

## CENTRAL MANAGEMENT BRANCH



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**Your reference:** DALO/D31/2015  
**Our reference:**

26 May 2015

Paul Carlisle  
Clerk to the Committee for Regional Development  
Committee Office  
Room 254  
Parliament Buildings  
BELFAST  
BT4 3XX

Dear Paul

### **WATER AND SEWERAGE SERVICES BILL – PRE-INTRODUCTION BRIEFING**

I attach a copy of the Water and Sewerage Services Bill (“the Bill”) and its Explanatory and Financial Memorandum (“EFM”).

The Bill and EFM are provided in confidence and are subject to the Executive’s agreement. I am aware that a meeting is already being arranged at the request of the Chair and Deputy Chair with officials to discuss sustainable drainage systems, however officials would be happy to brief the Committee on the Bill prior to Introduction to the Assembly if this would be helpful.

Please contact me to make the necessary arrangements if the Committee or indeed the Chair and Deputy Chair would wish to receive a briefing.

This letter and associated enclosures are exempt under Section 35 of the FOI Act (formulation of Government policy) until the Executive has considered the draft paper.

Yours sincerely

[SIGNED]

**ALAN DOHERTY**  
**Departmental Assembly Liaison Officer**

# Water and Sewerage Services Bill

[15/5/2015 18:4:55]

## CONTENTS

1. Extension of period for which grants to water and sewerage undertakers can be paid
2. Combining water resources management plans and drought plans
3. Power to remove or relax duty to install water meters when making domestic connections
4. Sustainable drainage systems
5. Refusal of surface water connection
6. Connection of drains and private sewers to public sewers: adoption agreements
7. Interpretation
8. Commencement
9. Short title

## SCHEDULES:

- |            |  |
|------------|--|
| Schedule 1 | Combining water resources management plans and drought plans |
| Schedule 2 | Sustainable drainage systems: further amendments             |



A

## **B I L L**

TO

Amend, and to confer power to amend, the Water and Sewerage Services (Northern Ireland) Order 2006; and for connected purposes.

**B**E 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.

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

(3) For paragraph (4) substitute—

10 “(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**

15 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) repeal Article 81.

(3) In subsection (2)(a) “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 re-enact Article 81 (if it has been repealed).

(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) the Northern Ireland Authority for Utility Regulation;

(c) any water undertaker (within the meaning of the 2006 Order);

(d) the General Consumer Council for Northern Ireland;

(e) such other persons as the Department thinks appropriate.

(8) Regulations under subsection (1) are subject to negative resolution.

**Sustainable drainage systems**

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

(2) After Article 2(3) (interpretation of references to pipes and waste 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—

## *Water and Sewerage Services*

- (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
- 5 (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—
- 10 “(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)—
- (a) omit the “or” at the end of sub-paragraph (a)(ii) and after sub-paragraph (a)(ii) insert—
- 15 “(iia) 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
- 20 (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.”.
- 25 (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.
- 30 (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.

### 35 **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.”.
- 40 (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

## *Water and Sewerage Services*

(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.”.

### **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—

“associated waste water works” are any waste water treatment works—

(i) constructed at the same time as the sewer in question, and

(ii) from which effluent is or is to be discharged, whether directly or indirectly, into that sewer;

## *Water and Sewerage Services*

an “associated sustainable drainage system” is any sustainable drainage system—

- (i) constructed at the same time as the sewer in question, and
- (ii) from which water is or is to be discharged, whether directly or indirectly, into that sewer; and

the “other party to the agreement” is the person mentioned in subparagraph (a) or (b) of Article 161(1).”.

(4) In Article 161 (adoption agreements), at the end insert—

“(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.”.

(5) For Article 162(2) (appeals with respect to adoption) substitute—

“(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).”.

(6) In Article 169 (requirements for construction), at the end insert—

“(8) A requirement imposed under this Article may not be inconsistent with, or more onerous than, standards agreed in an agreement under Article 161.”.

### **Interpretation**

7. In this Act—

“the 2006 Order” means the Water and Sewerage Services (Northern Ireland) Order 2006;

“the Department” means the Department for Regional Development.

### **Commencement**

8.—(1) Sections 4, 5 and 6 come into operation on the day 2 months after this Act receives Royal Assent and apply in relation to sustainable drainage systems, drains or (as the case may be) sewers construction of which is completed on or after that day.

(2) The other provisions of this Act come into operation on the day on which this Act receives Royal Assent.

### **Short title**

9. This Act may be cited as the Water and Sewerage Services Act (Northern Ireland) 2015.



SCHEDULES

SCHEDULE 1

Section 2

COMBINING WATER RESOURCES MANAGEMENT PLANS AND  
DROUGHT PLANS

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1. The 2006 Order is amended as follows.

*Requirement to review and revise plans etc*

2.—(1) In the heading to Article 70, omit “and review”.

10 (2) Paragraphs (5) to (9) of Article 70 are re-numbered as paragraphs (1) to (5) of Article 70A, which is headed “Water resources management plans: review, consultation, etc”.

3.—(1) Article 70A, as so formed, is amended as follows.

(2) In paragraph (1), after “Before each” insert “second”.

(3) In paragraph (2)(a), for “annual” substitute “biennial”.

15 (4) In paragraph (2)(c), for “the period of 5 years” substitute “the maximum period (see paragraph (2A))”.

(5) After paragraph (2) insert—

“(2A) The maximum period mentioned in paragraph (2)(c) is—

(a) 6 years, or

20 (b) such longer period, of not more than 8 years, as the Department may direct in the case of a particular plan (or revised plan).”.

*Supplementary provision about plans*

4. In Article 72 (supplementary)—

(a) in paragraph (1), after “Article 70” insert “, 70A”;

25 (b) in paragraph (3), after “Articles 70”, insert “, 70A”.

*Drought plans*

5.—(1) Article 73 is amended as follows.

(2) In the heading, omit “and review”.

(3) For paragraph (5) substitute—

30 “(5) Articles 70A and 71 (review, revision and publication of water resources management plan), including any power in those Articles to make regulations or give directions, apply in relation to drought plans (including revised plans) as they apply in relation to water resources management plans.”.

35 (4) Omit paragraphs (6) to (8).

(5) In paragraph (9), after “directions given under Article” insert “70A or”.

*Combination of water resources management and drought plans*

6. After Article 73 insert—

**“Combination of water resources management plans and drought plans**

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**73A.**—(1) The water resources management plan prepared by a water undertaker under Article 70 and the drought plan prepared by it under Article 73 may, if the undertaker so decides, be combined in a single plan.

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(2) A single plan under paragraph (1) may be called a “water resource and supply resilience plan”.”.

SCHEDULE 2

Section 4

SUSTAINABLE DRAINAGE SYSTEMS: FURTHER AMENDMENTS

1. The 2006 Order is amended as follows.

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2. After Article 2(3B) (inserted by section 4) insert—

“(3C) In this Order—

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(a) references to a sustainable drainage system include references to a tunnel or conduit which serves or is to serve as the system in question or part of it, and to any machinery or equipment of the system, and

(b) accordingly, references to the construction of a sustainable drainage system include references to the construction of such a tunnel or conduit and to the construction or installation of any such machinery or equipment.”.

25

3. In the italic heading before Article 159, after “sewers” insert “, sustainable drainage systems”.

4.—(1) Article 159 (adoption) is amended as follows.

(2) In the heading, after “sewers” insert “, sustainable drainage systems”.

(3) In paragraph (2)—

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(a) after “lateral drain”, in the first place those words occur, insert “, sustainable drainage system”, and

(b) after “lateral drain”, in the second place those words occur, insert “, system”.

(4) In paragraph (4)(a), after “lateral drain” insert “, system”.

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(5) In paragraph (5)—

(a) in sub-paragraph (a), after “sewer” insert “, system”;

(b) in sub-paragraph (b), for “or lateral drain” substitute “, lateral drain or system”;

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(c) in sub-paragraph (c), for “or lateral drain” substitute “, lateral drain or system”;

(d) in sub-paragraph (d), after “lateral drain” insert “, system”.

(6) In paragraph (6), for “or lateral drain” (in both places) substitute “, lateral drain or system”.

5.—(1) Article 160 (adoption: supplementary) is amended as follows.

(2) In paragraph (1), omit the “or” at the end of sub-paragraph (b) and after that sub-paragraph insert—

“(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”.

(3) In paragraph (3)—

(a) in sub-paragraph (a), for “or a lateral drain” substitute “, a lateral drain or a sustainable drainage system”;

(b) in sub-paragraph (b), after “lateral drain”, in the first place those words occur, insert “, sustainable drainage system”;

(c) in sub-paragraph (b), for “or lateral drain” substitute “, lateral drain or system”;

(d) in the words following sub-paragraph (b), after “or the lateral drain” insert “or the system”.

(4) In paragraph (4)(a), for “or lateral drain” substitute “, lateral drain or sustainable drainage system”.

6.—(1) Article 161 (agreements to adopt) is amended as follows.

(2) In the heading, after “sewer, drain” insert “, sustainable drainage system”.

(3) In paragraph (5), after “lateral drain” insert “, system”.

(4) In paragraph (7)(a) of that Article, after “sewer, drain” insert “, sustainable drainage system”.

7. In Article 162 (appeals with respect to adoption), in paragraphs (1) and (3), after “lateral drain” insert “, sustainable drainage system”.

8.—(1) Article 163 (right to connect to public sewer), as amended by section 5, is further amended as follows.

(2) In paragraph (6), after “a notice under paragraph (4) relates” insert “, or of an associated sustainable drainage system,”.

(3) In paragraph (7)—

(a) after “or drain” insert “, or the system,”;

(b) after “the lateral drain” insert “, or the system,”.

(4) After paragraph (9) insert—

“(10) In this Article an “associated sustainable drainage system” is any sustainable drainage system from which water is or is to be discharged, whether directly or indirectly, into a drain or sewer to which a notice under paragraph (4) relates.”.

9.—(1) Article 168 (restrictions on use of public sewers) is amended as follows.

(2) In paragraph (1)—

(a) after “a public sewer” insert “or into a sustainable drainage system”;

(b) in sub-paragraph (a), after “sewer, drain” (in both places) insert “, system”.

(3) In paragraph (2), after “sewer, drain” insert “, system”.

10.—(1) Article 169 (requirements for construction) is amended as follows.

(2) In the heading, for “or sewer” substitute “, sewer or sustainable drainage system”.

(3) In paragraph (1)—

(a) in sub-paragraph (a), for “or sewer” substitute “, sewer or sustainable drainage system”;

(b) in sub-paragraph (b) and in the words following that sub-paragraph, for “or sewer” substitute “, sewer or system”.

(4) In paragraph (6)(a), for “or sewer” substitute “, sewer or system”.

(5) In paragraph (6)(b)—

(a) after “a public sewer,” insert “, or the system is vested in the undertaker by virtue of a declaration under Article 159,” and

(b) for “or sewer”, in the second place those words occur, substitute “, sewer or system”.

(6) In paragraph (7), for “or sewer” substitute “, sewer or sustainable drainage system”.

11.—(1) Article 171 (power to investigate defective drain or sewer) is amended as follows.

(2) In the heading, for “or sewer” substitute “, sewer or sustainable drainage system”.

(3) In paragraph (1)—

(a) in sub-paragraph (a), after “private sewer so connecting,” insert “or any sustainable drainage system from which water is discharged, whether directly or indirectly, into any such drain or private sewer,”;

(b) in sub-paragraph (b), for “or private sewer” substitute “, private sewer or system”;

(c) in the words following sub-paragraph (b), for “or sewer” substitute “, sewer or system”.

(4) In paragraph (2), for “or sewer” substitute “, sewer or system”.

12.—(1) Article 174 (interpretation of Chapter 2 of Part 6) is amended as follows.

(2) In paragraph (2)—

(a) after “of a sewer” insert “, of a sustainable drainage system”, and

(b) after “existing sewer” insert “, system”.

(3) In paragraph (4), after “drain or outfall” insert “, or any sustainable drainage system”.

13.—(1) Article 236 (offences of interference with works etc) is amended as follows.

(2) After paragraph (6) insert—

“(6A) In paragraph (6) the references to a sewer include any sustainable drainage system—

- (a) which receives water directly from a sewer, or
- (b) from which water is discharged directly into a sewer.”.

5 (3) In paragraph (9)—

- (a) after “a pipe” insert “or sustainable drainage system”;
- (b) after “the pipe” insert “or system”.

14.—(1) Article 241 (vesting of works in undertaker) is amended as follows.

(2) In paragraph (1)—

- 10 (a) in the opening words, after “the pipe” insert “, system”;
- (b) in sub-paragraph (b), after “every” insert “sustainable drainage system,”;
- (c) in the words following sub-paragraph (b), after “constructed” insert “it or”.

(3) In paragraph (2)(b), after “lateral drain” insert “, sustainable drainage system”.

15 15.—(1) Article 247 (duty to move pipes etc in certain cases) is amended as follows.

(2) In paragraph (1)—

- (a) after “any relevant pipe” insert “, sustainable drainage system”;
- (b) after “that pipe” (in both places) insert “, system”.

20 (3) In paragraph (3), after “any pipe” insert “, system”.

# **WATER AND SEWERAGE SERVICES BILL**

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## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial memorandum has been prepared by the Department for Regional Development (“the Department”) in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. The Department is responsible for setting the policy for the delivery of water and sewerage services in Northern Ireland by the sole licensed water and sewerage undertaker, Northern Ireland Water (“NI Water”). The Bill extends existing arrangements to allow the Department to pay subsidy to NI Water in view of the Executive’s commitment not to apply household charges to domestic customers during the current Assembly mandate. It also gives the Department the power to make subordinate legislation to extend the period for which subsidy is paid in the future if necessary.
4. The Bill also introduces measures to streamline current obligations on NI Water to produce Water Resources Management Plans and Drought Plans.
5. The Bill gives the Department power to remove the requirement on NI Water to install meters at domestic properties connecting for the first time to the public water supply.
6. The Bill seeks to promote more sustainable means of managing surface water and reduce the volume of surface water being carried and treated by NI Water’s sewerage system.
7. Following recommendations made by the Committee for Regional Development in its Inquiry into Unadopted Roads in 2012, the Bill includes powers to require new sewerage, which will be connected to the public sewerage network, to be constructed to standards which NI Water can then adopt (that is, take responsibility for) in order to protect householders.
8. The measures proposed in the Bill support the aims of the Executive’s draft Long Term Water Strategy (2014-39), which seeks to deliver a sustainable water sector in Northern Ireland.

## **CONSULTATION**

9. The Department undertook a 12-week public consultation on the policy proposals being considered for inclusion in the Bill from June to August 2014. In total 61 consultation responses were received: 59 from organisations, companies, and individuals, and two from internal stakeholders. The Department also held a series of meetings with representatives of the construction industry, which had concerns about the impact of private sewerage and surface water proposals, in August and September 2014 and briefed the Committee for Regional Development on the proposals and, subsequently, the consultation outcome. All views were considered when formulating the final policy proposals, prior to obtaining the agreement of the Minister for Regional Development and the Executive and publishing the final consultation report.

## **OPTIONS CONSIDERED**

10. The Department initially considered three options for primary legislation: (1) progressing the critical policy only, that is, taking a power to extend the facility to pay subsidy to NI Water; (2) extending the subsidy-paying powers and introducing new governance arrangements (to consolidate requirements on NI Water to produce various plans and to require the Northern Ireland Authority for Utility Regulation (“the Regulator”) to abide by Ministerial strategic directions when carrying out its duties to regulate NI Water); and (3), extending the subsidy-paying power, introducing the new governance arrangements identified at (2) and progressing environmental measures to (i) require the construction of private sewerage infrastructure to standards capable of adoption by NI Water, (ii) reduce surface water connections to the existing, largely combined, foul and surface water public sewerage system and promote the use of sustainable drainage systems, and (iii) introduce measures to address water quality and leakage issues from customers’ private water supply pipes.
11. The Minister asked officials to proceed with option (3) and, following consultation and the refinement of the policy proposals, the departmental Committee, Minister and Executive agreed that a Bill should be drafted to extend the subsidy-paying powers, consolidate requirements on NI Water to produce various plans, require private sewerage to be constructed to adoptable standards, reverse the current presumption in favour of allowing surface water sewer connections, promote sustainable drainage solutions and take powers to address leakage and water quality issues from private supply pipes, and to include an additional power to cease the requirement on NI Water to install water meters at domestic properties connecting for the first time to the public supply. Ultimately given the time pressures, it was not possible to progress all aspects and private supply pipe proposals and broad enabling powers in respect of sustainable drainage have not been included in the final Bill. Measures have, however, been included which promote the use of some sustainable drainage systems and their adoption. The Department will work with stakeholders to consider the policy implications and to identify options for further progress towards sustainable drainage.

## **COMMENTARY ON CLAUSES**

**Clause 1: Extension of period for which grants to water and sewerage undertakers can be paid**

Clause 1 amends Article 213 (grants by the Department to relevant undertakers) of the Water and Sewerage Services (Northern Ireland) Order 2006 (“the 2006 Order”) to allow the Department to continue to pay subsidy to NI Water on behalf of domestic customers up to 31 March 2017. This aligns with the Executive’s commitment not to introduce household charges during the current mandate. The clause also enables the 2006 Order to be further amended by order, with the approval of the Assembly, so that the subsidy can be paid until such other date as the Department decides.

**Clause 2: Combining water resources management plans and drought plans**

Clause 2 gives effect to Schedule 1 of the Bill. The Schedule aligns the existing requirements on NI Water to prepare, review and revise water resources management plans and drought plans under Articles 70 to 73 of the 2006 Order so that NI Water may prepare a single plan instead of two, which may be known as a water resource and supply resilience plan. If made, the single plan shall be reviewed every two years and revised at least every six years, unless the Department permits a longer period of up to eight years.

**Clause 3: Cessation or relaxation of duty to install water meters when making domestic connections**

Clause 3 enables the Department to make regulations to remove or amend the requirement within Article 81 of the 2006 Order (conditions of connection concerning metering) for NI Water to install water meters at domestic properties connecting for the first time to the public water supply. It also allows the requirement to be reinstated or any amendments to it to be reversed. It provides that the Department must consult certain stakeholders before making the regulations, and requires the regulations to be subject to negative resolution.

**Clause 4: Sustainable drainage systems**

Clause 4 amends Article 2 (interpretation), Article 159 (adoption of sewers and waste water treatment works) and Article 161 (agreements to adopt sewer, drain or waste water treatment works at a future date) of the 2006 Order. The clause defines “sustainable drainage system” for the purposes of the Order and extends NI Water’s power to adopt infrastructure, and to enter into agreements about adoption, so as to include such systems. It also confers a power for NI Water to require the construction of sustainable drainage systems as a condition of agreeing to adopt a drain or sewer. Clause 4 also applies Schedule 2 of the Bill, which sets out other necessary amendments to the Order to take account of the inclusion of sustainable drainage systems within Articles 159 and 161. Finally, the clause confers a power to make other consequential amendments. This may be needed to make other necessary amendments in other legislation.

**Clause 5: Refusal of surface water connection**

Clause 5 introduces new restrictions to the right to connect surface water sewers to the public sewer network. At present NI Water has power under Article 163 of the 2006 Order to refuse to allow a surface water connection on the grounds of unsatisfactory construction of the drain or sewer proposed for connection or that making the connection would be prejudicial to the existing public sewerage system. The clause extends this power so as to enable NI Water to



take account of any upstream sustainable drainage system which is connected to the drain or sewer which it is proposed to connect to the public sewer. Clause 5 also sets out a further ground for refusal, on the basis that there is a suitable alternative means of dealing with the surface water or that such a means could reasonably be provided.

### **Clause 6: Connection of drains and private sewers to public sewers: adoption agreements**

Clause 6 limits the right, conferred by Article 163 of the 2006 Order, to connect to a sewer. The clause introduces a requirement to enter into a sewer adoption agreement within the meaning of Article 161 of the 2006 Order (agreements to adopt sewer, drain or waste water treatment works at future date) as a condition of that right. This is in order to enable NI Water (i) to set the standards to which the private sewerage, including any necessary sustainable drainage system, must be constructed and (ii) to require an appropriate security (such as a bond). Provided the agreed construction standards are met, connection may not then be refused by NI Water. A mechanism for appeals to the Regulator about any issue regarding the sewer adoption agreement is also included.

## **FINANCIAL EFFECTS OF THE BILL**

12. The Department may incur additional administrative costs in terms of staff resources as a result of exercising the subordinate legislation-making powers within the Bill. The extension of the subsidy-paying power to NI Water on behalf of domestic customers will represent an ongoing cost of approximately £280M for the additional year.

## **HUMAN RIGHTS ISSUES**

13. The proposals are not considered to raise any issues in terms of human rights impact.

## **EQUALITY IMPACT ASSESSMENT**

14. Equality issues have been considered and the legislative proposals screened out for equality impact assessment.

## **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

15. A summary of the regulatory impact of the Bill was included with each of the policy proposals consulted on, except for the amendment to Article 81 (conditions of connection concerning metering). It is anticipated that removing the requirement on NI Water to install meters at domestic properties making first-time connections to the public water supply would represent a saving to the company in excess of £135,000 annually.
16. Consolidated requirements to prepare water resources and supply resilience plans are anticipated to represent savings to NI Water as set out in the summary regulatory impact assessment. The assessment also anticipated that some additional costs could fall to the construction industry in terms of standards of construction of private

*This Memorandum refers to the Water and Sewerage Services Bill as introduced in the Northern Ireland Assembly on [Bill Office will insert date], (Bill [Bill Office will insert No.] 2000)*

sewerage connecting to the public sewerage system and the requirement to enter into bonds. Whilst some types of sustainable drainage systems may cost less than traditional piped methods, indications are that some engineered solutions may prove more costly.

## **LEGISLATIVE COMPETENCE**

17. The Minister for Regional Development has made the following statement under section 9 of the Northern Ireland Act 1998:

*“In my view the Water and Sewerage Services Bill would be within the legislative competence of the Northern Ireland Assembly.”*