



Water Industry Act 1991

1991 CHAPTER 56

PART VI

UNDERTAKERS' POWERS AND WORKS

CHAPTER II

PROTECTION OF UNDERTAKERS' WORKS, APPARATUS ETC.

Protection of apparatus in general

174 Offences of interference with works etc.

(1) Subject to subsection (2) below, if any person without the consent of the water undertaker—

- (a) intentionally or recklessly interferes with any resource main, water main or other pipe vested in any water undertaker or with 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 and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

[^{F1}(1A) Subject to subsection (2) below, if any person without the consent of the licensed water supplier—

- (a) intentionally or recklessly interferes with any pipe or any structure, installation or apparatus which—
 - (i) is vested in any licensed water supplier (in the case of a pipe) or belongs to any such supplier (in any other case); and
 - (ii) is used in connection with the carrying on by the supplier of the activities authorised by its licence; or

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- (b) by any act or omission negligently interferes with any such 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 and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.]

- (2) A person shall not be guilty of an offence under subsection (1) [^{F2}or (1A)] above—
- (a) by reason of anything done in an emergency to prevent loss or damage to persons or property; or
- (b) 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 [^{F3}or licensed water supplier] if—
- (i) 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
- (ii) in the case of opening a stopcock, [^{F4}subsection (2A) below applies] .

[^{F5}(2A) This subsection applies—

- (a) in the case of a stopcock belonging to a water undertaker, if the stopcock was closed otherwise than by the undertaker;
- (b) in the case of a stopcock belonging to a licensed water supplier—
- (i) if the stopcock was closed otherwise than by the supplier; or
- (ii) if the stopcock was closed by the supplier and the person in question for the purposes of subsection (2) above is the water undertaker whose supply system is used for the purpose of the supply made by the supplier,

and in this subsection the reference to the supply system of a water undertaker shall be construed in accordance with section 17B(5) above.]

- (3) 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 subsection (4) below, uses any pipe or apparatus which has been attached or altered in contravention of this [^{F6}subsection] ,

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

[^{F7}(3A) Any person who, without the consent of the licensed water supplier—

- (a) attaches any pipe or apparatus to any pipe which is—
- (i) vested in a licensed water supplier; and
- (ii) used in connection with the carrying on by the supplier of the activities authorised by its licence;

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- (b) attaches any pipe or apparatus to any service pipe which does not belong to such a supplier or a water undertaker but which is a pipe by means of which water is supplied by such a supplier to any premises;
- (c) 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
- (d) subject to subsection (4) below, uses any pipe or apparatus which has been attached or altered in contravention of this subsection,

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

- (4) In proceedings against any person for an offence by virtue of paragraph (c) of subsection (3) above [^{F8}or paragraph (d) of subsection (3A) above] 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 [^{F9}subsection (3) or (3A) above (as the case may require)] .

- (5) If any person wilfully or negligently injures or suffers to be injured any water fitting belonging to a water undertaker, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

[^{F10}(5A) If any person wilfully or negligently injures or suffers to be injured any water fitting which—

- (a) belongs to a licensed water supplier; and
- (b) is used in connection with the carrying on by the supplier of the activities authorised by its licence,

he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.]

- (6) An offence under subsection (1) or (3) above shall constitute a breach of a duty owed to the water 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.

- (7) The amount recoverable by virtue of subsection (6) above from a person who has committed an offence under subsection (3) above 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.

(8) A water undertaker may—

- (a) do all such work as is necessary for repairing any injury done in contravention of subsection (5) above; and
- (b) recover the expenses reasonably incurred by the undertaker in doing so from the offender summarily as a civil debt.

[^{F11}(8A) In this section “consumer”—

- (a) in relation to a supply of water provided by a water undertaker to any premises, means a person who is for the time being the person on whom liability to pay charges to the undertaker in respect of that supply of water would fall;
- (b) in relation to a supply of water provided by a licensed water supplier to any premises, means a person who is for the time being the person on whom liability to pay charges to the supplier in respect of that supply of water would fall.]

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- (9) In this section [F12“water fitting” has the same meaning] as in Part III of this Act; and in subsection (1) above the references to apparatus belonging to a water undertaker do not include references to any meter which belongs to such an undertaker and is used by it for the purpose of determining the amount of any charges which have been fixed by the undertaker by reference to volume.

Textual Amendments

- F1** S. 174(1A) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(2\)](#); S.I. 2005/2714, [art. 3\(c\)](#) (with [Sch. para. 8](#))
- F2** Words in s. 174(2) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(3\)\(a\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))
- F3** Words in s. 174(2)(b) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(3\)\(b\)\(i\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))
- F4** Words in s. 174(2)(b)(ii) substituted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(3\)\(b\)\(ii\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))
- F5** S. 174(2A) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(4\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))
- F6** Words in s. 174(3)(c) substituted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(5\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))
- F7** S. 174(3A) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(6\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))
- F8** Words in s. 174(4) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(7\)\(a\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))
- F9** Words in s. 174(4) substituted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(7\)\(b\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))
- F10** S. 174(5A) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(8\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))
- F11** S. 174(8A) inserted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(9\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))
- F12** Words in s. 174(9) substituted (1.12.2005) by [Water Act 2003 \(c. 37\)](#), ss. 101(1), 105(3), [Sch. 8 para. 39\(10\)](#); S.I. 2005/2714, [art. 3\(b\)](#) (with [Sch. para. 8](#))

Protection of meters

175 Offence of tampering with meter.

- (1) If any person—
- (a) so interferes with a meter used by any relevant undertaker [F13or licensed water supplier] in determining the amount of any charges fixed in relation to any premises as intentionally or recklessly to prevent the meter from showing, or from accurately showing, the volume of water supplied to, or of effluent discharged from, those premises; or
 - (b) carries out any works which he knows are likely to affect the operation of such a meter or which require the disconnection of such a meter,
- he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (2) A person shall not be guilty of an offence under this section in respect of anything done by him with the [F14appropriate consent].

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- [^{F15}(3) In subsection (2) above, the “appropriate consent” means—
- (a) if the meter is used by one relevant undertaker, the consent of that undertaker;
 - (b) if the meter is used by one licensed water supplier, the consent of that supplier;
 - (c) if the meter is used by two or more of the following persons—
 - (i) a relevant undertaker;
 - (ii) a licensed water supplier,
 the consent of each of those persons.
- (4) In subsection (3) above, references to the consent of a relevant undertaker are references to consent under section 176 below.]

Textual Amendments

- F13** Words in s. 175(1)(a) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 40(2)**; S.I. 2005/2714, **art. 3(b)** (with Sch. para. 8)
- F14** Words in s. 175(2) substituted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 40(3)**; S.I. 2005/2714, **art. 3(b)** (with Sch. para. 8)
- F15** S. 175(3)(4) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 40(4)**; S.I. 2005/2714, **art. 3(b)** (with Sch. para. 8)

176 Consent for the purposes of section 175.

- (1) Where an application is made to any relevant undertaker for a consent for the purposes of section 175 above, the undertaker—
 - (a) shall give notice of its decision with respect to the application as soon as reasonably practicable after receiving it; and
 - (b) subject to subsection (2) below, may make it a condition of giving any consent that the undertaker itself should carry out so much of any works to which the application relates as is specified in the notice of its decision.
- (2) On such an application a relevant undertaker shall not refuse its consent, or impose any such condition as is mentioned in subsection (1)(b) above, unless it is reasonable to do so.
- (3) Where any relevant undertaker has given a notice to any person imposing any such condition as is mentioned in subsection (1)(b) above, the undertaker—
 - (a) shall carry out those works as soon as reasonably practicable after giving the notice; and
 - (b) may recover from that person any expenses reasonably incurred by it in doing so.
- (4) Any dispute between a relevant undertaker and any other person (including another such undertaker)—
 - (a) as to whether the undertaker or that other person should bear any expenses under subsection (3) above; or
 - (b) as to the amount of any expenses to be borne by any person under that subsection,

shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the Director.

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- (5) Subsection (3) above shall not apply where the person who was given the notice notifies the undertaker that the carrying out of the works to which the condition relates is no longer required.

177 Financial obligations with respect to any interference with a meter.

- (1) A relevant undertaker which carries out any works made necessary by the commission of an offence under section 175 above shall be entitled to recover any expenses reasonably incurred in carrying out those works from the person who committed the offence.
- (2) Any person who sustains any loss or damage in consequence of any failure by any relevant undertaker—
- (a) to comply with any obligation imposed on it by section 176 above; or
 - (b) to exercise reasonable care in the performance of the duty imposed by subsection (3)(a) of that section,
- shall be entitled to recover compensation from the undertaker.
- (3) Any dispute between a relevant undertaker and any other person (including another such undertaker)—
- (a) as to whether the undertaker or that other person should bear any expenses under this section;
 - (b) as to whether the undertaker should pay any compensation under this section; or
 - (c) as to the amount of any expenses to be borne by any person under this section or as to the amount of any such compensation,
- shall be referred to the arbitration of a single arbitrator appointed by agreement between the undertaker and that person or, in default of agreement, by the Director.

Obstruction of sewerage works etc.

178 Obstruction of sewerage works etc.

- (1) A person who wilfully obstructs any person acting in the execution of any of the relevant sewerage provisions shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.
- (2) If on a complaint made by the owner of any premises, it appears to a magistrates' court that the occupier of those premises is preventing the owner of those premises from carrying out any work which he is required to carry out by or under any of the relevant sewerage provisions, the court may order the occupier to permit the carrying out of the work.
- (3) Sections 300 to 302 of the Public Health Act 1936 (which relate to the determination of questions by courts of summary jurisdiction and to appeals against such determinations) shall apply for the purposes of and in relation to the determination under subsection (2) above of any matter by a magistrates' court—
- (a) as they apply for the purposes of or in relation to a determination by such a court under that Act; and
 - (b) in the case of section 302, as if the reference to a decision of a local authority included a reference to a decision of a sewerage undertaker.

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