

## STATUTORY INSTRUMENTS

# 2006 No. 3336

## The Water and Sewerage Services (Northern Ireland) Order 2006

### PART VI

#### SEWERAGE SERVICES

##### CHAPTER II

##### PROVISION OF SEWERAGE SERVICES

*Adoption of sewers [F1, sustainable drainage systems] and waste water treatment works*

#### Textual Amendments

- F1** Words in [art. 159 cross-heading](#) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 3](#)

#### **Adoption of sewers [F2, sustainable drainage systems] and waste water treatment works**

**159.**—(1) Subject to the following provisions of this Article and to Articles 160, 162 and 206(3), a sewerage undertaker may at any time declare that—

- (a) any sewer which is situated within its area or which serves the whole or any part of that area; or
- (b) any lateral drain which communicates or is to communicate with a public sewer which—
  - (i) is so situated or serves the whole or any part of that area; and
  - (ii) is vested in that undertaker; or
- [F3](ba) any sustainable drainage system which is so situated or which serves the whole or any part of that area; or]
- (c) any waste water treatment works which are so situated or which serve the whole or any part of that area,

shall, as from such date as may be specified in the declaration, become vested in the undertaker.

(2) The owner, or any of the owners, of any sewer, lateral drain [F4, sustainable drainage system] or waste water treatment works with respect to which a sewerage undertaker might make a declaration under this Article may make an application to that undertaker requesting it to make a declaration under this Article with respect to the sewer, lateral drain [F5, system] or works.

(3) A declaration or application under this Article may be made with respect to a part only of a sewer.

(4) A sewerage undertaker which proposes to make a declaration under this Article—

**Changes to legislation:** *The Water and Sewerage Services (Northern Ireland) Order 2006, Cross Heading: Adoption of sewers, sustainable drainage systems and waste water treatment works is up to date with all changes known to be in force on or before 31 January 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) View outstanding changes*

- (a) shall give notice of its proposal to the owner or owners of the sewer, lateral drain [<sup>F6</sup>, system] or works in question; and
- (b) shall take no further action in the matter until two months have elapsed without an appeal against the proposal being lodged under Article 162 or, as the case may be, until any appeal so lodged has been determined.
- (5) A sewerage undertaker, in deciding whether a declaration should be made under this Article, shall have regard to all the circumstances of the case and, in particular, to the following considerations, that is to say—
- (a) whether the sewer [<sup>F7</sup>, system] or works in question is or are adapted to, or required for, any general system of sewerage or sewage disposal which the undertaker has provided, or proposes to provide, for the whole or any part of its area;
- (b) whether the sewer [<sup>F8</sup>, lateral drain or system] is constructed under a road or under land reserved by a planning scheme for a street;
- (c) the number of buildings which the sewer [<sup>F9</sup>, lateral drain or system] is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;
- (d) the method of construction and state of repair of the sewer, lateral drain [<sup>F10</sup>, system] or works; and
- (e) in a case where an owner objects, whether the making of the proposed declaration would be seriously detrimental to him.
- (6) Any person who immediately before the making of a declaration under this Article was entitled to use the sewer [<sup>F11</sup>, lateral drain or system] in question shall be entitled to use it, or any sewer [<sup>F11</sup>, lateral drain or system] substituted for it, to the same extent as if the declaration had not been made.
- (7) No declaration may be made under this Article in respect of—
- (a) any sewer or works the construction of which was completed before 1st October 1973;
- (b) any lateral drain the construction of which was completed before the transfer date.

#### Textual Amendments

- F2** Words in art. 159 heading inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 4\(2\)](#)
- F3** Art. 159(1)(ba) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 4\(3\), 8](#)
- F4** Words in art. 159(2) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 4\(3\)\(a\)](#)
- F5** Word in art. 159(2) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 4\(3\)\(b\)](#)
- F6** Word in art. 159(4)(a) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 4\(4\)](#)
- F7** Word in art. 159(5)(a) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 4\(5\)\(a\)](#)
- F8** Words in art. 159(5)(b) substituted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 4\(5\)\(b\)](#)
- F9** Words in art. 159(5)(c) substituted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 4\(5\)\(c\)](#)
- F10** Word in art. 159(5)(d) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 4\(5\)\(d\)](#)

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**F11** Words in art. 159(6) substituted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 4\(6\)](#)

#### Commencement Information

**II** Art. 159 partly in operation; art. 159 not in operation at date of making see art. 1(2); art. 159 in operation (except art. 159(7)(b)) at 1.4.2007 by [S.R. 2007/194, art. 2\(2\), Sch. 1 Pt. II](#) (subject to [art. 3, Sch. 2](#))

### Adoption under Article 159: supplementary

**160.**—(1) Where a sewerage undertaker is about to take into consideration the question of making a declaration under Article 159 with respect to—

- (a) any sewer which is situated within the area of another sewerage undertaker or which, though situated within its own area, serves the whole or any part of the area of another sewerage undertaker;
- (b) any lateral drain which is situated within the area of another sewerage undertaker or which, though situated within its own area, communicates or is to communicate with a public sewer which is situated within or serves the whole or any part of the area of another sewerage undertaker;<sup>F12</sup>...

[<sup>F13</sup>(ba) any sustainable drainage system which is situated within the area of another sewerage undertaker or which, though situated in its own area, serves the whole or any part of the area of another sewerage undertaker; or]

- (c) any waste water treatment works which are situated within the area of another sewerage undertaker or which, though situated within its own area, serve the whole or any part of the area of another sewerage undertaker,

it shall give notice to the other undertaker.

(2) Where a sewerage undertaker is required to give notice under paragraph (1) to another undertaker, no declaration under Article 159 shall be made by the former undertaker until either—

- (a) the other undertaker has consented to the declaration; or
- (b) the Department, on an application made to it, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as it may consider fit to impose.

(3) Where—

- (a) a sewer (or part of a sewer) [<sup>F14</sup>, a lateral drain or a sustainable drainage system] is vested, or any waste water treatment works are vested, in a relevant body; and
- (b) in the case of a sewer, part of a sewer, lateral drain [<sup>F15</sup>, sustainable drainage system] or works vested in a railway undertaking or harbour authority, the sewer, part [<sup>F16</sup>, lateral drain or system] in question is, or the works are, situated in or on land belonging to that operator or authority and held or used by that operator or authority for the purposes of its undertaking,

a sewerage undertaker shall not make a declaration under Article 159 with respect to (as the case may be) the sewer, or part of it, or the lateral drain [<sup>F17</sup> or the system] or the works, except on the application of the relevant body concerned.

(4) Where a sewerage undertaker makes a declaration under Article 159 with respect to—

- (a) a sewer [<sup>F18</sup>, lateral drain or sustainable drainage system] which is situated within the area of another sewerage undertaker; or
- (b) any waste water treatment works which are so situated,

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it shall forthwith give notice of the fact to that other undertaker.

(5) In this Article “relevant body” means any sewerage undertaker, district council, railway undertaking or harbour authority.

#### Textual Amendments

- F12** Word in art. 160(1)(b) omitted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by virtue of [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 5\(2\)](#)
- F13** Art. 160(1)(ba) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 5\(2\)](#)
- F14** Words in art. 160(3)(a) substituted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 5\(3\)\(a\)](#)
- F15** Words in art. 160(3)(b) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 5\(3\)\(b\)](#)
- F16** Words in art. 160(3)(b) substituted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 5\(3\)\(c\)](#)
- F17** Words in art. 160(3) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 5\(3\)\(d\)](#)
- F18** Words in art. 160(4)(a) substituted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 5\(4\)](#)

#### Commencement Information

- I2** Art. 160 partly in operation; art. 160 not in operation at date of making see art. 1(2); art. 160 in operation (except art. 160(1)(2)(4)) at 1.4.2007 by [S.R. 2007/194, art. 2\(2\), Sch. 1 Pt. II](#) (subject to [art. 3, Sch. 2](#))

#### Agreements to adopt sewer, drain [<sup>F19</sup>, sustainable drainage system] or waste water treatment works at future date

**161.**—(1) Subject to paragraph (7) and Article 206(3), a sewerage undertaker may agree with—

- (a) any person constructing or proposing to construct—
- (i) any sewer;
  - (ii) any drain which is intended to communicate with a public sewer vested in that undertaker;<sup>F20</sup> ...
  - [<sup>F21</sup>(iiia) any sustainable drainage system; or]
  - (iii) any waste water treatment works; or
- (b) any person at whose expense the undertaker is, by virtue of an agreement under Article 221, to carry out work in connection with the construction of such a drain or sewer,

that, if the sewer, drain [<sup>F22</sup>, sustainable drainage system] or waste water treatment works is or are constructed in accordance with the terms of the agreement, the undertaker will, upon completion of the work, at some specified date or on the happening of some future event, declare the sewer or such part of the drain as constitutes the lateral drain [<sup>F23</sup> or the system] or the works (as the case may be) to be vested in that undertaker.

(2) A person mentioned in sub-paragraph (a) or (b) of paragraph (1) may make an application to a sewerage undertaker requesting the undertaker to make an agreement under this Article.

(3) An application under paragraph (2) shall be accompanied and supplemented by all such information as the undertaker may reasonably require; but, subject to paragraph (4) and without

prejudice to the effect (if any) of any other contravention of the requirements of this Article in relation to such an application, a failure to provide information in pursuance of the obligation to supplement such an application shall not invalidate the application.

(4) Where—

- (a) a person who has made an application to a sewerage undertaker under paragraph (2) has failed to comply with his obligation under this Article to supplement that application with information required by the undertaker; and
- (b) that requirement was made by the undertaker at such a time before the end of the period within which the undertaker is required, by virtue of Article 162, to respond to the application as gave that person a reasonable opportunity to provide the required information within that period,

the undertaker may delay its response to the application until a reasonable time after the required information is provided.

(5) Any agreement made under this Article by a sewerage undertaker shall be enforceable against the undertaker by the owner or occupier for the time being of any premises served by the sewer, lateral drain [<sup>F24</sup>, system] or works to which it relates.

(6) Without limiting the terms which may be included in an agreement under this Article—

- (a) such terms may include terms as to the provision of such security as the undertaker may reasonably require for the discharge of any obligations imposed on the other party to the agreement; <sup>F25</sup> ...
- (b) such terms relating to a drain may include in particular —
  - (i) identification of that part of the drain which constitutes the lateral drain for the purposes of the agreement and, in particular, the point or points of connection between that part and the remainder of the drain;
  - (ii) a requirement for the installation of an inspection chamber, at the expense of the person with whom the sewerage undertaker is to make the agreement, at a place specified in the agreement;
  - (iii) provision, if the inspection chamber is constructed in accordance with the terms of the agreement, for the undertaker to declare that the inspection chamber be vested in the undertaker at the same time as the lateral drain; and
  - (iv) provision for the lateral drain, once vested in the undertaker, to communicate with a public sewer at the place or places specified in the agreement [<sup>F26</sup>, 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.]

[<sup>F27</sup>(6A) In paragraph (6)(c) “the other party” means the person with whom the sewerage undertaker is to make the agreement.]

(7) A sewerage undertaker shall not make an agreement under this Article with respect to—

- (a) a sewer, drain [<sup>F28</sup>, sustainable drainage system] or waste water treatment works situated within the area of another sewerage undertaker; or
- (b) a drain which is intended to communicate with a sewer which—
  - (i) is so situated; or
  - (ii) is vested in another sewerage undertaker,until one of the conditions mentioned in paragraph (8) is satisfied.

(8) The conditions are—

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- (a) that the other undertaker has consented to the making of the agreement; or
- (b) that the Department, on an application made to it, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as it may consider fit to impose.

[<sup>F29</sup>(9) The Department may issue guidance (to any person) about applying for, and making, agreements under this Article; and sewerage undertakers must have regard to the guidance.

- (10) Before issuing guidance under this Article the Department must consult—
  - (a) the Authority;
  - (b) DOE;
  - (c) sewerage undertakers;
  - (d) the General Consumer Council for Northern Ireland;
  - (e) such other persons as the Department considers it appropriate to consult in relation to the guidance.]

#### Textual Amendments

- F19** Words in art. 161 heading inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 6\(2\)](#)
- F20** Word in art. 161(1)(a)(ii) omitted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by virtue of [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 4\(4\)\(a\), 8](#)
- F21** Art. 161(1)(a)(iia) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 4\(4\)\(a\), 8](#)
- F22** Words in art. 161(1) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 4\(4\)\(b\), 8](#)
- F23** Words in art. 161(1) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 4\(4\)\(c\), 8](#)
- F24** Word in art. 161(5) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 6\(3\)](#)
- F25** Word in art. 161(6)(a) omitted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by virtue of [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 4\(5\), 8](#)
- F26** Art. 161(6)(c) inserted and preceding word inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 4\(5\), 8](#)
- F27** Art. 161(6A) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 4\(5\), 8](#)
- F28** Words in art. 161(7)(a) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 6\(4\)](#)
- F29** Art. 161(9)(10) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 6\(4\), 8](#)

#### Commencement Information

- I3** Art. 161 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](#))

#### Appeals with respect to adoption

**162.**—(1) An owner of any sewer, lateral drain [<sup>F30</sup>, sustainable drainage system] or waste water treatment works may appeal to the Authority if—

- (a) he is aggrieved by the proposal of a sewerage undertaker to make a declaration under Article 159; or

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(b) he is aggrieved by the refusal of a sewerage undertaker to make such a declaration.

[<sup>F31</sup>(2) A person who has entered into or wants to enter into an agreement under Article 161 may appeal to the Authority about any matter concerning the agreement (including whether it is concluded, its terms and its operation).]

(3) The time for the making of an appeal under paragraph (1) by the owner of any sewer, lateral drain [<sup>F32</sup>, sustainable drainage system] or waste water treatment works shall be—

- (a) in the case of an appeal by virtue of sub-paragraph (a) of that paragraph, any time within two months after notice of the proposal is served on that owner; and
- (b) in the case of an appeal by virtue of sub-paragraph (b) of that paragraph, any time after receipt of notice of the undertaker's refusal or, if no such notice is given, at any time after the end of two months from the making of the application for the declaration.

(4) On the hearing of an appeal under this Article, the Authority may—

- (a) in the case of an appeal under paragraph (1), allow or disallow the proposal of the sewerage undertaker or, as the case may be, make any declaration which the sewerage undertaker might have made; or
- (b) in the case of an appeal under paragraph (2)—
  - (i) uphold the refusal of the undertaker to grant the application or to modify the terms offered; or
  - (ii) on behalf of the undertaker, refuse the application or enter into any agreement into which the undertaker might have entered on the application;

and any declaration made under sub-paragraph (a) shall have the same effect as if it had been made by the undertaker in question.

(5) Where the Authority makes a declaration under paragraph (4)(a), it may, if it thinks fit—

- (a) specify conditions, including conditions as to the payment of compensation by the sewerage undertaker; and
- (b) direct that its declaration shall not take effect unless any conditions so specified are accepted.

(6) Where the Authority makes an agreement under paragraph (4)(b) on behalf of a sewerage undertaker, it may do so on such terms as it considers reasonable or, as the case may be, on the terms offered by the undertaker subject to such modifications as the Authority considers appropriate for ensuring that the terms of the agreement are reasonable.

(7) The Authority, in deciding on an appeal under this Article whether any declaration or agreement should be made, shall have regard to all the circumstances of the case and, in particular, to the considerations specified in Article 159(5); and for the purposes of this paragraph, in its application in relation to an appeal under paragraph (2), sub-paragraphs (a) to (e) of Article 159(5) shall have effect with the necessary modifications.

#### Textual Amendments

**F30** Words in art. 162(1) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 7](#)

**F31** Art. 162(2) substituted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), ss. 6\(5\), 8](#)

**F32** Words in art. 162(3) inserted (24.5.2016 with application as mentioned in s. 8(1) of the amending Act) by [Water and Sewerage Services Act \(Northern Ireland\) 2016 \(c. 7\), s. 8, Sch. 2 para. 7](#)

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**Commencement Information**

**I4** Art. 162 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)



**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 293(10A) inserted by [2015 c. 8 \(N.I.\) Sch. 3 para. 2\(b\)](#)