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STATUTORY INSTRUMENTS

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**2006 No. 3336**

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—

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- (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.
- [<sup>F1</sup>(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.]

(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 [<sup>F2</sup>or sustainable drainage system] vested in that undertaker so as to have an effect on the use or operation of the pipe [<sup>F3</sup>or system] 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—

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- (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.

#### Textual Amendments

- F1** Art. 236(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 \(c. 7\)](#), s. 8, **Sch. 2 para. 13(2)**
- F2** Words in art. 236(9) 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. 13(3)(a)**
- F3** Words in art. 236(9) 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. 13(3)(b)**

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

- C1** Art. 236(2) modified by [Waste and Contaminated Land \(Northern Ireland\) Order 1997 \(S.I. 1997/2778 \(N.I. 19\)\)](#), art. 46(2) (as substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#)), arts. 1(2), 308(1), **Sch. 12 para. 39(3)** (with arts. 8(8), 121(3), 307)); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)
- C2** Art. 236(3) modified by [Waste and Contaminated Land \(Northern Ireland\) Order 1997 \(S.I. 1997/2778 \(N.I. 19\)\)](#), art. 46(2) (as substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#)), arts. 1(2), 308(1), **Sch. 12 para. 39(3)** (with arts. 8(8), 121(3), 307)); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)
- C3** Art. 236(10) modified by [Waste and Contaminated Land \(Northern Ireland\) Order 1997 \(S.I. 1997/2778 \(N.I. 19\)\)](#), art. 46(2) (as substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#)), arts. 1(2), 308(1), **Sch. 12 para. 39(3)** (with arts. 8(8), 121(3), 307)); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)
- C4** Art. 236(13) modified by [Waste and Contaminated Land \(Northern Ireland\) Order 1997 \(S.I. 1997/2778 \(N.I. 19\)\)](#), art. 46(2) (as substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#)), arts. 1(2), 308(1), **Sch. 12 para. 39(3)** (with arts. 8(8), 121(3), 307)); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

#### Commencement Information

- II** Art. 236 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)

### *Protection of meters*

#### Offence of tampering with a meter

237.—(1) If any person—

- (a) so interferes with a meter used by any relevant undertaker 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

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- (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 Article in respect of anything done by him with the consent under Article 238 of the relevant undertaker which uses the meter or (if the meter is used by more than one relevant undertaker) each of those undertakers.

#### Commencement Information

**I2** [Art. 237](#) 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](#))

#### Consent for the purposes of Article 237

**238.**—(1) Where an application is made to any relevant undertaker for a consent for the purposes of Article 237, 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 paragraph (2), 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 paragraph (1)(b), 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 paragraph (1)(b), 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 paragraph (3); or
- (b) as to the amount of any expenses to be borne by any person under that paragraph,

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 Authority.

(5) Paragraph (3) 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.

#### Commencement Information

**I3** [Art. 238](#) 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](#))

### Financial obligations with respect to any interference with a meter

**239.**—(1) A relevant undertaker which carries out any works made necessary by the commission of an offence under Article 237 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 Article 238; or
- (b) to exercise reasonable care in the performance of the duty imposed by paragraph (3)(a) of that Article,

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 Article;
- (b) as to whether the undertaker should pay any compensation under this Article; or
- (c) as to the amount of any expenses to be borne by any person under this Article 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 Authority.

#### Commencement Information

- I4** [Art. 239](#) 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](#))

### Obstruction of works, etc.

**240.**—(1) A person who intentionally obstructs any person acting in the execution of—

- (a) any provision of Chapter II or III of Part IV or Article 225, 228, 230, 231 or 250; or
- (b) any of the relevant sewerage provisions,

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

(2) If on an application made by the owner of any premises, it appears to the county court that the occupier of those premises is preventing the owner from carrying out any work which he is required or authorised to carry out under any of the provisions mentioned in paragraph (1)(a) or (b), the court may authorise the owner to enter the premises and execute the work.

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

- C5** [Art. 240](#) applied (with modifications) by [Waste and Contaminated Land \(Northern Ireland\) Order 1997 \(S.I. 1997/2778 \(N.I. 19\)\)](#), [art. 20\(6\)](#) (as substituted (1.4.2007) by [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#)), [arts. 1\(2\)](#), [308\(1\)](#), [Sch. 12 para. 39\(1\)](#) (with [arts. 8\(8\)](#), [121\(3\)](#), [307](#)); [S.R. 2007/194](#), [art. 2\(2\)](#), [Sch. 1 Pt. II](#) (subject to [art. 3](#), [Sch. 2](#))

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**Commencement Information**

**I5** [Art. 240](#) 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](#))

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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\(b\)](#)