
DRAFT STATUTORY INSTRUMENTS

2006 No.

The Water and Sewerage Services
(Northern Ireland) Order 2006

PART VIII

UNDERTAKERS' POWERS AND WORKS

Chapter ii

Protection of Undertakers' Works, Apparatus, etc.

Protection of apparatus in general

Offences of interference with works, etc.

236.—(1) Subject to paragraphs (3) and (4), if any person without the consent of the water undertaker—

- (a) intentionally or recklessly interferes with—
 - (i) any resource main, water main or other pipe vested in any water undertaker; or
 - (ii) any structure, installation or apparatus belonging to any water undertaker; or
- (b) by any act or omission negligently interferes with any such main or other pipe or with any such structure, installation or apparatus so as to damage it or so as to have an effect on its use or operation,

that person shall be guilty of an offence.

(2) Subject to paragraph (3), if any person without the consent of the sewerage undertaker—

- (a) intentionally or recklessly interferes with—
 - (i) any sewer, lateral drain or other pipe vested in any sewerage undertaker; or
 - (ii) any structure, installation or apparatus belonging to any sewerage undertaker; or
- (b) by any act or omission negligently interferes with any such sewer, lateral drain or other pipe or with any such structure, installation or apparatus so as to damage it or so as to have an effect on its use or operation,

that person shall be guilty of an offence.

(3) A person shall not be guilty of an offence under paragraph (1) or (2) by reason of anything done in an emergency to prevent loss or damage to persons or property.

(4) A person shall not be guilty of an offence under paragraph (1) by reason of his opening or closing the stopcock fitted to a service pipe by means of which water is supplied to any premises by a water undertaker if—

- (a) he has obtained the consent of every consumer whose supply is affected by the opening or closing of that stopcock or, as the case may be, of every other consumer whose supply is so affected; and

(b) in the case of opening a stopcock, the stopcock was closed otherwise than by the undertaker.

(5) Any person who, without the consent of the water undertaker—

(a) attaches any pipe or apparatus—

(i) to any resource main, water main or other pipe vested in a water undertaker; or

(ii) to any service pipe which does not belong to such an undertaker but which is a pipe by means of which water is supplied by such an undertaker to any premises;

(b) makes any alteration in a service pipe by means of which water is so supplied, or in any apparatus attached to any such pipe; or

(c) subject to paragraph (7), uses any pipe or apparatus which has been attached or altered in contravention of this Article,

shall be guilty of an offence.

(6) Any person who, without the consent of the sewerage undertaker—

(a) attaches any pipe or apparatus to any sewer, lateral drain or other pipe vested in a sewerage undertaker; or

(b) makes any alteration in a sewer, lateral drain or other pipe vested in the undertaker, or in any apparatus attached to any such sewer lateral drain or other pipe; or

(c) subject to paragraph (7), uses any pipe or apparatus which has been attached or altered in contravention of this Article,

shall be guilty of an offence.

(7) In proceedings against any person for an offence by virtue of paragraph (5)(c) or (6)(c) it shall be a defence for that person to show that he did not know, and had no grounds for suspecting, that the pipe or apparatus in question had been attached or altered as mentioned in the paragraph in question.

(8) Any person who intentionally, recklessly or negligently damages or permits to be damaged any water fitting belonging to a relevant undertaker shall be guilty of an offence.

(9) Any person who, without the consent of a relevant undertaker, causes any building to be erected over or in the vicinity of a pipe vested in that undertaker so as to have an effect on the use or operation of the pipe shall be guilty of an offence.

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

(11) An offence under this Article shall constitute a breach of a duty owed to the relevant undertaker in question; and any such breach of duty which causes the undertaker to sustain loss or damage shall be actionable at the suit of the undertaker.

(12) The amount recoverable by virtue of paragraph (11) from a person who has committed an offence under paragraph (5) shall include such amount as may be reasonable in respect of any water wasted, misused or improperly consumed in consequence of the commission of the offence.

(13) A relevant undertaker may—

(a) do all such work as is necessary for repairing any damage done in contravention of paragraph (1), (2) or (9); and

(b) recover the expenses reasonably incurred by the undertaker in doing so from the offender summarily as a civil debt.

(14) In this Article “consumer” and “water fitting” have the same meanings as in Part IV; and in paragraphs (1) and (2) the references to apparatus include water fittings but do not include references to any meter which is used by a water undertaker or, as the case may be, a sewerage undertaker for

the purpose of determining the amount of any charges which have been fixed by that undertaker by reference to volume.