



# New Roads and Street Works Act 1991

## 1991 CHAPTER 22

### PART IV

#### ROAD WORKS IN SCOTLAND

##### *Duties and liabilities of undertakers with respect to apparatus*

#### **141 Liability for damage or loss caused.**

- (1) An undertaker shall compensate—
  - (a) the road works authority or any other relevant authority in respect of any damage or loss suffered by the authority in their capacity as such, and
  - (b) any other person having apparatus in the road in respect of any expense reasonably incurred in making good damage to that apparatus,as a result of the execution by the undertaker of road works or any event of a kind mentioned in subsection (2) below.
- (2) The events referred to in subsection (1) are any explosion, ignition, discharge or other event occurring to gas, electricity, water or other thing required for the purposes of a supply or service afforded by an undertaker which—
  - (a) at the time of or immediately before the event in question was in apparatus of the undertaker in the road, or
  - (b) had been in such apparatus before that event and had escaped therefrom in circumstances which contributed to its occurrence.
- (3) The liability of an undertaker under this section arises—
  - (a) whether or not the damage or loss is attributable to negligence on his part or on the part of any person for whom he is responsible, and
  - (b) notwithstanding that he is acting in pursuance of a statutory duty.
- (4) However, his liability under this section does not extend to damage or loss which is attributable to misconduct or negligence on the part of—

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- (a) the person suffering the damage or loss, or any person for whom he is responsible, or
  - (b) a third party, that is, a person for whom neither the undertaker nor the person suffering the damage or loss is responsible.
- (5) For the purposes of this section the persons for whom a person is responsible are his contractors and any person in his employ or that of his contractors.
- (6) Nothing in this section shall be taken as exonerating an undertaker from any liability to which he would otherwise be subject.

**Modifications etc. (not altering text)**

- C1** S. 141 modified (1. 1. 1993) by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 167\(7\)](#) (as substituted (1.1.1993) by [New Roads and Street Works Act 1991 \(c. 22\), s. 168\(1\), Sch. 8 Pt. IV para. 109](#); S.I. 1992/2990, art. 2(2), [Sch.2](#))

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