same source or combination of sources;
- (e) to comply with prescribed requirements with respect to the analysis of water samples or with respect to internal reporting or organisational arrangements.

(3) Without prejudice to paragraphs (1) and (2), the Department may by regulations make provision with respect to the use by water undertakers, for the purposes of or in connection with the carrying out of their functions—

- (a) of such processes and substances; and
- (b) of products that contain or are made with such substances or materials,

as it considers might affect the quality of any water.

(4) Without prejudice to the generality of the power conferred by paragraph (3), regulations under that paragraph may—

- (a) forbid the use by water undertakers of processes, substances and products which have not been approved under the regulations or which contravene the regulations;
- (b) for the purposes of provision made by virtue of sub-paragraph (a), require processes, substances and products used by water undertakers to conform to such standards as may be prescribed by or approved under the regulations;
- (c) impose such other requirements as may be prescribed with respect to the use by water undertakers of prescribed processes, substances and products;
- (d) provide for the giving, refusal and revocation, by prescribed persons, of approvals required for the purposes of the regulations, for such approvals to be capable of being made subject to such conditions as may be prescribed and for the modification and revocation of any such condition;
- (e) impose obligations to furnish prescribed persons with information reasonably required by those persons for the purpose of carrying out functions under the regulations;
- (f) provide for a contravention of the regulations to constitute—
  - (i) a summary offence punishable, on summary conviction, by a fine not exceeding level 5 on the standard scale or such smaller sum as may be prescribed; or
  - (ii) an offence triable either summarily or on indictment and punishable, on summary conviction, by a fine not exceeding the statutory maximum and, on conviction on indictment, by a fine; and
- (g) require prescribed charges to be paid to persons carrying out functions under the regulations.

(5) The Department may by regulations require a water undertaker—

- (a) to publish information about the quality of water supplied for domestic or food production purposes to any premises by that undertaker; and
- (b) to provide information to prescribed persons about the quality of water so supplied.

(6) Regulations under paragraph (5)—

- (a) shall prescribe both the information which is to be published or provided in pursuance of the regulations and the manner and circumstances in which it is to be published or provided;
- (b) may require the provision of information by a water undertaker to any person to be free of charge or may authorise it to be subject to the payment by that person to the undertaker of a prescribed charge; and
- (c) may impose such other conditions on the provision of information by a water undertaker to any person as may be prescribed.

**Offence of supplying water unfit for human consumption**

**110.**—(1) Subject to paragraph (3), where a water undertaker supplies water by means of pipes to any premises and that water is unfit for human consumption, the undertaker shall be guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding £20,000; or
- (b) on conviction on indictment, to a fine.

(2) For the purposes of section 20(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) and any other statutory provision under which an individual is guilty of an offence by virtue of paragraph (1), the penalty on conviction on indictment of an offence under this Article shall be deemed to include imprisonment (in addition to or instead of a fine) for a term not exceeding two years.

(3) In any proceedings against any water undertaker for an offence under this Article it shall be a defence for that undertaker to show that it—

- (a) had no reasonable grounds for suspecting that the water would be used for human consumption; or
- (b) took all reasonable steps and exercised all due diligence for securing that the water was fit for human consumption on leaving its pipes or was not used for human consumption.

(4) Proceedings for an offence under this Article shall not be instituted except by the Department or the Director of Public Prosecutions for Northern Ireland.

*Waste, contamination, misuse, etc.***Waste from water sources**

**111.**—(1) Subject to paragraphs (2) and (3), a person shall be guilty of an offence under this Article if—

- (a) he causes or allows any underground water to run to waste from any well, borehole or other work; or
- (b) he abstracts from any well, borehole or other work water in excess of his reasonable requirements.

(2) A person shall not be guilty of an offence by virtue of paragraph (1)(a) in respect of anything done for the purpose—

- (a) of testing the extent or quality of the supply; or
- (b) of cleaning, sterilising, examining or repairing the well, borehole or other work in question.

(3) Where underground water interferes or threatens to interfere with the carrying out or operation of any underground works (whether waterworks or not), it shall not be an offence under this Article, if no other method of disposing of the water is reasonably practicable, to cause or allow the water to run to waste so far as may be necessary for enabling the works to be carried out or operated.

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

(5) On the conviction of a person under this Article, the court may—

- (a) order that the well, borehole or other work to which the offence relates shall be effectively sealed; or
- (b) make such other order as appears to the court to be necessary to prevent waste of water.

(6) If any person fails to comply with an order under paragraph (5), then, without prejudice to any penalty for contempt of court, the court may, on the application of DOE, authorise DOE to take

such steps as may be necessary to execute the order; and any expenses incurred in taking any such steps shall be recoverable summarily as a civil debt from the person convicted.

(7) Any person designated for the purpose by DOE shall, on producing some duly authenticated document showing his authority, have a right at all reasonable times—

- (a) to enter any premises for the purpose of ascertaining whether there is, or has been, any contravention of the provisions of this Article on or in connection with the premises;
- (b) to enter any premises for the purpose of executing any order of the court under this Article which DOE has been authorised to execute in those premises.

(8) Part I of Schedule 4 shall apply to the rights of entry conferred by paragraph (7).

### **Contamination of water sources**

**112.**—(1) Subject to paragraphs (2) and (3), a person is guilty of an offence under this Article if he is guilty of any act or neglect whereby the water in any waterworks which is used or likely to be used—

- (a) for human consumption or domestic purposes; or
- (b) for manufacturing food or drink for human consumption,

is polluted or likely to be polluted.

(2) Nothing in this Article shall be construed as restricting or prohibiting any method of cultivation of land which is in accordance with the principles of good husbandry.

(3) Nothing in this Article shall be construed as restricting or prohibiting the reasonable use of oil or tar on any road so long as the Department takes all reasonable steps for preventing—

- (a) the oil or tar; and
- (b) any liquid or matter resulting from the use of the oil or tar,

from polluting the water in any waterworks.

(4) A person who is guilty of an offence under this Article shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum and, in the case of a continuing offence, to a further fine not exceeding £50 for every day during which the offence is continued after conviction;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) In this Article “waterworks” includes—

- (a) any spring, well, adit, borehole, service reservoir or tank; and
- (b) any main or other pipe or conduit of a water undertaker.

### **Offences of contaminating, wasting and misusing water, etc.**

**113.**—(1) If any person who is the owner or occupier of any premises to which a supply of water is provided by a water undertaker intentionally or negligently causes or suffers any water fitting for which he is responsible to be or remain so out of order, so in need of repair or so constructed or adapted, or to be so used—

- (a) that water in a water main or other pipe of a water undertaker, or in a pipe connected with such a water main or pipe, is or is likely to be contaminated by the return of any substance from those premises to that main or pipe;
- (b) that water that has been supplied by the undertaker to those premises is or is likely to be contaminated before it is used; or

- (c) that water so supplied is or is likely to be wasted or, having regard to the purposes for which it is supplied, misused or unduly consumed,

that person shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(2) In any proceedings under paragraph (1) it shall be a defence to prove—

- (a) that the contamination or likely contamination, or the wastage, misuse or undue consumption, was caused (wholly or mainly) by the installation, alteration, repair or connection of the water fitting on or after the transfer date;
- (b) that the works were carried out by or under the direction of a contractor approved for the purposes of regulations under Article 114; and
- (c) that the contractor certified to the person who commissioned those works that the water fitting complied with the requirements of those Regulations.

(3) Any person who uses any water supplied to any premises by a water undertaker for a purpose other than one for which it is supplied to those premises shall, unless the other purpose is the extinguishment of a fire, be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(4) Where a person has committed an offence under paragraph (3), the water undertaker in question shall be entitled to recover from that person such amount as may be reasonable in respect of any water wasted, misused or improperly consumed in consequence of the commission of the offence.

(5) For the purposes of this Article the owner or occupier of any premises shall be regarded as responsible for every water fitting on the premises which is not a water fitting which a person other than the owner or, as the case may be, occupier is liable to maintain.

### **Regulations for preventing contamination, waste, etc and with respect to water fittings**

**114.**—(1) The Department may by regulations make such provision as it considers appropriate for any of the following purposes, that is to say—

- (a) for securing—
  - (i) that water in a water main or other pipe of a water undertaker is not contaminated; and
  - (ii) that its quality and suitability for particular purposes is not prejudiced, by the return of any substance from any premises to that main or pipe;
- (b) for securing that water which is in any pipe connected with any such main or other pipe or which has been supplied to any premises by a water undertaker is not contaminated, and that its quality and suitability for particular purposes is not prejudiced, before it is used;
- (c) for preventing the waste, undue consumption and misuse of any water at any time after it has left the pipes of a water undertaker for the purpose of being supplied by that undertaker to any premises; and
- (d) for securing that water fittings installed and used by persons to whom water is or is to be supplied by a water undertaker are safe and do not cause or contribute to the erroneous measurement of any water or the reverberation of any pipes.

(2) Without prejudice to the generality of paragraph (1), regulations under this Article may, for any of the purposes specified in that paragraph, make provision in relation to such water fittings as may be prescribed—

- (a) for forbidding the installation, connection or use of the fittings if they have not been approved under the regulations or if they contravene the regulations;

- (b) for requiring the fittings, for the purposes of provision made by virtue of sub-paragraph (a), to be of such a size, nature, strength or workmanship, to be made of such materials or in such a manner or to conform to such standards as may be prescribed by or approved under the regulations;
  - (c) for imposing such other requirements as may be prescribed with respect to the installation, arrangement, connection, testing, disconnection, alteration and repair of the fittings and with respect to the materials used in their manufacture;
  - (d) for the giving, refusal and revocation, by prescribed persons, of approvals required for the purposes of the regulations; and
  - (e) for such approvals to be capable of being made subject to such conditions as may be prescribed and for the modification and revocation of any such condition.
- (3) Without prejudice as aforesaid, regulations under this Article may—
- (a) impose separate or concurrent duties with respect to the enforcement of the regulations on water undertakers and such other persons as may be prescribed;
  - (b) confer powers on a water undertaker to carry out works and take other steps, in prescribed circumstances, for remedying any contravention of the regulations;
  - (c) provide for the recovery by a water undertaker of expenses reasonably incurred by the undertaker in the exercise of any power conferred by virtue of sub-paragraph (b);
  - (d) repeal or modify the provisions of Article 113 or Article 115;
  - (e) provide for a contravention of the regulations to constitute a summary offence punishable, on summary conviction, by a fine not exceeding level 5 on the standard scale or such smaller sum as may be prescribed;
  - (f) require prescribed charges to be paid to persons carrying out functions under the regulations;
  - (g) enable the Department to authorise such relaxations of and departures from such of the requirements of the regulations as may be prescribed, to make any such authorisation subject to such conditions as may be prescribed and to modify or revoke any such authorisation or condition;
  - (h) enable the Department to authorise a water undertaker (either instead of the Department or concurrently with it) to exercise any power conferred on the Department by regulations made by virtue of sub-paragraph (g); and
  - (i) require disputes arising under the regulations to be referred to arbitration and for determinations under the regulations to be subject to such rights of appeal as may be prescribed.
- (4) Without prejudice to Articles 124 and 231, any person designated in writing for the purposes of this paragraph in such manner as may be prescribed may—
- (a) enter any premises for the purpose of—
    - (i) ascertaining whether any provision contained in or made or having effect under this Order with respect to any water fittings or with respect to the waste or misuse of water is being or has been contravened;
    - (ii) determining whether, and if so in what manner, any power or duty conferred or imposed on any person by regulations under this Article should be exercised or performed; or
    - (iii) exercising any such power or performing any such duty; or
  - (b) carry out such inspections, measurements and tests on premises entered by that person or on water fittings or other articles found on any such premises, and take away such samples

of water or of any land and such water fittings and other articles, as that person has been authorised to carry out or take away in accordance with regulations under this Article.

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

(6) Any sums received by the Department in consequence of the provisions of any regulations under this Article shall be paid into the Consolidated Fund.

(7) In this Article “safe” has the same meaning as in Part II of the Consumer Protection Act 1987 (c. 43)

**Power to prevent damage and to take steps to prevent contamination, waste, etc.**

**115.**—(1) Without prejudice to any power conferred on water undertakers by regulations under Article 114, where a water undertaker which provides a supply of water to any premises has reason for believing—

- (a) that damage to persons or property is being or is likely to be caused by any damage to, or defect in, any water fitting used in connection with the supply of water to those premises which is not a service pipe belonging to the undertaker;
- (b) that water in a water main or other pipe of the undertaker is being or is likely to be contaminated by the return of any substance from those premises to that main or pipe;
- (c) that water which is in any pipe connected with any such main or other pipe or which has been supplied by the undertaker to those premises is being or is likely to be contaminated before it is used; or
- (d) that water which has been or is to be so supplied is being or is likely to be wasted or, having regard to the purposes for which it is supplied, misused or unduly consumed,

the undertaker may exercise the power conferred by paragraph (2) in relation to those premises.

(2) The power conferred by this paragraph in relation to any premises is—

- (a) where the case constitutes an emergency, power to disconnect the service pipe or otherwise to cut off the supply of water to those premises; and
- (b) in any other case, power to serve notice on the consumer requiring him to take such steps as may be specified in the notice as necessary to secure that the damage, contamination, waste, misuse or undue consumption ceases or, as the case may be, does not occur.

(3) Where a water undertaker, in exercise of the power conferred by virtue of paragraph (2)(a), disconnects a service pipe to any premises or otherwise cuts off any supply of water to any premises, the undertaker shall, as soon as reasonably practicable after the supply is disconnected or cut off, serve a notice on the consumer specifying the steps which that person is required to take before the undertaker will restore the supply.

(4) The steps specified in a notice under paragraph (3) shall be the steps necessary to secure that, as the case may be—

- (a) the damage, contamination, waste, misuse or undue consumption; or
- (b) the likelihood of damage, contamination, waste, misuse or undue consumption,

would not recur if the supply were restored.

(5) A water undertaker which fails, without reasonable excuse, to serve a notice in accordance with paragraph (3) shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(6) A notice served for the purposes of paragraph (2)(b) shall—

- (a) specify the period, not being less than the period of 7 days beginning with the day after the service of the notice, within which the steps specified in the notice are to be taken; and



(b) set out the powers of the undertaker under paragraphs (7) to (9).

(7) Where a water undertaker has served a notice for the purposes of paragraph (2)(b) in relation to any premises and—

(a) the case becomes an emergency; or

(b) the premises appear to be unoccupied and the steps specified in the notice are not taken before the end of the period so specified,

the undertaker may disconnect the service pipe to those premises or otherwise cut off the supply of water to those premises.

(8) Paragraphs (3) to (5) shall apply where a water undertaker exercises its power under paragraph (7) as they apply where such an undertaker exercises its power by virtue of paragraph (2) (a) .

(9) Where, in a case not falling within paragraph (7)(a) or (b), any steps specified in a notice served by a water undertaker for the purposes of paragraph (2)(b) have not been taken by the end of the period so specified, the water undertaker shall have power—

(a) to take those steps itself; and

(b) subject to paragraph (10), to recover any expenses reasonably incurred by the undertaker in taking those steps from the person on whom the notice was served,

and any steps taken by a water undertaker by virtue of sub-paragraph (a) shall be necessary works for the purposes of Chapter II.

(10) Where any steps are taken by virtue of this Article and it is shown that, in the circumstances of the case, those steps were not necessary as mentioned in paragraph (2) or, as the case may be, (4), the water undertaker in question—

(a) shall not be entitled to recover any expenses incurred by it in taking those steps; and

(b) shall be liable to pay to any other person who took any of those steps an amount equal to any expenses reasonably incurred by that person in taking any of those steps.

### **Temporary hosepipe bans**

**116.—**(1) If a water undertaker is of the opinion that a serious deficiency of water available for distribution by that undertaker exists or is threatened, that undertaker may, for such period as it thinks necessary, prohibit or restrict, as respects the whole or any part of its area, the use for the purpose of—

(a) watering private gardens; or

(b) washing private motor cars,

of any water supplied by that undertaker and drawn through a hosepipe or similar apparatus.

(2) A water undertaker imposing a prohibition or restriction under this Article shall, before it comes into force, give public notice of it, and of the date on which it will come into force, in two or more newspapers circulating in the locality affected by the prohibition or restriction.

(3) Any person who, at a time when a prohibition or restriction under this Article is in force, contravenes its provisions shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(4) Where a prohibition or restriction is imposed by a water undertaker under this Article, charges made by the undertaker for the use of a hosepipe or similar apparatus shall be subject to a reasonable reduction and, in the case of a charge paid in advance, the undertaker shall make any necessary repayment or adjustment.

(5) In this Article “private motor car” means any mechanically propelled vehicle intended or adapted for use on roads other than—

- (a) a public service vehicle, within the meaning of the [Road Traffic \(Northern Ireland\) Order 1981 \(NI 1\)](#) ; or
  - (b) a goods vehicle within the meaning of that Order,
- and includes any vehicle drawn by a private motor car.

*Insufficient or unwholesome piped supplies*

**Functions of the Department where piped supplies insufficient or unwholesome**

117.—(1) This Article applies to a case in which it is not practicable at reasonable cost for a water undertaker, by supplying water in pipes, to provide or maintain such a supply of wholesome water to any particular premises in its area as (so far as those premises are concerned) is sufficient for domestic purposes.

(2) In any case to which this Article applies, it shall be the duty of the Department, if it is satisfied—

- (a) that the insufficiency or unwholesomeness of the supply of water for domestic purposes to those premises is such as to cause a danger to life or health; and
- (b) that it is practicable at reasonable cost for the water undertaker, by providing it otherwise than in pipes, to provide to those premises such a supply of wholesome water as is sufficient for those purposes,

to require the undertaker, under paragraph (3), to provide a supply of water to those premises otherwise than in pipes.

(3) Where, in a case to which this Article applies—

- (a) the insufficiency or unwholesomeness of the supply of water for domestic purposes to the premises in question is such as to cause a danger to life or health;
- (b) it is practicable at reasonable cost for the water undertaker, by providing it otherwise than in pipes, to provide to those premises such a supply of wholesome water as (so far as those premises are concerned) is sufficient for domestic purposes; and
- (c) the Department notifies the undertaker of the danger to life or health and requires the undertaker to provide a supply otherwise than in pipes,

it shall be the duty of the undertaker, for such period as may be required by the Department, to provide any supply to those premises which it is practicable at reasonable cost to provide otherwise than in pipes and which it is required to provide by the Department.

(4) Where under this Article the Department requires the provision by a water undertaker of a supply of water to any premises, the Department—

- (a) shall be liable to the undertaker for any charges payable by virtue of Chapter I of Part VII in respect of the provision of that supply; but
- (b) shall have power to recover the whole or any part of any charges paid by virtue of this paragraph from the owner or occupier of the premises to which the supply is provided.

(5) In this Article references to the provision of a supply of water to any premises otherwise than in pipes shall have effect, in a case in which it is practicable at reasonable cost to provide a supply (whether or not in pipes) to a place within a reasonable distance of those premises, as including references to the provision of a supply to that place.

(6) The duty of a water undertaker under paragraph (3) shall be enforceable under Article 30 by the Authority.

### *Private supplies*

#### **General functions of DOE in relation to private supplies**

**118.**—(1) DOE shall—

- (a) take all such steps as it considers appropriate for keeping itself informed about the wholesomeness and sufficiency of private supplies;
- (b) maintain a register of private supplies used for domestic or food production purposes.

(2) Where DOE is satisfied—

- (a) that any private supply used for domestic or food production purposes to any premises is, has been or is likely to become unwholesome or (so far as any such premises are concerned) insufficient for domestic and sanitary purposes; and
- (b) that the unwholesomeness or insufficiency of any such supply is, was or is likely to be such as to cause a danger to life or health;

DOE shall notify the district council for the district, and the Health and Social Services Board for the area, in which the premises are, and the supply is, situated.

(3) DOE may by regulations make such provision, supplementing the provisions of this Article, as DOE considers appropriate for—

- (a) obtaining information about the quality and sufficiency of private supplies, including information as to the source of the supplies and the premises supplied by such supplies;
- (b) regulating the performance of any function under this Article; and
- (c) prescribing the particulars in respect of each private supply to be recorded in the register maintained under paragraph (1)(b).

(4) Without prejudice to the generality of paragraph (3), regulations under that paragraph may—

- (a) prescribe the matters to be taken into account in determining, for the purposes of paragraph (1), what is appropriate;
- (b) provide, for the purposes of this Article, for such samples of water to be taken and analysed at such times and in such manner as may be prescribed;
- (c) provide for functions under this Article to be carried out by prescribed persons;
- (d) provide for the recovery by DOE from prescribed persons of such amounts as may be prescribed in respect of expenses reasonably incurred by DOE under this Article.

#### **Remedial powers in relation to private supplies**

**119.**—(1) Subject to the following provisions of this Article, where DOE is satisfied in relation to any premises which are supplied with water for domestic or food production purposes by means of a private supply—

- (a) that any water which is being, has been or is likely to be supplied for those purposes to those premises by means of that private supply is not, was not or, as the case may be, is likely not to be wholesome; or
- (b) that that private supply is failing, has failed or is likely to fail to provide to any house on those premises such a supply of wholesome water as (so far as that house is concerned) is sufficient for domestic purposes,

DOE may serve a notice in relation to that private supply on one or more of the relevant persons.

(2) A notice under this Article in relation to a private supply of water to any premises shall—

- (a) give particulars of the matters mentioned in paragraph (1) in respect of which the notice is served;
  - (b) specify the steps which, in the opinion of DOE, are required to be taken for ensuring that there is a supply of water to those premises which is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic purposes;
  - (c) specify a period, ending not less than 28 days after the day on which the notice is served, within which any representations or objections with respect to the notice must be received by DOE; and
  - (d) state the effect in relation to that notice of Article 120(2) and (3).
- (3) Subject to Articles 120 and 121, where DOE serves a notice under this Article on any relevant person it may do one or more of the following, that is to say—
- (a) by that notice designate as steps to be taken by DOE itself such of the steps specified in the notice as DOE considers it appropriate so to designate;
  - (b) by that notice require that person, within such reasonable period as may be specified in the notice, to take one or more of the steps so specified;
  - (c) by that notice require that person, at such times as may be determined in accordance with provision contained in the notice, to make to another relevant person or to DOE such payments as may be so determined in respect of expenses reasonably incurred by that other person or DOE in taking any step specified in the notice;
  - (d) by that notice undertake from time to time to make such payments to that person as may be so determined in respect of expenses reasonably incurred by that person in taking any step specified in the notice.
- (4) The steps that a relevant person may be required by a notice under this Article to take in relation to any premises shall include—
- (a) requiring a supply of water to be provided to those premises by a water undertaker or by any other person; and
  - (b) taking such steps for the purpose of securing that such a requirement is complied with, and of enabling such a supply to be so provided, as may be specified in the notice.
- (5) For the purposes of this Article and Articles 120 to 122 the relevant persons, in relation to a private supply of water to any premises, are—
- (a) the owners and occupiers of those premises; and
  - (b) the owners and occupiers of the premises where the source of that supply is situated and any other person who exercises powers of management or control in relation to that source;
- and in Articles 120 to 122 a notice under this Article is referred to as a private supply notice.

### **Confirmation of private supply notices**

**120.**—(1) Subject to paragraph (2), a private supply notice served by DOE shall not take effect until the end of the period specified in the notice as the period within which representations or objections with respect to the notice must be received by DOE.

(2) Where any written representation or objection with respect to a private supply notice served by DOE is received by it, before the end of the period specified in the notice, from a person on whom the notice was served, that notice shall not take effect unless—

- (a) the notice is submitted by DOE to the Appeals Commission and is confirmed by the Appeals Commission either with or without modifications; or
- (b) the representation or objection is withdrawn.

(3) If DOE submits a private supply notice to the Appeals Commission for confirmation, the Appeals Commission—

- (a) shall consider whether the notice should be confirmed and whether, if it is confirmed, it should be confirmed with or without modifications;
- (b) may, with respect to the matters specified in the notice or any proposed modification of it, direct DOE to serve a private supply notice, in such terms as may be specified in the direction, on any relevant person who has not previously been served with such a notice;
- (c) if it is satisfied that the person on whom any notice to be served in pursuance of a direction under sub-paragraph (b) has had a proper opportunity of having his representations or objections with respect to the proposal for the direction considered, may dispense, in relation to the notice so served, with the provisions of paragraphs (1) and (2) and of Article 119(2)(c) and (d).

(4) Where the Appeals Commission confirms a private supply notice (whether with or without modifications)—

- (a) DOE shall serve notice of that confirmation on every person originally served with the notice under Article 119; and
- (b) that notice shall take effect, with any modifications made by the Appeals Commission, at such time as may be specified in the notice served under this paragraph.

#### **Enforcement and variation of private supply notice**

**121.**—(1) Where any relevant person who is required by virtue of a private supply notice to take any step in relation to any premises fails to take that step within the period specified in the notice, DOE may, in accordance with any applicable provision having effect by virtue of Article 122 or 124, take that step itself.

(2) Where any step is taken by DOE in relation to any premises by virtue of paragraph (1)—

- (a) DOE may recover from the person who failed to take that step within the specified period any expenses reasonably incurred by it in taking that step; and
- (b) for the purposes of any requirement under which payments are required to be made to that person by any person other than DOE, sums paid by virtue of sub-paragraph (a) in respect of the taking of any step shall be deemed to be expenses incurred in the taking of that step by the person who failed to take it.

(3) Nothing in this Order shall confer any right of action on any person in respect of any loss or damage sustained by that person in consequence of the failure by any other person to take any step specified in a private supply notice.

(4) Any sum required to be paid to any person by virtue of any requirement or undertaking contained in a private supply notice shall be recoverable summarily as a civil debt by that person from the person who is required to pay it.

(5) Any requirement which—

- (a) is imposed by virtue of a private supply notice on the owner or occupier of any premises; and
- (b) is expressed to bind those premises in relation to the owners or occupiers from time to time,

shall bind successive owners or, as the case may be, occupiers of those premises and shall be a statutory charge.

(6) Subject to paragraph (7), DOE may by notice served on any person modify or revoke the effect in relation to that person of any private supply notice or notice under this paragraph (including a notice which has been confirmed, with or without modifications, by the Appeals Commission).

(7) The person on whom the notice is served may, within 28 days from the date of service of the notice, appeal to the Appeals Commission except where the notice—

- (a) extends the period within which any step is required to be taken by that person; or
- (b) discharges, postpones or abates any obligation of that person to make a payment to DOE.

### **Powers to do works in relation to private supplies**

**122.**—(1) For the purposes of the taking of any steps falling to be taken by DOE by virtue of a designation under paragraph (3)(a) of Article 119 the provisions of Part VIII shall have effect—

- (a) as if the relevant works powers, so far as conferred on a water undertaker for the purpose of carrying out its functions, were also conferred on DOE for the purpose of ensuring that a supply of water provided by means of a private supply to any premises is both wholesome and (so far as any house on those premises is concerned) sufficient for domestic purposes;
- (b) as if any such power, so far as it is conferred on a water undertaker in relation to things belonging to or operated or used by the undertaker for the purposes of its functions, were conferred by virtue of sub-paragraph (a) on DOE in relation to things belonging to or operated or used by DOE, or a relevant person, in connection with the provision of water by means of a private supply;
- (c) as if references to a water undertaker in any provision of Part VIII relating to a relevant works power, except the references in Articles 243 and 244, included references to DOE; and
- (d) as if the making by any person in pursuance of a private supply notice of any payment in respect of sums incurred in the laying of any pipe entitled that person, for the purposes of Article 241(1), to an interest in the pipe.

(2) Where by virtue of this Order DOE has power to acquire (whether compulsorily or otherwise) any land for the purpose of ensuring that private supplies of water to premises are both wholesome and (so far as houses on those premises are concerned) sufficient for domestic purposes, that power shall include power to acquire land in order, for that purpose, to dispose of the land to a person who is a relevant person in relation to such a private supply.

(3) In this Article “relevant works powers” means the powers conferred on water undertakers by Articles 219, 220, 222, 224 and 226.

### **Power of DOE to obtain information relating to private supplies**

**123.**—(1) DOE may serve on any person a notice requiring him to furnish DOE, within a period or at times specified in the notice and in a form and manner so specified, with such information as is reasonably required by DOE for the purpose of exercising or performing any power or duty conferred or imposed on DOE by or under any of Articles 118 to 121.

(2) A person who fails without reasonable excuse to comply with the requirements of a notice served on him under paragraph (1) shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.

### *Enforcement*

### **Rights of entry**

**124.**—(1) Any person designated for the purpose by the Department or DOE shall, on producing some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises for the purpose of ascertaining whether there is or has been any contravention of Article 112 in relation to any waterworks on those premises.

- (2) Any person designated in writing for the purpose by DOE may—
  - (a) enter any premises for the purpose, in relation to any private supply, of—
    - (i) determining whether, and if so in what manner, any power or duty conferred or imposed on DOE by or under any of Articles 118 to 121 should be exercised or performed; or
    - (ii) exercising any such power or performing any such duty;
  - (b) carry out such inspections, measurements and tests on premises entered by that person or of articles found on any such premises, and take away such samples of water or of any land or articles, as DOE—
    - (i) considers appropriate for the purposes of any such power or duty; and
    - (ii) has authorised that person to carry out or take away.
- (3) Any person designated in writing for the purpose by the Department may—
  - (a) enter any premises for the purpose of—
    - (i) ascertaining whether any provision contained in or made or having effect under this Order with respect to any water fittings, or with respect to the waste or misuse of water, is being or has been contravened;
    - (ii) determining whether, and if so in what manner, any power or duty conferred or imposed on any person by regulations under Article 114 should be exercised or performed; or
    - (iii) exercising any such power or performing any such duty; or
  - (b) carry out such inspections, measurements and tests on premises entered by that person or on water fittings or other articles found on any such premises, and take away such samples of water or of any land and such water fittings and other articles, as that person has been authorised to carry out or take away in accordance with regulations under that Article.
- (4) Part I of Schedule 4 shall apply to the right of entry conferred by paragraph (1); but nothing in that paragraph or in that Part of that Schedule shall entitle any person designated for the purposes of that paragraph by DOE to have access to any waterworks belonging to a water undertaker.
- (5) Part II of Schedule 4 shall apply to the rights and powers conferred by paragraphs (2) and (3).
- (6) In this Article “waterworks” has the same meaning as in Article 112.

#### **Assessors for the enforcement of water quality**

- 125.**—(1) The Department may for the purposes of this Article appoint inspectors to act on its behalf in relation to some or all of—
- (a) the powers and duties conferred or imposed on it by or under Articles 107 to 110 and 117 so far as relating to the quality and sufficiency of water supplied by a water undertaker; and
  - (b) such other powers and duties in relation to the quality and sufficiency of water supplied by a water undertaker as are conferred or imposed on the Department by or under any other statutory provision.
- (2) DOE may for the purposes of this Article appoint inspectors to act on its behalf in relation to some or all of—
- (a) the powers and duties conferred or imposed on it by or under Articles 107 and 118 to 123 in relation to the quality and sufficiency of water supplied by means of a private supply; and
  - (b) such other powers and duties in relation to the quality and sufficiency of water supplied by means of a private supply as are conferred or imposed on DOE by or under any other statutory provision.

(3) A person may be appointed under both paragraph (1) and (2); and the Department and DOE (acting jointly) may designate a person so appointed as the Chief Inspector of Drinking Water.

(4) An inspector appointed under paragraph (1) shall—

(a) carry out such investigations as the Department may require him to carry out for the purpose of—

(i) ascertaining whether any duty or other requirement imposed on an undertaker by or under any of Articles 108 to 110 or Article 117 is being, has been or is likely to be contravened; or

(ii) advising the Department as to whether, and if so in what manner, any of its powers in relation to such a contravention, or any of the powers (including the powers to make regulations) which are conferred on it by or under any of Articles 107 to 110 and 117 should be exercised; and

(b) make such reports to the Department with respect to any such investigation as the Department may require.

(5) An inspector appointed under paragraph (2) shall—

(a) carry out such investigations as DOE may require him to carry out for the purpose of advising DOE as to whether, and if so in what manner, any of its powers (including the powers to make regulations) which are conferred on it by or under any of Articles 107 and 118 to 121 should be exercised; and

(b) make such reports to DOE with respect to any such investigation as DOE may require.

(6) Without prejudice to the powers conferred by paragraphs (7) and (8), it shall be the duty of a water undertaker—

(a) to give an inspector appointed under paragraph (1) all such assistance; and

(b) to provide an inspector so appointed with all such information,

as that inspector may reasonably require for the purpose of carrying out any such investigation as is mentioned in paragraph (4).

(7) An inspector appointed under paragraph (1) who is designated in writing for the purpose by the Department may—

(a) enter any premises for the purpose of carrying out any such investigation as is mentioned in paragraph (4);

(b) carry out such inspections, measurements and tests on premises entered by that person or of articles or records found on any such premises, and take away such samples of water or of any land or articles, as that person considers appropriate for the purpose of enabling him to carry out any such investigation; or

(c) at any reasonable time require any water undertaker to supply him with copies of, or of extracts from, the contents of any records kept for the purpose of complying with any duty or other requirement imposed on that undertaker by or under any of Articles 108 to 110 or Article 117.

(8) An inspector appointed under paragraph (2) who is designated in writing for the purpose by DOE may—

(a) enter any premises for the purpose of carrying out any such investigation as is mentioned in paragraph (5);

(b) carry out such inspections, measurements and tests on premises entered by that person or of articles or records found on any such premises, and take away such samples of water or of any land or articles, as that person considers appropriate for the purpose of enabling him to carry out any such investigation.



(9) Part II of Schedule 4 shall apply to the rights and powers conferred by paragraph (7) or (8).

(10) Any water undertaker which fails to comply with the duty imposed on it by virtue of paragraph (6) shall be guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding £20,000;

(b) on conviction on indictment, to a fine.

(11) Proceedings for an offence under this Article or in relation to the quality and sufficiency of water supplied by a water undertaker may be instituted and carried on in the name of the Chief Inspector of Drinking Water.