

SCHEDULES

SCHEDULE 3

Amendments

The Gas (Northern Ireland) Order 1977 (NI 7)

5. After Article 13, insert—

“Works under Article 13

13A.—(1) Before commencing to open or break up any relevant land by virtue of paragraph 1 of Schedule 1 as applied by Article 13(10), undertakers shall serve notice of not less than seven days on the owner and occupier of the land.

(2) Subject to paragraph (3), land shall not be opened or broken up except—

(a) under the superintendence of the owner and occupier of the land; and

(b) in accordance with a plan—

(i) approved by the owner and occupier of the land, or

(ii) where any question respecting the plan has arisen and has not been agreed, determined by arbitration,

and the arbitrator may, on the application of the owner or occupier of the land, require the undertakers to make such temporary or other works as the arbitrator thinks necessary for guarding against any interruption of the drainage during the execution of any works which interfere with a sewer or drain.

(3) If the owner or occupier of the land—

(a) fails to attend at the time fixed for the opening of the land, after service of the notice as mentioned in paragraph (1); or

(b) fails to approve the plan; or

(c) refuses or neglects to superintend the operation,

the undertakers may carry out the work specified in the notice without the superintendence of that person.

(4) When undertakers open or break up any relevant land, they shall with all convenient speed—

(a) complete the work;

(b) fill in the ground;

(c) reinstate or make good the land to the reasonable satisfaction of the owner and occupier of the land, and

(d) carry away the rubbish occasioned thereby;

and shall at all times, whilst any land is opened or broken up—

(i) cause it to be fenced or guarded; and

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- (ii) keep it in good repair for three months after replacing or making it good, and for such further time (if any) not being more than twelve months altogether, as the soil broken up continues to subside.
- (5) If undertakers—
- (a) except in cases in which they are authorised to open or break up any relevant land without any superintendence or notice, perform any such work—
 - (i) without serving the notice required by paragraph (1); or
 - (ii) without the superintendence required by paragraph (2); or
 - (iii) otherwise than in accordance with a plan approved or determined under paragraph (2); or
 - (b) fail to comply with any other requirement imposed by or under this Article in connection with the opening or breaking up of any relevant land;

they shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale and to a further fine not exceeding one-tenth of level 2 on the standard scale for every day during which the act constituting the offence continues after the service of notice on the undertakers that it is being committed.

(6) If undertakers delay or fail to carry out any work as mentioned in paragraph (4), the owner or occupier of the land may carry out that work, and any expense incurred in so doing shall be a debt recoverable summarily by the owner or occupier from the undertakers.

(7) In this Article “arbitrator” means an arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers.”.