



# Water Act 1945

## 1945 CHAPTER 42

### PART I

#### CENTRAL AND LOCAL PLANNING.

#### **1 Duty of Minister in relation to water.**

It shall be the duty of the Minister of Health (hereafter in this Act referred to as " the Minister "), to promote the conservation and proper use of water resources and the provision of water supplies in England and Wales and to secure the effective execution by water undertakers, under his control and direction, of a national policy relating to water.

#### **2 Central Advisory Water Committee.**

- (1) The Minister shall appoint a committee, to be called the Central Advisory Water Committee, for the purpose of—
  - (a) advising him or any other Minister concerned upon matters connected with the conservation and use of water resources;
  - (b) advising any Minister concerned with the administration of enactments which relate to or in any way affect the conservation or use of water resources or the provision of water supplies, upon any question that may be referred by him to the Committee in connection with the operation, or proposed amendment of, the said enactments;
  - (c) considering the operation of any such enactments, and making to the Minister concerned such representations with respect to matters of general concern arising in connection with the operation of those enactments, and such recommendations for their extension or modification, as the Committee think fit.
- (2) The Minister may by order make provision with respect to the constitution and procedure of the Committee.

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- (3) The Minister may pay such expenses of the Committee as he may, with the approval of the Treasury, determine.

### **3 Joint Advisory Water Committees.**

- (1) If, with respect to any area in England and Wales, the Minister is satisfied that the provision of water supplies for that area or the conservation of water resources for the purpose of such provision may be thereby more effectively secured, he may by order constitute for that area a committee, to be known as a Joint Advisory Water Committee, which shall consist of—
- (a) a chairman appointed by the Minister;
  - (b) members appointed by statutory water undertakers whose limits of supply are comprised wholly or partly in the area of the Committee or who supply water in bulk for distribution in any part of that area;
  - (c) members appointed by local authorities whose counties or districts are comprised wholly or partly in the area of the Committee, not being such statutory water undertakers as aforesaid.
- (2) Any such order may make further provision as to the constitution of the Committee, the term of office of the members thereof, the method of appointment of members by the statutory water undertakers and local authorities aforesaid and as to the procedure of the Committee.
- (3) Any such order may apply to a Joint Advisory Water Committee, subject to any necessary modifications, any of the provisions of the Local Government Act, 1933, other than the provisions of that Act enabling land to be acquired compulsorily, and may contain such incidental, consequential and supplementary provisions as the Minister considers necessary or expedient.
- (4) The expenses of a Joint Advisory Water Committee shall be defrayed by the councils of counties and county boroughs comprised wholly or partly in the area of the Committee in such proportions as they may agree upon or, in the case of disagreement, as may be determined by the Minister.
- (5) Before making any such order, the Minister shall consult the statutory water undertakers and local authorities concerned.

### **4 Duties of Joint Advisory Water Committees.**

- (1) An order made under the last foregoing section may prescribe the duties of Joint Advisory Water Committees and, without prejudice to the generality of the foregoing provision, those duties may include the duties of—
- (a) carrying out a survey of the existing consumption of and demand for water supplies in their area and of the water resources in or available for their area;
  - (b) preparing an estimate of the future water supply requirements of their area;
  - (c) formulating proposals for meeting the existing or future water supply requirements of their area including proposals for the joint use by two or more water undertakers of any existing or proposed new source of water supply;
  - (d) advising statutory water undertakers and local authorities represented on the Committee in the preparation and co-ordination of schemes relating to water supply;

- (e) furnishing the Minister and the said statutory water undertakers and local authorities with such information relating to water supplies in their area or water resources in or available for their area as they may reasonably be required to furnish.
- (2) Where any of the duties referred to in paragraphs (a) (b) and (c) of the last foregoing subsection have been imposed upon any Joint Advisory Water Committee, the Minister may from time to time require that Committee to submit a report thereon to him within such time as he may specify.
- (3) A Joint Advisory Water Committee may require statutory water undertakers and local authorities represented on the Committee to furnish information relating to their existing or proposed waterworks, the consumption of and demand for water supplies in the area where they are supplying or are authorised to supply water, and the water resources in or available for that area:

Provided that if, upon the representation of any statutory water undertakers or local authority so required to furnish information, the Minister is satisfied that in all the circumstances compliance with the requirement is impracticable or undue expense would thereby be incurred, he may direct that the requirement need not be complied with.

- (4) Any person authorised by a Joint Advisory Water Committee for the purpose shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises for the purpose of carrying out the functions of the Committee, and the section of this Act relating to entry of premises shall apply to any such right of entry.

## **5 Power to require local authorities and statutory water undertakers to carry out surveys and formulate proposals.**

The Minister may require any local authority or statutory water undertakers to—

- (a) carry out a survey of the existing consumption of and demand for water supplies in the area where they are supplying or are authorised to supply water and of the water resources in or available for that area;
- (b) prepare an estimate of the future water supply requirements of that area;
- (c) formulate proposals for meeting the existing or future water supply requirements of that area including proposals for the joint use with any other local authority or water undertakers of any existing or proposed new source of water supply;
- (d) submit a report on any of the aforesaid matters to the Minister within such time as he may specify.

## **6 Power of Minister to require records and information from persons abstracting water.**

- (1) The Minister may make regulations requiring any class of persons to keep such records and furnish such returns as to the quantity and quality of water abstracted by them from any source and as to such other matters relating to the source as may be prescribed by the regulations:

Provided that—

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- (a) the regulations shall not apply in a case where water is abstracted by an individual for the domestic purposes of his household only;
  - (b) in a case where the Minister is satisfied that in all the circumstances compliance with any requirement of the regulations is impracticable or undue expense would be thereby incurred, he may direct that that requirement need not be complied with.
- (2) The regulations may provide for the inspection of any records kept thereunder and of any apparatus used for the purpose thereof and for the taking of copies of and extracts from any such records and may confer rights of entry for the purpose of exercising any of the powers aforesaid, and the 'section of this Act relating to entry of premises shall apply to any such right of entry.
- (3) Any person who fails to comply with any requirement of the regulations shall be guilty of an offence against this Act.

## **7 Facilities for obtaining information as to underground water.**

- (1) Any person who proposes to sink, for the purpose of searching for or abstracting water, a well or borehole intended to reach a depth of more than fifty feet below the surface shall, before he begins to do so, give to the Committee of the Privy Council for Scientific and Industrial Research notice in writing of his intention to do so, and shall keep a journal of the progress of the work, which shall include measurements of the strata passed through and of the levels at which water is struck and subsequently rests, and shall allow any person authorised by the said Committee for the purpose, on the production of some duly authenticated document showing his authority, at all reasonable times—
- (a) to have free access to any such well or borehole;
  - (b) to inspect the well or borehole and the material excavated therefrom;
  - (c) to take specimens of such material and of water abstracted from the well or borehole; and
  - (d) to inspect and take copies of or extracts from the journal required to be kept under this subsection.
- (2) The person sinking any such well or borehole shall, on completion or abandonment of the work, send a complete copy of the journal kept under the last foregoing subsection to the said Committee and shall also send to the Committee particulars of any test made, before such completion or abandonment, of the flow of water, specifying the rate of flow throughout the test and the duration of the test and also where practicable specifying the water levels during the test and thereafter until the water has returned to its natural level.
- (3) Where any such well or borehole is sunk in connection with an existing pumping station, the particulars of any test to be supplied to the said Committee shall also include the rate of pumping at the existing works during the test.
- (4) Where the person sinking a well or borehole on any land is not the occupier of the land, the obligation to allow a person authorised by the said Committee to exercise the rights specified in paragraphs (a) to (d) of subsection (1) of this section shall be the obligation of the occupier as well as of the person sinking the well or borehole.
- (5) Where any person contracts to sink any well or borehole on land belonging to or occupied by any other person, and the execution of the work is under the control of

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the contractor, the contractor and no other person shall be deemed for the purposes of this section to be the person sinking the well or borehole.

- (6) The person sinking a well or bore hole or (if a different person) the owner or occupier of the land on which it is sunk may give notice in writing to the said Committee requiring them to treat as confidential any copy of or extract from the journal required to be kept under subsection (1) of this section or any specimen taken under that subsection, and the Committee shall thereupon not allow that copy, extract or specimen, except in so far as it contains or affords information as to water resources and supplies, to be published or shown to any person not being an officer of the Department of Scientific and Industrial Research or of the Ministry of Health, unless the person giving the notice consents thereto:

Provided that, if at any time the Committee give notice to that person that in their opinion his consent is unreasonably withheld, then that person may, within three months after the notice is given by the Committee, appeal to the Railway and Canal Commission, but if at the expiration of that period no such appeal has been made, or if, after hearing the appeal, the Commission do not make an order restraining them from doing so, the Committee may proceed as if such consent had been given.

- (7) Any person who fails to comply with any obligation imposed on him by the foregoing provisions of this section shall be guilty of an offence against this Act.

## PART II

### LOCAL ORGANISATION OF WATER SUPPLIES.

#### **8 Joint water boards.**

- (1) An order under section six of the Public Health Act, 1936, providing for the constitution, for the purpose of discharging functions relating to water supply, of a united district consisting of districts or parts of districts of local authorities, and for the constitution under that section of a joint water board for that united district, may be made without an application by any of the local authorities concerned.
- (2) Any dispute between a joint water board (whether constituted under the Public Health Act, 1936, or otherwise) and the local authority for any constituent district or part of a district with respect to the furnishing of a supply of water in bulk by the board to the authority may be referred to the Minister by either of the parties to the dispute, and the board and the authority shall give effect to the determination of the Minister.

#### **9 Combination of undertakers and transfer of undertakings by agreement or compulsorily.**

- (1) The Minister may, on the application of the water undertakers concerned, make an order providing for—
- (a) the joint furnishing by two or more statutory water undertakers, by agreement, of a supply of water;
  - (b) the constitution, by agreement, of a joint board or joint committee of two or more statutory water undertakers for the purpose of exercising all or any of their functions relating to the supply of water;

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- (c) in a case where none of the undertakers are a local authority, the amalgamation, by agreement, of the undertakings or parts of the undertakings of two or more statutory water undertakers; or
  - (d) the transfer, by agreement, to statutory water undertakers of the undertaking or part of the undertaking of any other water undertakers, whether statutory or not.
- (2) Where it appears to the Minister to be expedient for the purpose of securing a more efficient supply of water to make provision for any of the matters for which, if the undertakers concerned agreed thereto, provision could be made under the last foregoing subsection, he may by order provide compulsorily for any of those matters.
- (3) Any order made under this section may contain such incidental, consequential and supplementary provisions as the Minister thinks necessary or expedient for the purposes of the order, and in particular, but without prejudice to the generality of the foregoing provision, may provide for the transfer of property and liabilities and for the amendment or repeal of any local enactment relating to any of the undertakers.
- (4) Any order under this section providing for the constitution of a joint board or joint committee may, if the council of any county in which the joint board or committee will exercise functions undertake to make annual contributions towards the expenses of the joint board or committee, provide for the inclusion of representatives of that council, so, however, that the number of representatives appointed under this subsection shall be less than one half of the total number of members of the joint board or committee.
- (5) The provisions of Part I of the First Schedule to this Act shall apply to the making of applications and orders under subsection (1) of this section, and the provisions of Part II of the said Schedule shall apply to the making of orders under subsection (2) of this section, and all orders made under this section shall, in the circumstances specified in paragraph 8 or paragraph 17, as the case may be, of the said Schedule, be provisional only and not have effect until they are confirmed by Parliament.
- (6) An order shall not be made under this section for the constitution of any joint board which could be constituted under section six of the Public Health Act, 1936.

## **10 Variation of limits of supply by agreement or compulsorily.**

- (1) The Minister may—
- (a) on the application of any statutory water undertakers supplying water under a local enactment, by order vary their limits of supply, but not so as to include any area which is within the limits of supply of any other statutory water undertakers supplying water under any local enactment;
  - (b) on the application of two or more statutory water undertakers supplying water under a local enactment, by order provide for the variation by agreement of any common boundary between their respective limits of supply.
- (2) Where it appears to the Minister that it is expedient to vary the limits of supply of any statutory water undertakers supplying water under a local enactment, and he is satisfied that such variation cannot be secured under the last foregoing subsection, the Minister may make an order providing compulsorily for such variation.
- (3) Any order made under this section may contain such incidental, consequential and supplementary provisions, including provisions for the amendment or repeal of any local enactment, as the Minister thinks necessary or expedient.

- (4) The provisions of Part I of the First Schedule to this Act shall apply to the making of applications and orders under subsection (1) of this section, and the provisions of Part II of the said Schedule shall apply to the making of orders under subsection (2) of this section, and all orders made under this section shall, in the circumstances specified in paragraph 8 or paragraph 17, as the case may be, of the said Schedule, be provisional only and not have effect until they are confirmed by Parliament.

## **11 Power of Minister to authorise certain statutory water undertakers to supply premises outside their limits of supply.**

- (1) If the Minister is satisfied that the owners or occupiers of premises in an area outside the limits of supply of any statutory water undertakers supplying water under a local enactment desire to obtain a supply of water from those undertakers, and that the giving of the supply is not likely to interfere with the supply of water for any purposes within the said limits, he may, on the application of those undertakers, and with the consent of any statutory water undertakers within whose limits of supply the area is situated, by order authorise the applicants to supply water in that area, or such part thereof as may be specified in the order, on such conditions as may be so specified:

Provided that a consent required for the purposes of this subsection shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to the Minister.

- (2) Where undertakers are by virtue of an order made under the last foregoing subsection supplying water to premises outside their limits of supply, any other statutory water undertakers within whose limits of supply the premises are situated may, in the absence of any agreement to the contrary, at any time give not less than three months' notice to the supplying undertakers that they are able and intend to give a supply of water to the premises in question:

Provided that a notice under this subsection shall not be valid unless it covers all the premises to which water is being supplied by virtue of the order made under the last foregoing subsection.

- (3) When, after the expiration of a notice given under the last foregoing subsection, the undertakers giving the notice commence to supply water to the premises covered by the notice, the undertakers who obtained the Minister's order shall, except for the purpose of recovering water rates, water charges and any other charges or Expenses recoverable by them, and of removing any pipes, plant or apparatus belonging to them, cease to have any rights or duties in respect of a supply to those premises:

Provided that the undertakers who obtained the Minister's order shall not remove any pipes, plant or apparatus which they are required by the undertakers giving the notice to leave in position, and any such pipes, plant or apparatus shall vest in the undertakers giving the notice.

- (4) The undertakers giving the notice shall pay to the undertakers who obtained the Minister's order such portion of any expenses reasonably incurred by them for the purpose of giving a supply to those premises, and such sum in respect of any pipes, plant or apparatus vested in the undertakers giving the notice by the last foregoing subsection, as may be agreed, or, in default of agreement, determined by an arbitrator appointed by the Minister.

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- (5) While undertakers are by virtue of an order made under subsection (1) of this section authorised to supply water outside their limits of supply, the enactments relating to their undertaking shall have effect as if the area specified in the order were within those limits.

## **12 Supply of water in bulk by agreement or compulsorily.**

- (1) Any statutory water undertakers may enter into an agreement with any other persons, whether water undertakers or not, for the giving by those other persons, and the taking by the statutory water undertakers, of a supply of water in bulk for any period and on any terms and conditions, and, where the supply is to be given by persons who are themselves statutory water undertakers, either within or outside the limits of supply of those undertakers:

Provided that—

- (a) an agreement under this section shall require the approval of the Minister and, where a supply is to be given by statutory water undertakers, he shall withhold his approval if it appears to him that the giving of the supply would be likely to interfere with the supply of water for any purpose within their limits of supply; and
- (b) where the supply is to be given to a local authority and the area to be supplied is within the limits of supply of any other statutory water undertakers supplying water under a local enactment, the agreement shall require also the consent of those other undertakers, but such consent shall not be unreasonably withheld and any question whether or not it is unreasonably withheld shall be referred to the Minister.

- (2) Where—

- (a) any undertakers who have power under any enactment other than this section to supply water in bulk subject to a prohibition against supplying water outside the catchment area of a catchment board enter into an agreement under the last foregoing subsection for the supply by them of water in bulk outside that catchment area; or
- (b) the supply of water in bulk in pursuance of any agreement under the last foregoing subsection would, but for this subsection, be subject to any right of a navigation authority under any enactment other than this section to prohibit or impose restrictions on such supply;

the Minister's approval shall, if the catchment board or navigation authority, as the case may be, duly object to the agreement in accordance with Part III of the First Schedule to this Act and the objection is not withdrawn, be given by order and the order shall, in the circumstances specified in paragraph 23 of the said Schedule, be provisional only and not have effect until it is confirmed by Parliament.

- (3) Where it appears to the Minister that it is expedient that any statutory water undertakers should give to other statutory water undertakers, and that those other statutory water undertakers should take, a supply of water in bulk, either within or outside the limits of supply of the undertakers by whom the supply is to be given, and he is satisfied that the giving and taking of such a supply cannot be secured by agreement, he may by order require the respective undertakers to give and to take such a supply as aforesaid for such period and on such terms and conditions as may be provided in the order.



- (4) For the purpose of laying any pipes or installing any apparatus connected therewith, being pipes or apparatus required for giving or taking a supply of water in pursuance of an agreement or order made under this section, statutory water undertakers may exercise, either within or outside their limits of supply, the like powers as are exercisable under Parts V and VI of the Third Schedule to this Act for the purpose of laying mains by undertakers to whose undertaking those Parts apply, but subject to the like conditions and obligations.
- (5) The provisions of Part III of the First Schedule to this Act shall apply to the approval of agreements under this section; and the provisions of Part II of the First Schedule to this Act shall apply to the making of orders under subsection (3) of this section and any such order shall, in the circumstances specified in paragraph 17 of the said Schedule be provisional only and not have effect until it is confirmed by Parliament:

Provided that if the Minister is satisfied that by reason of an exceptional shortage of rain, or by reason of an accident or other unforeseen circumstances, a serious deficiency in the supply of water exists or is threatened in any locality, the said provisions of the First Schedule to this Act shall not apply to the approval of any agreement entered into under this section by undertakers supplying water in the locality or to the making of an order under this section with respect to any such undertakers, and the Minister may, if he considers that the interests of public health so require, direct that Parts V and VI of the Third Schedule to this Act shall, in relation to any works to be carried out for the purposes of that agreement or order, have effect subject to such modifications as he may think necessary for the avoidance of delay, but any agreement or order to which this proviso applies shall cease to have effect at the expiration of such period not exceeding two years as the Minister may direct.

### **13 Default powers of Minister.**

- (1) If a complaint is made to the Minister that—
- (a) any local authority or any joint water board constituted under section six of the Public Health Act, 1936, or, any enactment repealed by that Act, have failed to discharge the duty imposed upon them by section one hundred and eleven of the Public Health Act, 1936;
  - (b) any statutory water undertakers supplying water under any local enactment have failed to give an adequate supply of water, either as respects quantity or quality, to any area which they are supplying, or have failed to give any supply which they have been lawfully required to give;
  - (c) any statutory water undertakers have failed to take such steps as are reasonably practicable to obtain new powers or to extend their existing powers for the purpose of remedying any such failure as is mentioned in paragraph (a) or paragraph (b) hereof; or
  - (d) any statutory water undertakers have failed to do anything which they are required to do by or under this Act;

or the Minister is of opinion that an investigation should be made as to whether any local authority, joint water board or statutory water undertakers have failed in any of the matters aforesaid, he may cause a local inquiry to be held into the matter.

- (2) If after a local inquiry has been held in pursuance of the last foregoing subsection, the Minister is satisfied that there has been such a failure on the part of the local authority, joint water board or statutory water undertakers in question, he may make an order declaring them to be in default and directing them for the purpose of remedying the

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default to discharge such of their functions in such manner and within such time or times as may be specified in the order or, as the case may be, to take such steps within such time or times as may be specified in the order to obtain new powers or to extend their existing powers.

- (3) If the body declared to be in default by an order made under the last foregoing subsection fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Minister, in lieu of enforcing the order by mandamus or otherwise, may make an order transferring to himself such of the functions of the body in default as he thinks fit:

Provided that, if the body in default are the council of a county district or a joint water board, the Minister may transfer the functions to the council of the county within which the functions are wholly or mainly exercisable, instead of to himself.

- (4) Where functions transferred to the Minister under this section include the function of applying to the Minister for any new powers or for an extension of existing powers, the Minister may grant the new powers or the extension of existing powers as if an application had been made therefor, and shall give all such notices and do all such other things as would have been required to be given or done in connection with such an application, and any enactment relating to the application for and grant of such new powers or extension of existing powers shall have effect with the necessary adaptations and modifications.
- (5) Where any functions are transferred to a county council under this section—
- (a) the expenses incurred by the county council in discharging those functions shall, except in so far as they may be met by any grant made by the county council, be a debt due from the body in default to the county council, and shall be defrayed as part of the expenses of the undertaking of the body in default and that body shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them;
  - (b) the county council, for the purpose of the functions transferred to them, may on behalf of the body in default borrow money subject to the like conditions, in the like manner, and on the security of the like revenues as that body might have borrowed for the purpose of those functions;
  - (c) the county council may charge the said revenues with the payment of the principal and interest of the loan, and the loan, with the interest thereon, shall be paid by the body in default in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on those revenues by that body; and
  - (d) the county council shall keep separate accounts of all income and expenditure in respect of the transferred functions.
- (6) Where the Minister has transferred any functions to himself under this section, any expenses incurred by him in discharging those functions shall be paid in the first instance by him, but the amount of those expenses as certified by the Minister shall on demand be paid to him by the body in default, and shall be recoverable by him from them as a debt due to the Crown, and that body shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them.

Where the body in default are a local authority or joint water board, the payment of any such expenses as aforesaid shall, to such extent as may be sanctioned by the Minister,

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be a purpose for which the local authority or board may borrow money in accordance with the statutory provisions relating to borrowing by" such an authority or board.

- (7) Any order made under subsection (3) of this section may provide for the transfer to the Minister or the county council, as the case may be, of such of the property and liabilities of the body in default, as, in the opinion of the Minister, may be necessary or expedient, and when any such order is revoked the Minister may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable with respect to any property or liabilities held by him or by the county council for the purposes of the functions transferred.
- (8) Section three hundred and twenty-two of the Public Health Act, 1936, (which confers default powers on the Minister) shall not apply to any default to which this section applies.

### **PART III**

#### CONSERVATION AND PROTECTION OF WATER RESOURCES.

#### **14 Control of abstraction and prevention of waste in certain areas.**

- (1) Where the Minister is satisfied that special measures for the conservation of water in any area are necessary in the public interest, whether for the protection of public water supplies or for the protection of water supplies used for industrial or other purposes, he may make an order defining the area in question, and thereupon the provisions of this section shall apply to that area.
- (2) The provisions of Part II of the First Schedule to this Act, except paragraphs 17 and 18, shall apply to orders made under this section, and such orders shall be provisional only and shall not have effect until they are confirmed by Parliament.
- (3) Subject to the following provisions of this section, no person shall, in any area to which this section applies, begin to—
  - (a) construct any well, borehole, or other work for the purpose of abstracting underground water ; or
  - (b) extend any existing well, borehole, or other work for the purpose of abstracting additional quantities of underground water;unless he has obtained, in accordance with regulations made under this section, a licence from the Minister.
- (4) The last foregoing subsection shall not apply to—
  - (a) the construction or extension of any well, borehole or other work by any individual for the purpose of abstracting underground water solely and to the extent necessary for a supply of water for the domestic purposes of his household;
  - (b) the construction or extension of any well, borehole or other work, if that construction or extension is expressly authorised by any enactment; or
  - (c) any experimental boring required in connection with any such construction or extension as is referred to in the foregoing paragraphs of this subsection.
- (5) No person shall in any area to which this section applies abstract underground water from—

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- (a) any well, borehole or other work constructed or extended in contravention of subsection (3) of this section;
- (b) any well, borehole or other work the construction or extension of which was made lawful by paragraph (a) or paragraph (c) of the last foregoing subsection, except for the purpose for which it was constructed or extended; or
- (c) any boring or other work constructed or extended while the order is in force for any purpose other than the abstraction of underground water;

unless he has obtained, in accordance with regulations made under this section, a licence from the Minister.

- (6) The Minister may, on the application of any person, grant a licence for the purposes of subsection (3) or subsection (5) of this section, with or without conditions, or may refuse to grant such a licence, but before he refuses to grant such a licence or attaches any condition thereto, he shall, if requested to do so by the applicant, grant him an opportunity to appear before and be heard by a person appointed for the purpose by the Minister.
- (7) Before any person begins to construct in any area to which this section applies any new boring for the purpose of searching for or extracting minerals, he shall give notice of his intention in the prescribed form to the Minister, and shall take such measures as may be required by the Minister for conserving water, being measures which in the opinion of the Minister will not interfere with the winning of minerals:

Provided that, before imposing any requirement under this subsection, the Minister shall, if requested to do so by any person interested in the work, grant him an opportunity to appear before and be heard by a person appointed for the purpose by the Minister.

- (8) Any person who contravenes any of the foregoing provisions or this section or any requirement imposed thereunder or any condition attached to a licence granted for the purposes of subsection (3) or subsection (5) of this section shall be guilty of an offence against this Act.
- (9) No person shall in any area to which this section applies—
  - (a) cause or allow any underground water to run to waste from any well, borehole or other work except for the purpose of testing the extent or quality of the supply or cleaning, sterilising, examining or repairing the well, borehole or other work; or
  - (b) abstract from any well, borehole, or other work water in excess of his reasonable requirements:

Provided that, where underground water interferes or threatens to interfere with the execution or operation of any underground works (whether waterworks or not), it shall not be an offence under this subsection to cause or allow the water to run to waste so far as may be necessary to enable the works to be executed or operated, if no other method of disposing of the water is reasonably practicable.

- (10) A person who contravenes any provision of the last foregoing subsection shall, in respect of each offence, be liable on summary conviction to a fine not exceeding ten pounds and the court may, on the conviction of any person, order that the well, borehole or other work shall be effectively sealed or may make such other order as appears to the court to be necessary to prevent waste of water.

If any person fails to comply with any such order of the court, the court may (without prejudice to the imposition of any penalty for contempt of court), on the application of any local authority within whose county or district the well, borehole or other work is situated, or of any statutory water undertakers affected or likely to be affected by the waste, authorise the authority or undertakers to take such steps as may be necessary to Execute the order, and any expenses incurred in taking any such steps shall be recoverable as a civil debt from the person convicted.

- (11) The Minister may make regulations with respect to the procedure for making applications to him for the grant of a licence under this section, and in particular with respect to the giving of notices of any such application and the making of objections thereto.
- (12) Any officer of a local authority whose county or district is comprised wholly or partly in an area to which this section applies, and any officer of any statutory water undertakers likely to be affected by any failure to enforce the provisions of this section in any such area, being an officer authorised for the purpose by the local authority or undertakers concerned, shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours—
- (a) to enter any premises in the area for the purpose of ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of this section; or
  - (b) to enter any premises in which the authority or undertakers have been authorised to execute an order of the court made under subsection (10) of this section, for the purpose of executing that order;

and the section of this Act relating to entry of premises shall apply to any such right of entry.

## **15 Agreements as to drainage, etc., of land.**

- (1) Statutory water undertakers may enter into agreements with the owners and occupiers of any land, or with a local authority, with respect to the execution and maintenance by any party to the agreement of such works as the undertakers consider necessary for the purpose of draining that land, or for more effectually collecting, conveying, or preserving the purity of, water which the undertakers are for the time being authorised to take:

Provided that, where the execution of any such works would result in the discharge of water, otherwise than through public sewers, into any watercourse which is within a catchment area or fishery district or is subject to the jurisdiction of a navigation authority or rivers board, the undertakers shall before entering into the agreement consult with the catchment board, fishery board, navigation authority or rivers board concerned.

- (2) An agreement under this section with an owner of land may be registered under section ten of the Land Charges Act, 1925, as an obligation affecting land falling within Class D, and shall, unless it is void by reason of a failure so to register it, be binding upon and enforceable against his successors in title to that land:

Provided that this subsection shall only apply to such an agreement if it is expressed to be binding and enforceable as aforesaid.

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- (3) An agreement under this section with a local authority may extend to the execution and maintenance by that authority of works of sewerage and sewage disposal.

## **16 Power to prohibit or restrict temporarily use of hosepipes.**

- (1) If any statutory water undertakers are of opinion that a serious deficiency of water available for distribution by them exists, or is threatened, they may, for such period as they think necessary, prohibit or restrict as respects the whole or any part of their limits of supply the use, for the purpose of watering private gardens or washing private motor cars, of any water supplied by them and drawn through a hosepipe or similar apparatus.

In this subsection the expression " private motor car " means a mechanically propelled vehicle intended or adapted for use on roads, other than a public service vehicle within the meaning of Part IV of the Road Traffic Act, 1930, or a goods vehicle within the meaning of Part I of the Road and Rail Traffic Act, 1933, and includes any vehicle drawn by a private motor car.

- (2) The undertakers shall, before the prohibition or restriction comes into force, give public notice in two or more newspapers circulating within the area affected of the prohibition or restriction and of the date when it will come into force.
- (3) Any person who, while the prohibition or restriction is in force, contravenes its provisions shall, in respect of each offence, be liable on summary conviction to a fine not exceeding five pounds.
- (4) Where a prohibition or restriction is imposed under this section, charges made by the undertakers for the use of a hosepipe or similar apparatus shall be subject to a reasonable reduction to be settled in case of dispute by a court of summary jurisdiction and in the case of a charge paid in advance any necessary repayment or adjustment shall be made by the undertakers.

The procedure for obtaining the settlement of a dispute under this subsection by a court of summary jurisdiction shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings.

## **17 Byelaws for preventing waste, misuse or contamination of water.**

- (1) Statutory water undertakers may make byelaws for preventing waste, undue consumption, misuse, or contamination of water supplied by them.
- (2) Byelaws under this section may include provisions—
- (a) prescribing the size, nature, materials, strength and workmanship, and the mode of arrangement, connection, disconnection, alteration and repair, of the water fittings to be used; and
  - (b) forbidding the use of any water fittings which are of such a nature or are so arranged or connected as to cause or permit, or be likely to cause or permit, waste, undue consumption, misuse, erroneous measurement or contamination of water, or reverberation in pipes.
- (3) If a person contravenes the provisions of any byelaw made under this section, the undertakers may, without prejudice to their right to take proceedings for a fine in respect of such contravention, cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the byelaws to be altered,

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repaired or replaced, and may recover the expenses reasonably incurred by them in so doing from the person in default summarily as a civil debt.

- (4) Nothing in this section, or in any byelaw made thereunder, shall apply to any fittings used on premises which belong to a railway company and are held or used by them for the purposes of their railway, so long as those fittings are not of such a nature or so arranged or connected as to cause or permit or be likely to cause or permit waste, undue consumption, misuse, erroneous measurement or contamination of water supplied by the undertakers, or reverberation in pipes:

Provided that the exemption conferred by this subsection shall not extend to fittings used in hotels or dwelling houses or in offices not forming part of a railway station.

## **18 Byelaws for preventing pollution of water of undertakers.**

- (1) If it appears to statutory water undertakers to be necessary for the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to them or which they are for the time being authorised to take, they may by byelaws—
- (a) define the area within which they deem it necessary to exercise control; and
  - (b) prohibit or regulate the doing within that area of any act specified in the byelaws.

Byelaws made under this section may contain different provisions for different parts of the area defined by the byelaws.

- (2) Where an area has been defined by byelaws under this section, the undertakers may by notice require either the owner or the occupier of any premises within that area to execute and keep in good repair such works as they consider necessary for preventing pollution of their water and, if he fails to comply with any such requirement, he shall be liable on summary conviction to the same penalties as if he had committed an act prohibited by the byelaws:

Provided that an owner or occupier who considers that a requirement made on him under this subsection is unreasonable may, within twenty-eight days after service on him of the requirement, appeal to the Minister and the Minister may determine the appeal himself or, if he thinks fit, may refer it for determination by an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers, and the Minister or arbitrator may, if he decides that the requirement is unreasonable, modify or disallow the requirement.

- (3) The undertakers shall pay compensation to the owners and occupiers of, and other persons interested in, any premises within the area defined by byelaws made under this section in respect of—
- (a) any curtailment or injurious affection of their legal rights by restrictions imposed by the byelaws; and
  - (b) any expenses incurred by them in complying with a requirement to construct and maintain any works the construction of which could not, apart from this section, lawfully have been required, otherwise than upon payment of compensation, by the local authority of the district or county;

and any question as to the amount of compensation to be paid shall be referred to an arbitrator to be appointed, in default of agreement, by the

In this subsection the expression " legal rights " includes a user of land in respect of which the local authority might have taken proceedings under the Acts relating to

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public health or under their byelaws, but have refrained from doing so, either by reason of the character or situation of the land or for some other reason.

- (4) Where any person has failed to comply with a requirement made on him under subsection (2) of this section and either—
- (a) he has not appealed to the Minister against that requirement and the time for appealing has expired; or
  - (b) his appeal has been dismissed or the requirement has been modified on his appeal and he has failed to comply with the requirement as so modified:
- the undertakers may, without prejudice to their right to take proceedings for a fine in respect of such failure, execute and keep in good repair the works specified in the requirement as originally made or, as the case may be, as modified on appeal, and may recover the expenses reasonably incurred by them in so doing from the person in default summarily as a civil debt, except expenses incurred in respect of works the construction of which could not, apart from this section, lawfully have been required, otherwise than upon payment of compensation, by the local authority of the district or county.
- (5) Two or more statutory water undertakers may combine for the purpose of making and enforcing byelaws under this section, and this section and subsection (2) of the next but one following section of this Act shall in any such case have effect as if the references to statutory water undertakers were construed as references to those two or more statutory water undertakers acting jointly.
- (6) Nothing in this section shall be construed as empowering the undertakers to make any byelaw restricting the rights of a navigation authority under any enactment.

## **19 General provisions as to byelaws.**

- (1) The Minister shall be the confirming authority as respects byelaws made under either of the last two foregoing sections, and the provisions of Part IV of the First Schedule to this Act shall apply to the making and confirming of such byelaws.
- (2) It shall be the duty of any undertakers by whom any such byelaws are made to enforce those byelaws.
- (3) Any such byelaws may contain provisions for imposing on any person contravening the byelaws a fine, recoverable on summary conviction, not exceeding the sum of twenty pounds in respect of each offence and, in the case of a continuing offence, a further fine not exceeding five pounds for each day during which the offence continues after conviction therefor.
- (4) Where any statutory water undertakers consider that the operation of any such byelaw made by them would be unreasonable in relation to any particular case, they may with the consent of the Minister relax the requirements of the byelaw or dispense with compliance therewith:
 

Provided that the undertakers shall give notice of any such proposed relaxation or dispensation in such manner and to such person, if any, as the Minister may direct, and the Minister shall not give his consent before the expiration of one month from the giving of the notice and, before giving his consent, shall take into consideration any objection which may have been received by him.
- (5) Where any such byelaws are made by statutory water undertakers, any officer of the undertakers authorised by them for the purpose, shall, on producing if so required,



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some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises in the area to which the byelaws apply, for the purpose of—

- (a) ascertaining whether there is or has been any contravention of the byelaws;
- (b) in the case of byelaws made under section seventeen of this Act, exercising any right conferred on the undertakers by subsection (3) of that section; or
- (c) in the case of byelaws made under the last foregoing section—
  - (i) ascertaining whether or not circumstances exist which would justify the undertakers making a requirement under subsection (2) of that section; and
  - (ii) exercising any right conferred on the undertakers by subsection (4) of that section to execute and maintain works;

and the section of this Act relating to entry of premises shall apply to any such right of entry.

- (6) Subject as hereinafter provided—
  - (a) any byelaw made under either of the last two foregoing sections shall cease to have effect on the expiration of the period of ten years beginning with the date on which it was made; and
  - (b) any byelaw or regulation made by statutory water undertakers under any other enactment which confers power to make byelaws or regulations for purposes similar to the purposes for which byelaws may be made under either of the last two foregoing sections shall cease to have effect on the expiration of the period of five years beginning with the commencement of this Act:

Provided that the Minister may by order extend the period during which any byelaw or regulation to which this subsection applies is to remain in force.

- (7) Sections two hundred and fifty to two hundred and fifty-two of the Local Government Act, 1933 (which relate to the procedure for making byelaws and the penalties to be imposed thereunder) shall not apply to byelaws made under either of the last two foregoing sections.

## **20 Power of Minister to require the making of byelaws, to make byelaws in case of default and to revoke byelaws.**

- (1) The Minister may by notice require any statutory water undertakers to make byelaws under section seventeen or section eighteen of this Act in relation to such matters as he may specify and, in the case of byelaws made under section eighteen, he shall specify the area for which the byelaws are to be made, and if the undertakers do not within three months after such requirement make in relation to the matters specified byelaws satisfactory to him, the Minister may himself make byelaws with respect to those matters.
- (2) If the Minister considers that any byelaws made by statutory water undertakers under the said section seventeen or the said section eighteen or any byelaws or regulations made by statutory water undertakers under any other enactment which confers powers to make byelaws or regulations for purposes similar to the purposes for which byelaws may be made under either of the said sections are unsatisfactory, he may by notice require the undertakers to revoke those byelaws or regulations and to make such new byelaws under the said section seventeen or the said section eighteen as he considers necessary, and, if the undertakers do not within three months after such requirement comply therewith, the Minister may himself revoke the byelaws or regulations, and

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make such new byelaws under the said section seventeen or the said section eighteen as he considers necessary.

- (3) Any byelaws made by the Minister under this section shall have effect as if they had been made by the undertakers concerned and confirmed by the Minister.

## **21 Penalty for polluting water used for human consumption.**

- (1) If any person is guilty of any act or neglect whereby any spring, well or adit, the water from which is used or likely to be used for human consumption or domestic purposes, or for manufacturing food or drink for human consumption, is polluted or likely to be polluted, he shall be guilty of an offence against this Act:

Provided that nothing in this section shall be construed as prohibiting or restricting—

- (a) any method of cultivation of land which is in accordance with the principles of good husbandry; or
  - (b) the reasonable use of oil or tar on any highway maintainable at the public expense, so long as the highway authority take all reasonable steps for preventing the oil or tar, or any liquid or matter resulting from the use thereof, from polluting any such spring, well or adit.
- (2) Any officer of a local authority or statutory water undertakers within whose district or limits of supply, as the case may be, any such spring, well or adit is situated authorised by the authority or undertakers for the purpose, shall, on producing if so required some duly authenticated document showing his authority, have a right at all reasonable hours to enter any premises for the purpose of ascertaining whether there is or has been any contravention of this section in relation to that spring, well or adit, and the section of this Act relating to entry of premises shall apply to any such right of entry.

## **22 Acquisition of land and execution of works for protection of water.**

- (1) For the purpose of any provision of this Act conferring power on statutory water undertakers to acquire land for the purposes of their undertaking, there shall be deemed to be included among those purposes the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to the undertakers or which they are for the time being authorised to take.
- (2) Statutory water undertakers may on any land belonging to them, or over or in which they have acquired the necessary easements or rights, construct and maintain drains, sewers, watercourses, catchpits and other works for intercepting, treating or disposing of any foul water arising or flowing upon that land, or for otherwise preventing water which belongs to the undertakers or which they are for the time being authorised to take from being polluted:

Provided that—

- (a) before constructing any such works, the undertakers shall, if the proposed works will affect any watercourse in a catchment area or fishery district or which is subject to the jurisdiction of a navigation authority or rivers board, consult with the catchment board, fishery board, navigation authority or rivers board concerned;
- (b) nothing in this subsection shall authorise the undertakers to intercept or take any water which a navigation authority are authorised to take or use for the purposes of their undertaking, without the consent of that navigation authority.

- (3) Any statutory water undertakers proposing to construct any drain, sewer or watercourse for the purposes mentioned in the last foregoing subsection may, with the consent of the highway authority concerned, which may be given subject to such conditions as the authority think fit, carry the drain, sewer or watercourse under, across or along any street, whether within or outside their limits of supply, and such statutory provisions with respect to the breaking open of streets as are applicable to the undertakers shall, with any necessary modifications and adaptations, apply accordingly.
- (4) A consent required for the purposes of either of the two last foregoing subsections shall not be unreasonably withheld nor shall any unreasonable condition be attached to such a consent, and any question whether or not such a consent is unreasonably withheld or whether any condition which an authority seek to impose is unreasonable, shall be referred to an arbitrator to be appointed, in default of agreement, by the Minister.

## PART IV

### POWERS AND DUTIES OF LOCAL AUTHORITIES AND WATER UNDERTAKERS.

#### *Construction of works and acquisition of land and water rights.*

### **23 Orders of Minister conferring certain powers on water undertakers.**

- (1) The Minister may, on the application of any persons who are or propose to become statutory water undertakers, make an order—
- (a) authorising them to construct, acquire by agreement, alter or continue, and to maintain, waterworks and works connected therewith;
  - (b) if the applicants are not statutory water undertakers, authorising them to supply water in any area;
  - (c) authorising the applicants to raise capital or borrow money for any purposes of the water undertaking;

and the order may contain such incidental, consequential and supplementary provisions, including provisions for the amendment or repeal of any local enactment, as the Minister thinks necessary or expedient:

Provided that—

- (i) an order made under paragraph (a) of this subsection shall not empower the applicants to acquire compulsorily any land or water rights or vary compulsorily the quantity of compensation water required by any enactment to be discharged into any watercourse or the periods during which or the manner in which such compensation water is required to be discharged;
- (ii) no order shall be made under paragraph (b) of this subsection without the consent of the local authority for every district within which the applicants are to be authorised to supply water or, in a case where they are to be authorised to supply water within the limits of supply of any statutory water undertakers supplying water under a local enactment, without the consent of those undertakers.

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A consent required for the purposes of this subsection shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to the Minister.

- (2) The provisions of Part I of the First Schedule to this Act, other than paragraph 8, shall apply to the making of applications and orders under this section.

**24 Power of statutory water undertakers to acquire land by agreement or compulsorily.**

- (1) Any statutory water undertakers shall have power under this section to acquire land by agreement, whether by way of purchase, lease or exchange, for any of the purposes of their undertaking, but no such agreement shall have effect without the approval of the Minister.
- (2) Without prejudice to the generality of the foregoing subsection, statutory water undertakers may acquire land thereunder for the purpose of erecting houses and other buildings thereon for the use of persons employed by them for the purposes of their undertaking, and may also acquire land thereunder to be used for recreation grounds for persons so employed.
- (3) The Lands Clauses Acts, except the provisions relating to the acquisition of land otherwise than by agreement and the provisions relating to access to the special Act, and except sections ninety-nine to one hundred and seven and sections one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845, are hereby incorporated with the foregoing provisions of this section, and in construing those Acts those provisions shall be deemed to be the special Act and the word "land" shall have the meaning assigned to it in this Act.
- (4) Any local authority or statutory water undertakers may be authorised by means of a compulsory purchase order made by them and confirmed by the Minister to purchase land compulsorily under this section for any of the purposes of their water undertaking or proposed water undertaking, but those purposes shall not be deemed to include the purposes mentioned in subsection (2) of this section.
- (5) The provisions of the Second Schedule to this Act shall have effect with respect to compulsory purchase orders made under this section.
- (6) Nothing in this section shall authorise the compulsory acquisition of land which is the site of an ancient monument or other object of archaeological interest, or any land which is the property of a local authority or has been acquired for the purposes of their undertaking by any persons authorised by any enactment to construct, work or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking.
- (7) A compulsory purchase order made under this section may authorise the purchase of any land belonging to the National Trust notwithstanding that such land is held by the Trust inalienably, but where any such order authorises the acquisition of land so held inalienably or of any land forming part of a common, open space or allotment, the order shall, subject to the next following subsection, be provisional only and not have effect until it is confirmed by Parliament.
- (8) So much of the last foregoing subsection as provides that any such order as aforesaid shall be provisional only and not have effect until it is confirmed by Parliament shall not apply where the order provides for giving in exchange for such land other land,

not being less in area, certified by the Minister of Agriculture and Fisheries (in the case of a common or an allotment) or the Minister of Town and Country Planning (in the case of land held inalienably by the National Trust or an open space not being a common or an allotment) to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public:

Provided that—

- (a) before giving any such certificate, the Minister of Agriculture and Fisheries or the Minister of Town and Country Planning, as the case may be, shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if he thinks it necessary, hold a local inquiry; and
  - (b) the order shall provide for vesting the land given in exchange in the persons in whom the land acquired was vested, subject to the same rights, trusts and incidents as attach to the land acquired, and for discharging the land acquired from all rights, trusts and incidents to which it was previously subject.
- (9) In this section the expression " National Trust " means the National Trust for places of Historic Interest or Natural Beauty incorporated by the National Trust Act, 1907, the expression " held inalienably," in relation to land belonging to that Trust, means land which is inalienable under section twenty-one of the said Act or section eight of the National Trust Act, 1939, the expression " allotment" means an allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act, the expression " common " includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green, and the expression " open space " means any land laid out as a public garden or used for the purposes of public recreation and any disused burial ground.

## **25 Power of statutory water undertakers to hold and dispose of land.**

Notwithstanding anything in the Lands Clauses Acts, any statutory water undertakers may hold and use for the purposes of their undertaking for such time as they think fit any land for the time being belonging to them and may from time to time, with the consent of the Minister, sell, lease, exchange or otherwise dispose of any such land in such manner, for such consideration and on such terms and conditions as they think fit and, in particular, on any such disposition may reserve to themselves any water rights or other easements in, over or belonging to, the land disposed of and may make any such disposition subject to such other reservations, conditions, restrictions and provisions with respect to the use of water, the carrying on of noxious trades or the discharge or deposit of manure, sewage or other foul matter as they think fit:

Provided that the consent of the Minister shall not be required for the grant of a lease of any such land for a term not exceeding seven years.

## **26 Power of statutory water undertakers to acquire water rights.**

- (1) Statutory water undertakers may acquire by agreement rights to take water from any stream or other source, but no such agreement shall have effect without the approval of the Minister.
- (2) The Minister may on the application of any local authority or statutory water undertakers, by order provide for the compulsory acquisition by them of such rights to take water from any stream or other source as may be specified in the order.

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- (3) Where the acquisition of rights under this section will result in the impounding of any stream—
- (a) the Minister shall not approve any agreement for the acquisition of such rights unless he is satisfied that the agreement requires the undertakers to provide an adequate quantity of compensation water, and incorporates the appropriate provisions of Part III of the First Schedule to this Act subject to such modifications and adaptations as the Minister may approve; or
  - (b) the Minister shall in any order for the compulsory acquisition of such rights prescribe the quantity of compensation water to be provided by the undertakers and shall incorporate in the order the appropriate provisions of the said Part III subject to such modifications and adaptations as he thinks fit.
- (4) Where the acquisition of rights under this section will in the opinion of the Minister substantially reduce the flow of any stream—
- (a) the Minister shall not approve any agreement for the acquisition of such rights unless he is satisfied that the agreement contains adequate provisions for limiting the extent to which and the circumstances in which water may be taken from the stream and incorporates the appropriate provisions of Part III of the Third Schedule to this Act subject to such modifications and adaptations as the Minister may approve;
  - (b) the Minister shall in any order for the compulsory acquisition of such rights prescribe the extent to which and the circumstances in which water may be taken and shall incorporate in the order the appropriate provisions of the said Part III subject to such modifications and adaptations as he thinks fit.
- (5) In assessing the quantity of compensation water to be provided under any such agreement or order or in determining the extent to which and the circumstances in which water may be taken under any such agreement or order, the Minister shall have regard to all the circumstances of the particular case, including—
- (a) the character and flow of the stream;
  - (b) the extent to which the stream is or may in the future be used for industrial purposes, fisheries, water supply by other undertakers, agriculture, transport or navigation;
  - (c) the effect on land drainage or on any canal or inland navigation of any alterations in the flow of the stream,
- and shall secure, as far as practicable, that the flow of the stream does not fall below the minimum quantity necessary to secure the interests of public health and the protection of the rights of riparian and other landowners.
- (6) The provisions of Part III of the First Schedule to this Act shall apply to the approval of agreements under this section and, if any catchment board for a catchment area or fishery board of a fishery district in which any source from which water is to be taken is situated, or any navigation authority for any river, canal or other inland navigation from which water is to be taken or which is fed by a stream from which water is to be taken to such extent as, in the opinion of the Minister, to affect the river, canal or other inland navigation duly object to the agreement in accordance with the provisions of the said Part III, and the objection is not withdrawn, the Minister shall give his approval by order and the order shall, in the circumstances specified in paragraph 23 of the said Schedule, be provisional only and not have effect until it is confirmed by Parliament.
- (7) The provisions of Part I of the First Schedule to this Act shall apply to the making of applications and orders under subsection (2) of this section, and any such order shall,

in the circumstances specified in paragraph 8 of the said Schedule, be provisional only and not have effect until it is confirmed by Parliament.

*Duty to supply water for non-domestic purposes.*

**27 Supply of water for non-domestic purposes.**

- (1) Subject as hereinafter provided, statutory water undertakers supplying water otherwise than in bulk shall give a supply of water on reasonable terms and conditions for purposes other than domestic purposes to the owner or occupier of any premises within their limits of supply who requests them to give such a supply to those premises:

Provided that they shall not be required to give such a supply if their ability to meet existing obligations to supply water for any purposes or probable future requirements to supply water for domestic purposes, without having to incur unreasonable expenditure in constructing new waterworks for the purpose, would be endangered thereby.

- (2) Any question arising under this section as to the terms and conditions on which water is to be supplied thereunder and any question whether the undertakers are justified in refusing to give a supply, shall, in default of agreement, be referred to the Minister, and the Minister may determine it himself or, if he thinks fit, refer it for determination by an arbitrator appointed by him.
- (3) Where any statutory water undertakers are required to give a supply of water under this section, the powers of those undertakers and of persons supplied or proposed to be supplied by them to lay mains and pipes for providing a supply of water for domestic purposes and to break up streets for that purpose shall apply for the purpose of the provision of a supply under this section.
- (4) Where the terms and conditions on which a supply of water is to be provided to any person under this section have been agreed or determined, and that person has done everything which he is required by such agreement or determination to do before the supply is provided, the undertakers shall, if they fail to furnish the supply within such period as may be agreed or determined, or fail to maintain the supply in accordance with the said terms and conditions, be liable (without prejudice to any civil liability) to the like penalties in the like circumstances as in the case of a failure to furnish or maintain a supply of water which they are required to provide for domestic purposes.
- (5) Section thirty-eight of this Act (which relates to liability for and recovery of water rates) shall apply in relation to charges for water supply under this section, whether by meter or otherwise, in like manner as it applies in relation to water rates.
- (6) In this section the expression " domestic purposes " has the same meaning as it has for the purposes of the enactments relating to the undertakers.

*Extension of powers and duties of local authorities under the Public Health Act, 1936.*

**28 Extension of duty to provide water supply for houses and schools.**

The duty imposed on local authorities by section three of the Rural Water Supplies and Sewerage Act, 1944, to supply water in pipes to rural localities in which there are houses or schools shall extend to all localities to which section one hundred and

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eleven of the Public Health Act, 1936, applies in which there are houses or schools and in which such a supply is not already available, and accordingly the said section three shall cease to have effect and for the said section one hundred and eleven there shall be substituted the following section:—

**“111 Duty of local authority with respect to water supplies within their district.**

- (1) It shall be the duty of every local authority—
  - (a) to take from time to time such steps as may be necessary for ascertaining the sufficiency and wholesomeness of water supplies within their district;
  - (b) to provide a supply of wholesome water in pipes to every part of their district in which there are houses or schools, and to take the pipes affording that supply to such point or points as will enable the houses or schools to be connected thereto at a reasonable cost, so, however, that this paragraph shall not require a local authority to do anything which is not practicable at a reasonable cost or to provide such a supply to any part of their district where such a supply is already available at such point or points as aforesaid ;
  - (c) to provide a supply of wholesome water otherwise than in pipes to every part of their district in which there are houses or schools and to which it is not practicable to provide a supply in pipes at a reasonable cost, and in which danger to health arises from the insufficiency or unwholesomeness of the existing supply and a public supply is required and can be provided at a reasonable cost, and to secure that such supply is available within a reasonable distance of every house and school in that part of their district.
- (2) If any question arises under paragraph (b) of the preceding subsection as to whether anything is or is not practicable at a reasonable cost or as to the point or points to which pipes must be taken in order to enable houses or schools to be connected to them at a reasonable cost, or under paragraph (c) thereof as to whether a public supply can be provided at a reasonable cost, the Minister, if requested so to do by the council of the county or by ten or more local government electors in the district of the local authority, shall, after consulting the local authority, and where the request was made by local government electors and the local authority is the council of a county district, after consulting also the council of the county, determine that question, and the local authority shall give effect to his determination.
- (3) Without prejudice to their obligations under subsection (1) of this section, every local authority shall, for the purpose of securing so far as is reasonably practicable that every house has available a sufficient supply of wholesome water for domestic purposes, exercise their powers under this Part of this Act as amended by any subsequent enactment of requiring owners of houses to provide a supply of water thereto.”

The obligations of joint water boards Constituted before the passing of this Act under section six of the Public Health Act, 1936, or any enactment repealed by that Act shall include the obligations imposed on local authorities by this section, and the enactments relating to any such board shall have effect accordingly.



**29 Amendment of s. 137 of the Public Health Act, 1936.**

- (1) For subsection (1) of section one hundred and thirty-seven of the Public Health Act, 1936 (which requires new houses to be provided with a sufficient water supply) there shall be substituted the following subsection:—

“(1) Where plans of a house are, in accordance with building byelaws, deposited with a local authority, the authority shall reject the plans unless there is put before them a proposal which appears to them to be satisfactory for providing the occupants of the house with a supply of wholesome water sufficient for their domestic purposes—

- (a) by connecting the house to a supply of water in pipes provided by the local authority or other statutory water undertakers; or
- (b) if in all the circumstances it is not reasonable to require the house to be connected as aforesaid, by otherwise taking water into the house by means of a pipe; or
- (c) if in all the circumstances neither of the preceding alternatives can reasonably be required, by providing a supply of water within a reasonable distance of the house;

and the authority are satisfied that the proposal can and will be carried into effect.

Any question arising under this subsection between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether the local authority ought to pass the plans may on the application of that person be determined by a court of summary jurisdiction.”

- (2) In subsection (2) of the said section one hundred and thirty-seven for the words " for the domestic purposes of the inmates being provided in, or within a reasonable distance of, the house " there shall be substituted the words " for the domestic purposes of the occupants. "

**30 Amendment of s. 138 of the Public Health Act, 1936.**

- (1) For subsection (1) of section one hundred and thirty-eight of the Public Health Act, 1936 (which empowers a local authority to require an occupied house to be provided with a sufficient water supply) there shall be substituted the following subsections:—

“(1) Where a local authority are satisfied that any occupied house has not a supply of wholesome water in pipes in the house sufficient for the domestic purposes of the occupants, the local authority may—

- (a) if they are satisfied that in all the circumstances it is reasonable to require the owner of the house to connect it to a supply of water in pipes provided by the local authority or other statutory water undertakers, give notice to the owner requiring him within a time specified therein to connect the house as aforesaid;
- (b) if they are not satisfied that it is reasonable in all the circumstances to require the owner to connect the house as aforesaid, but are satisfied that it is reasonable to require him otherwise to take water into the house by means of a pipe, give notice to the owner requiring him within a time specified therein so to take water into the house.

- (1A) Where a local authority are satisfied that any occupied house has not within a reasonable distance thereof a supply of wholesome water sufficient for the

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domestic purposes of the occupants and that in all the circumstances it is not reasonable to require the owner to connect the house, or to take water into the house, as aforesaid, the local authority may give notice to the owner requiring him within a time specified therein to provide a sufficient supply of wholesome water within a reasonable distance of the house.”

(2) In subsection (2) of the said section, for the words " the preceding subsection " there shall be substituted the words " either of the preceding subsections " .

(3) After the said subsection (2) there shall be inserted the following subsection:—

“(2A) If a person on whom a notice has been served under the preceding provisions of this section objects to the requirement of the local authority, he may, within twenty-eight days after service on him of the notice, appeal to a court of summary jurisdiction and, upon any such appeal, the court may either disallow the requirement of the local authority or allow it with or without modifications.”

(4) In subsection (3) of the said section, for the words "Subject to the provisions of the next succeeding section with respect to appeals, if such a notice as aforesaid is not complied with " there shall be substituted the words " If any requirement contained in a notice given under the preceding provisions of this section, including a requirement modified by the court under the last preceding subsection, is not complied with within the time specified in the notice or, if the court extends that time, within the time as so extended. "

### **31 Other amendments of Public Health Act, 1936.**

The provisions of the Public Health Act, 1936, mentioned in the Fourth Schedule to this Act, being provisions relating to water supply and matters connected therewith, shall be amended and repealed to the extent specified in the said Schedule.

*Modernisation of Waterworks Code.*

### **32 Incorporation and application by order of provisions of Third Schedule.**

(1) The Minister may by any order made under section nine, section ten, section twelve, section twenty-three or section forty of this Act apply to any water undertaking to which the order relates such of the provisions contained in the Third Schedule to this Act as appear to him to be appropriate, subject to such modifications and adaptations as may be specified in the order.

(2) The Minister may at any time by order apply the provisions of the Third Schedule to this Act or any of them to the undertaking of any statutory water undertakers supplying water under a local enactment, subject to such modifications and adaptations as may be specified in the order, and may by the order repeal any provision previously applicable to the undertaking to the extent to which it appears to him, having regard to the provisions of this Act which apply, or are applied by the order, to the undertaking, to be no longer required, or amend any provision previously applicable to the undertaking to any extent which appears to him necessary to bring it into conformity with the said provisions of this Act:

Provided that, during the period of five years beginning with the commencement of this Act, he shall not make such an order except on the application of the undertakers concerned.

- (3) The provisions of Part I of the First Schedule to this Act shall apply to orders made under the last foregoing subsection on the application of the undertakers concerned, and the provisions of Part II of the said Schedule shall apply to orders made thereunder without any such application, and all orders made under the said subsection shall, in the circumstances specified in paragraph 8 or paragraph 17, as the case may be, of the said Schedule, be provisional only and not have effect until they are confirmed by Parliament.
- (4) The Minister, when considering the making of an order under subsection (2) of this section, shall have regard to the powers, if any, and practice of the undertakers as regards additional charges in respect of waterclosets and baths, and the probable effect of any order made by him on the financial position of the undertaking and on the rates and charges payable by consumers of different classes.
- (5) Where the Minister makes an order under subsection (2) of this section, he shall, if so requested by the undertakers concerned before the order is made, postpone the operation of the order for such period as he deems sufficient to enable them to make an application to him under section forty of this Act (which relates to the power of the Minister to revise water rates and charges).

### **33 Repeal and amendment of local enactments.**

- (1) The Minister may, on the application of any statutory water undertakers, by order repeal or amend any local enactment relating to the supply of water by those undertakers :

Provided that—

- (a) an order under this section shall not vary the quantity of compensation water required by any local enactment to be discharged into any watercourse or the period during which or the manner in which such compensation water is required to be discharged;
  - (b) the Minister shall not make an order under this section with respect to any matter which in his opinion could be more appropriately dealt with under any other provision of this Act.
- (2) The provisions of Part I of the First Schedule to this Act shall apply to orders made under this section and such orders shall, in the circumstances specified in paragraph 8 of the said Schedule, be provisional only and not have effect until they are confirmed by Parliament.
  - (3) Section three hundred and three of the Public Health Act, 1875 (which empowers the Minister by provisional order to repeal or alter local Acts relating to the same subject matters as the said Act) shall cease to have effect so far as it applies to any local enactment relating to water supply.

*Miscellaneous.*

**34 Temporary discharge of water into watercourses.**

- (1) Subject to the provisions of this section, statutory water undertakers who are carrying out, or are about to carry out, the construction, alteration, repair, cleaning, or examination of any reservoir, well or borehole, line of pipes or other work forming part of their undertaking may cause the water therein to be discharged into any available watercourse and for that purpose may lay and maintain in any street, whether within or outside their limits of supply, all necessary discharge pipes and apparatus, and such statutory provisions with respect to the breaking open of streets as are applicable to the undertakers shall, with any necessary modifications and adaptations, apply accordingly.
- (2) Except in a case of emergency, and except in so far as may be otherwise agreed in writing between the undertakers and the board or authority concerned, the following provisions shall have effect:—
  - (a) not less than seven days before commencing to discharge any such water as aforesaid through a pipe exceeding nine inches in diameter the undertakers shall give notice of their intentions to the catchment board of any catchment area and the fishery board of any fishery district within which any watercourse into which the water is to be discharged is situated and to any rivers board having jurisdiction over any such watercourse ;
  - (b) the undertakers shall have due regard to any representations which may be made to them as to the time, mode and rate of discharge with a view to avoiding or minimising injury or inconvenience therefrom ; and
  - (c) where the water is to be discharged into any river, canal or other inland navigation in respect of which a navigation authority exercise functions, the undertakers shall not discharge the water without the approval of the navigation authority, or except at such times as that authority may approve and in a manner approved by them as not likely to injure the river, canal or navigation or the banks thereof, or interfere with traffic thereon:

Provided that—

- (i) whenever the undertakers propose to discharge water on a number of occasions during a period, the giving by them of a general notice to that effect, accompanied by such particulars as it is reasonably practicable for them to give, shall constitute sufficient compliance by them with the provisions of paragraph (a) of this subsection ;
  - (ii) in the case of a river, paragraph (c) of this subsection shall not apply if the point of discharge into the river is more than three miles above the limits within which the navigation authority exercise jurisdiction ;
  - (iii) an approval required for the purposes of the said paragraph (c) shall not be withheld unreasonably, and any question whether it is withheld unreasonably or not shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers ; and
  - (iv) any approval for which application is made under the said paragraph (c) shall be deemed to have been given unless notice of disapproval is given to the undertakers within seven days after the making of the application.
- (3) If the undertakers are requested by—

- (a) the owner or occupier of any land which abuts on a watercourse at a point within three miles of any work of the undertakers from which water may be discharged into that watercourse under the provisions of this section ; or
- (b) the clerk to any association of mill owners any of whose constituent members is such an owner or occupier as aforesaid,

to register him for the purposes of this section, the undertakers shall enter his name and address in a register kept by them for the purpose and, so long as his name and address appear in the register, shall, except in a case of emergency and except in so far as may be otherwise agreed with him in writing, and unless the point at which the water is to be discharged as aforesaid is situated down stream of the 4<sup>th</sup> and in respect of which he is so registered, send to him in respect of that watercourse the like notices as they are (in the absence of any emergency or agreement to the contrary) required under the last foregoing subsection to send to such a board as is mentioned in paragraph (a) thereof.

- (4) Except in so far as may be otherwise agreed in writing, where the undertakers discharge water during an emergency, they shall forthwith give to the boards, authorities and registered persons concerned notice thereof and such further particulars relating to the discharge as may reasonably be required.
- (5) The undertakers shall take all necessary steps to secure that any water discharged by them under the provisions of this section shall be as free as may be reasonably practicable from mud and silt, from solid, polluting, offensive or injurious matters, and from any matter prejudicial to fish or spawn, or to spawning beds or food of fish, and, if they fail to do so, shall be guilty of an offence against this Act.
- (6) The powers of this section shall not be exercised so as to damage or affect injuriously any works or other property of a railway company or a navigation authority, or so as to flood or damage any highway.
- (7) In the exercise of the powers conferred by this section the undertakers shall do as little damage as may be and shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise of those powers and, for the purposes of this subsection, any extra expenditure which it becomes reasonably necessary for any public authority to incur for the purpose of properly discharging their statutory functions shall be deemed to be damage sustained by them.

Any question as to the amount of the compensation to be so paid shall be referred to an arbitrator to be appointed, in default of agreement, by the Minister.

### **35 Power to supply water fittings.**

- (1) Statutory water undertakers may, on the request of any person to whom they supply or propose to supply water, supply to him, by way either of sale or hire, any such water fittings as are required or allowed by their byelaws, and may, on such request, instal, repair or alter (but not manufacture) any such water fittings, whether supplied by them or not, and may provide any materials and do any work required in connection with such installation, repair or alteration of water fittings.

The undertakers may make such charges as may be agreed or, in default of agreement, as may be reasonable for any fitting supplied, or any materials provided or work done, under this subsection and may recover such charges summarily as civil debts.

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- (2) If any fittings let for hire by the undertakers bear either a distinguishing metal plate affixed thereto, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the undertakers as the actual owners of the fittings, those fittings—
- (a) shall, notwithstanding that they be fixed to some part of the premises in which they are situated or be laid in the soil thereunder, continue to be the property of, and removable by, the undertakers; and
  - (b) shall not be subject to distress or to the landlord's remedy for rent, or be liable to be taken in execution under any process of any court or in any proceedings in bankruptcy against the persons in whose possession they may be:

Provided that nothing in this subsection shall affect the valuation for rating of any rateable hereditament.

- (3) Where the undertakers are a local authority—
- (a) the undertakers shall so adjust the charges to be made by them under this section as to meet any expenditure by them thereunder, including interest upon any moneys borrowed for the purposes thereof and any sums carried to a sinking fund for repayment of moneys so borrowed; and
  - (b) the total sums expended and received by the undertakers in connection with the purposes of this section in each year, including interest and any sums carried to a sinking fund, shall be separately shown in the published accounts of the undertakers for that year.
- (4) If any person wilfully or negligently injures or suffers to be injured any water fitting belonging to the undertakers, he shall be liable on summary conviction to a fine not exceeding five pounds and the undertakers may do all such work as is necessary for repairing any injury done and may recover the expenses reasonably incurred by them in so doing from the offender summarily as a civil debt.

### **36 Duty of statutory water undertakers to accept guarantees from local authorities.**

- (1) The provisions of this section shall have effect in any case where the owners or occupiers of any premises in any area can require statutory water undertakers to bring water to that area if the aggregate amount of the water rates which will be payable annually in respect of those premises will not be less than a prescribed fraction of the cost to be incurred by the undertakers in complying with the requisition, and if the owners or occupiers of those premises agree to take a supply of water for a prescribed period.
- (2) If, in any such case as aforesaid, the aggregate amount of the water rates which would be payable annually in respect of any premises in the area is not sufficient to enable a valid requisition to be made by the owners and occupiers of those premises, the local authority of the district in which the area is situated may undertake that, until the water rates payable for any year in respect of premises in that area amount to a sum which would have enabled such a requisition to be made, or until the expiration of a period of twelve years, whichever first occurs, the authority will make good to the undertakers in each year the difference between that sum and the amount received by the undertakers in respect of water supplied, whether for domestic or non-domestic purposes, in that year in respect of premises in that area, and thereupon the undertakers shall lay any necessary mains and bring water to that area.

- (3) Any two or more local authorities may combine for the purpose of giving such an undertaking as aforesaid.
- (4) If the undertakers, after tender to them of an undertaking which satisfies the foregoing provisions of this section, do not before the expiration of three months lay the necessary mains and bring water to the area in question, they shall, unless they show that the failure was due to unavoidable accident or other unavoidable cause, be guilty of an offence against this Act.
- (5) In this section the expression "prescribed" means prescribed by the local enactments relating to the undertaking in question.

### **37 Duty of undertakers to provide domestic supply for new buildings.**

- (1) Where an owner of land proposes to erect thereon buildings for which a supply of water for domestic purposes will be needed, he may require any statutory water undertakers within whose limits of supply that land is situated to lay any necessary mains and bring water thereto, and thereupon the undertakers shall, subject as hereinafter provided, comply with that requisition:

Provided that the undertakers before complying with a requisition under this subsection—

- (a) may require the owner to undertake to pay in respect of each year a sum amounting to one-eighth of the expense of providing and laying the necessary mains (less any amounts received by the undertakers in respect of water supplied, whether for domestic Or non-domestic purposes, in that year from those mains) until the aggregate amount of water rates payable annually in respect of the buildings when erected and in respect of any other premises connected with the said mains at the rates for the time being charged by the undertakers equals or exceeds such sum as aforesaid Or until the expiration of a period of twelve years, whichever first occurs; and
  - (b) except where the owner is a local or public authority, may also require him to deposit with the undertakers as security for payment of the said annual sums, such sum, not exceeding the total expense of laying and providing the mains, as the undertakers may require.
- (2) The undertakers shall pay interest at the prescribed rate or, if no rate is prescribed, at four per cent. per annum on any sum in their hands by virtue of a requirement under paragraph (b) of the proviso to the last foregoing subsection, and shall, on the request of the owner of the land, appropriate out of that sum any amount due under the undertaking referred to in paragraph (a) of the said proviso and shall, when the said undertaking is finally discharged, repay to the owner any sum remaining in their hands as aforesaid.
  - (3) If the undertakers, after receipt of a requisition under subsection (1) of this section and after tender to them of any undertaking or deposit which they may require in accordance with that subsection, do not before the expiration of three months lay the necessary mains, and bring water to the land in question in accordance with the requisition, they shall, unless they show that the failure was due to unavoidable accident or other unavoidable cause, be guilty of an offence against this Act.

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### **38 Liability for, and recovery of, water rates.**

- (1) Water rates payable to statutory water undertakers, whether under the Public Health Act, 1936, or under any other enactment, shall be payable and recoverable in accordance with the provisions of this section and not otherwise.
- (2) Except where an owner of premises who is not himself the occupier thereof is liable by or under any enactment, or by agreement with the undertakers, to pay the water rate for a supply of water to those premises, the water rate shall be payable by the occupier of the premises.
- (3) The water rate payable by any person may after a demand therefor be recovered from him by the undertakers either summarily as a civil debt, or as a simple contract debt in any court of competent jurisdiction, and, subject as hereinafter provided and to the provisions of the next following subsection, where a person fails to pay within seven days after a demand therefor any instalment of a water rate payable by him in respect of any premises, the undertakers may cut off the supply of water to the premises and recover the expenses reasonably-incurred by them in so doing in the same manner as the instalment due :

Provided that if before the expiration of the said seven days, notice in writing is given to them that there is a dispute as to the amount due in respect of the water rate, or as to the liability to pay the rate, they shall not cut off the supply of water until the dispute has, on the application of either party, been settled by a court of summary jurisdiction.

- (4) Where, at the date when an instalment of a water rate in respect of any premises becomes due, the owner of the premises is liable by or under any enactment, or by agreement with the undertakers, to pay the water rates for a supply of water to those premises and is not himself the occupier thereof, the undertakers shall not cut off the supply of water to the premises for a failure by him to pay that instalment, but that instalment, without prejudice to the right of the undertakers to enforce payment thereof by him, may be recovered by them either from the owner for the time being, or, subject as hereinafter provided, from the occupier for the time being, of the premises, in the manner in which water rates are recoverable:

Provided that, where the occupier of the premises is not the owner thereof,—

- (a) proceedings shall not be commenced under this subsection against the occupier until notice has been given to him requiring him to pay the amount due out of any rent which is then due, or which may thereafter "become due, from him, and he has failed to comply with the notice; and
  - (b) no greater sum shall be recovered at any one time from the occupier than the amount of rent which is owing by him, or which has accrued since such notice as aforesaid was given to him; and
  - (c) if the occupier, as between himself and the owner of the premises, is not liable to pay the water rate, he shall be entitled to deduct from the rent payable by him any sum paid by him in compliance with the notice, or so recovered from him.
- (5) If any water supply is cut off by the undertakers in contravention of the provisions of this section, they shall be liable on summary conviction to a fine not exceeding five pounds for each day during which the water remains cut off.
  - (6) In this section the expression " water rate " includes any additional charge payable to the undertakers in respect of a supply of water for domestic purposes within the meaning of that expression as used in the enactments relating to the undertakers.



- (7) Nothing in this section shall affect any enactment under which undertakers who are also a rating authority may be empowered to collect water rates, rents or charges together with general rates, or to recover water rates, rents or charges in the same manner as general rates.

**39 Notice to be given to local authority of water supply to inhabited house being cut off.**

- (1) Where, in the exercise of their powers under the last foregoing section or for any other reason, statutory water undertakers cut off the supply of water to an inhabited house, they shall within forty-eight hours give notice that they have done so to the local authority of the district in which the house is situated and, if they fail to do so, shall be liable on summary conviction to a fine not exceeding ten pounds.
- (2) This section shall not apply to the administrative county of London.

**40 Power of Minister to revise water rates and charges.**

- (1) The Minister, on an application made to him by any statutory water undertakers supplying water under a local enactment, or by a local authority within whose county or district any such undertakers supply water, or by twenty or more persons supplied with water by any such undertakers, may by order make such alteration in the rates and charges which the undertakers are authorised to levy and make as he considers reasonable:

Provided that, where the undertakers are a company, he shall not make any alteration by way of reduction unless he is satisfied that it will not endanger their ability, so long as their undertaking is managed efficiently, to provide a reasonable return upon the paid-up capital of the undertaking (regard being had by him to any capital which the undertakers may reasonably be expected to expend during the next five years) after paying all proper expenses of and connected with the working, management and maintenance of the undertaking, providing for any contributions which the undertakers may lawfully carry to any reserve fund or contingency fund, making good depreciation (in so far as provision therefor is not made by any such fund as aforesaid), and meeting all other costs, charges and expenses, if any, properly chargeable to revenue.

- (2) The provisions of Part V of the First Schedule to this Act shall apply to the making of applications and orders under this section.
- (3) Unless the Minister considers that exceptional circumstances exist, he shall not vary an order made under this section before the expiration of a period of five years beginning with the date of the said order or, if it has already been varied, the last variation thereof.
- (4) In relation to any period during which an order made under this section is in operation, the enactments relating to the undertakers shall have effect as if the rates and charges specified in the order made under this section were substituted for the rates and charges specified in those enactments.

**41 Power of companies to issue redeemable stock.**

- (1) This section applies to all statutory water undertakers being companies who have before the commencement of this Act created and issued any redeemable stock, or

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who at any time after that date may have authority to create and issue any stock, and in this section unless the context otherwise requires—

" stock " means preference stock and debenture stock,"

" preference stock " includes preference shares;

" issue " includes re-issue;

" redeemable stock " means stock issued so as to be redeemable;

" redeemed stock " means redeemable stock which has been redeemed and is available for issue under the provisions of this section.

- (2) Subject to the provisions of this section, the undertakers may from time to time issue so as to be redeemable any stock created by them and any redeemed stock:

Provided that no redeemed stock shall be issued except for the purpose of effecting the redemption of redeemable stock under the provisions of this section, unless the issue is authorised by a resolution of a general meeting of the undertakers.

- (3) Redeemable stock may be redeemed either by paying off the stock, or by issuing to an assenting holder of the stock other stock in substitution therefor, and for the purpose of raising money to pay off, or of providing stock in substitution for, any redeemable stock the undertakers may create new stock or issue redeemed stock, in either case so as to be redeemable or irredeemable, as they think fit:

Provided that—

- (a) no new stock shall be created, nor shall any redeemed stock be issued, so as to make the total amount of any particular class of stock exceed the amount of stock of that class which the undertakers are for the time being authorised to create except during an interval of three months between the creation, or, in the case of redeemed stock, the issue, of the stock and the completion of the redemption of the redeemable stock for the purpose of redeeming which the stock of that particular class is proposed to be so created or issued ; and
- (b) during such interval as aforesaid the amount raised by means of any preference stock so created or issued shall, for the purposes of any enactment regulating the borrowing powers of the undertakers, be deemed not to have been raised.

- (4) The redemption of any preference stock issued so as to be redeemable shall not affect the validity of any mortgage, or debenture stock, if the grant or issue thereof by the undertakers was lawful in the circumstances existing at the date of the grant or issue.
- (5) Redeemable stock shall bear such rate of dividend or interest, not exceeding such maximum rate, if any, as may be prescribed in respect of the particular class of stock, and shall be redeemable at such time and in such manner and subject otherwise to such terms and conditions, as the undertakers may before the issue thereof determine:

Provided that the terms and conditions of redemption upon which any redeemable stock is issued shall be stated in any offer by the undertakers of such stock for sale and in every certificate of such stock, and no term or condition of redemption which is not so stated shall be binding upon the holder of the stock.

- (6) The undertakers shall not redeem out of revenue any redeemable stock, but any discount allowed on the issue, or any premium payable on the redemption, thereof may be written off out of revenue.
- (7) Nothing in any enactment relating to the undertakers shall require any stock created or issued under this section solely in substitution for any redeemable stock to be offered for sale by auction or tender:

Provided that the undertakers shall not without the approval of the Minister issue any such preference stock, if the amount required to pay the full dividend thereon will exceed the amount required to pay the full dividend on the stock in substitution for which the new stock is issued, but no holder of the stock shall be concerned to inquire whether any approval required by this subsection has been given.

- (8) For the purpose of any enactment relating to stamp duty, the share capital of the undertaking shall be deemed not to have been increased by the issue of share capital in pursuance of this section for the purpose of redeeming preference stock, if the preference stock is redeemed before the expiration of such an interval as is mentioned in the provisos to subsection (3) of this section.
- (9) Nothing in this section shall be taken as authorising the issue of any stock without compliance with the requirements of any Regulation for the time being in force under the Emergency Powers (Defence) Acts, 1939 and 1940.

#### **42 Accounts of companies to be made up annually and abstracts sent to the Minister and local authorities.**

- (1) Where statutory water undertakers are a company, they shall in each year after that in which they commence to supply water, or, if they are supplying water at the commencement of this Act, in each year after the commencement thereof, prepare in such form as the Minister may direct an abstract of the accounts of their undertaking for the preceding year showing under the appropriate heads their income and expenditure, the amount standing to the credit of any reserve or contingency fund and the balances brought forward and carried forward respectively, and the abstract so prepared shall be signed by the chairman of the undertakers and certified by the auditors of the undertaking.
- (2) A copy of the said abstract so signed and certified shall be transmitted forthwith to the Minister and to the clerk of the local authority of every county and district within which the undertakers supply water or have any waterworks.
- (3) If any of the foregoing provisions of this section is not complied with, the undertakers shall in respect of each offence be liable on summary conviction to a fine not exceeding twenty pounds.

#### **43 Appointment of officers as directors.**

Where the statutory water undertakers are a company then notwithstanding anything in the Companies Clauses Consolidation Act, 1845, as applied by any enactment to that company—

- (a) any person employed as chief engineer, general manager or secretary of the company may be appointed a director of the company whether he is a shareholder in the company or not, but not so as to increase the number of the directors beyond the maximum number prescribed by any enactment relating to the company;
- (b) a person appointed a director of the company by virtue of the last foregoing paragraph shall not cease to be a director by reason that he is employed as aforesaid;
- (c) any such appointment may be made by the directors of the company as well as in manner provided by the said Act;

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- (d) the provisions of the said Act requiring directors to retire by rotation shall have effect as if a person appointed by virtue of this section were not a director:

Provided that—

- (i) not more than one director of the company shall hold office at the same time by virtue of this section; and
- (ii) any person appointed by the directors by virtue of this section shall cease to be a director as from the date of the next ordinary general meeting of the company, unless the appointment is approved at that meeting by a majority of the votes of the proprietors of the company entitled to vote or voting, whether personally or by proxy, at the meeting.

## PART V

### GENERAL.

#### 44 **Compensation to officers of statutory water undertakers.**

If, in consequence of any order made under this Act, or anything done in pursuance thereof, any person who immediately before the date of operation of the order, was an officer or servant of any statutory water undertakers affected by the order, suffers direct pecuniary loss by reason of the determination of his employment or the diminution of his emoluments, he shall, unless provision for his compensation for that loss is made by or under any other enactment for the time being in force, be entitled to receive compensation under this section from such statutory water undertakers as may be specified in the order; and for the purposes of any claim for compensation under this section, the provisions of subsections (2) (3) and (6) of section one hundred and fifty of the Local Government Act, 1933, and of the Fourth Schedule to that Act shall have effect as if—

- (a) references to a scheme or order made under Part VI of that Act were construed as references to the said order made under this Act; and
- (b) the expression " existing officer " in the said subsections meant any person who, immediately before the date of operation of the said order, was an officer or servant employed by any statutory water undertakers affected by the order; and
- (c) references to a local authority or to the local authority were construed as references to statutory water undertakers or to the statutory water undertakers.

#### 45 **False information.**

Any person who—

- (a) in keeping any record or journal or in furnishing any return, abstract or information which he is required by or under this Act to keep or furnish, knowingly or recklessly makes any statement which is false in a material particular; or
- (b) for the purpose of obtaining any licence from the Minister under this Act, knowingly makes any statement which is false in a material particular;

shall be liable in respect of each offence—

- (i) on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment;
- (ii) on conviction on indictment, to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

#### **46 Restriction on right to prosecute.**

Proceedings in respect of an offence created by or under any of the provisions of this Act shall not, without the written consent of the Attorney-General, be taken by any person other than the Minister, a local authority, statutory water undertakers or person aggrieved or, in the case of an offence relating to a watercourse within a fishery district, the fishery board for that district.

#### **47 Penalties for offences.**

Any person guilty of an offence against this Act shall, except where the provision by or under which the offence is created provides for the penalty to be imposed, be liable in respect of each offence—

- (a) on summary conviction, to a fine not exceeding fifty pounds and in the case of a continuing offence to a further fine not exceeding five pounds for every day during which the offence is continued after conviction ;
- (b) on conviction on indictment, to a fine not exceeding two hundred pounds and in the case of a continuing offence to a further fine not exceeding twenty pounds for every day during which the offence is continued after conviction.

#### **48 Entry of premises.**

- (1) Where any right of entry is conferred by any of the foregoing provisions of this Act, the following provisions of this section shall apply.
- (2) Admission to any premises, not being a factory within the meaning of the Factories Act, 1937, or a place in which persons are employed otherwise than in domestic service, shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.
- (3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
  - (a) that admission to any premises which any person is entitled to enter by virtue of such a right of entry has been refused to that person, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and
  - (b) that there is reasonable ground for entry into the premises for any purpose for which the right of entry is exercisable;

the justice may by warrant under his hand authorise that person to enter the premises if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the

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premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

- (4) Any person entitled to enter any premises by virtue of such a right of entry, or of a warrant issued under this section, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.
- (5) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.
- (6) If any person who, in compliance with any of the foregoing provisions of this Act or with a warrant issued thereunder, is admitted into any premises discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable in respect of each offence—
  - (a) on summary conviction, to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment;
  - (b) on conviction on indictment, to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.
- (7) Any person who wilfully obstructs any person upon whom a right of entry has been conferred by any of the foregoing provisions of this Act or by a warrant issued under this section shall, in respect of each offence, be liable on summary conviction to a fine not exceeding five pounds.
- (8) This section, except subsection (6) thereof, shall not apply to any right conferred by section seven of this Act.

#### **49 Inquiries by Ministers.**

- (1) The Minister may cause such inquiries to be held as he may consider necessary in connection with the discharge by him of any of his functions under this Act.
- (2) The provisions of section two hundred and ninety of the Local Government Act, 1933, shall apply to all inquiries held by the Minister or the Minister of Agriculture and Fisheries or the Minister of Town and Country Planning under this Act, and the reference in subsection (4) of the said section to a local authority shall be construed as including a reference to any water undertakers concerned in the inquiry.

#### **50 Power to revoke and vary orders.**

Any power conferred on the Minister by this Act to make orders shall be deemed to include a power, exercisable in the like manner and subject to the like conditions, to vary or revoke any such order.

#### **51 Regulations.**

- (1) The Minister may make regulations prescribing anything required to be prescribed for the purpose of any provision of this Act.

- (2) All regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall cease to have effect, but without prejudice to anything previously done thereunder or to the making of any new regulations.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

**52 Expenses of the Minister.**

Any expenses incurred by the Minister in the exercise of his functions under this Act shall be defrayed out of moneys provided by Parliament.

**53 Expenses of Common Council.**

Any expenses incurred by the Common Council of the City of London in the exercise of their functions under this Act shall be defrayed as part of their general expenses.

**54 Notices, etc., to be in writing.**

All notices, consents, approvals, demands and other documents authorised or required by or under this Act or any local enactment incorporating any provisions of the Third Schedule to this Act to be given, made, or issued by the Minister or any authority, board or water undertakers, and all notices and applications authorised or required by or under this Act or any such local enactment, to be given or made to the Minister or to, or to any officer of, any authority, board or water undertakers shall be in writing.

**55 Authentication of documents.**

- (1) Any notice, consent, approval, demand or other document which any authority, board or water undertakers are authorised or required by, or under, this Act or any local enactment incorporating any provisions of the Third Schedule to this Act to give make or issue may be signed—
- (a) on behalf of a local authority,—
    - (i) by the clerk of the authority;
    - (ii) by the water engineer or manager of the water department or the surveyor or the chief financial officer of the authority as respects documents relating to matters within their respective provinces ;
    - (iii) by any officer of the authority authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document;
  - (b) on behalf of any board or any authority other than a local authority, by the clerk or secretary of the board or authority;
  - (c) on behalf of water undertakers not being a local authority,—
    - (i) by the clerk or secretary of the undertakers;

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- (ii) by any other officer of the undertakers authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document.
- (2) Any document purporting to bear the signature of any person expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or expressed to be duly authorised by the authority, board or water undertakers to sign such a document or the particular document shall for the purposes of this Act or any local enactment incorporating any provisions of the Third Schedule to this Act, and of any byelaws made thereunder, be deemed, until the contrary is proved, to be duly given, made or issued by authority of the authority, board or undertakers concerned.

In this subsection the expression " signature " includes a facsimile of a signature by whatever process reproduced.

## **56 Service of notices, etc..**

Any notice, consent, approval, demand or other document which is required or authorised by, or under, this Act or any local enactment incorporating any provisions of the Third Schedule to this Act, to be given to or served on any person may, in any case where no other provision as respects service is made by that local enactment, be given or served either—

- (a) by delivering it to that person; or
- (b) in the case of an officer of any local authority, water undertakers or navigation authority, by leaving it, or sending it in a pre-paid letter addressed to him, at his office ; or
- (c) in the case of any other person, by leaving it or sending it in a pre-paid letter to him, at his usual or last known residence ; or
- (d) in the case of an incorporated company or body, by delivering it to their clerk or secretary /at their registered or principal office, or by sending it in a pre-paid letter addressed to him at that office ; or
- (e) in the case of a document to be given to, or served on, a person as being the owner of any premises by virtue of the fact that he receives the rackrent thereof as an agent for another, or would so receive it if the premises were let at a rackrent, by leaving it, or sending it in a pre-paid letter addressed to him, at his place of business ; or
- (f) in the case of a document to be given to or served on the owner or occupier of any premises, if it is not practicable after reasonable enquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of " owner " or " occupier " of the premises (naming them) to which it relates, and delivering to some person on the premises, or if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

## **57 Proof of resolutions, etc..**

In any proceedings under this Act, or any local enactment incorporating any provisions of the Third Schedule to this Act, a document purporting to be certified by the clerk of any local authority, or the clerk or secretary of any board or any authority other than a local authority or of any water undertakers, as a copy of a resolution or order passed or made by them on a specified date, or as a copy of the appointment of, or of any



authority given to, an officer of the authority, board or undertakers on a specified date, shall be evidence that that resolution, order, appointment or authority was duly passed, made, or given by the authority, board or undertakers concerned on the said date.

## **58 Judges and justices not disqualified by liability to rates.**

No judge of any court or justice of the peace shall be disqualified from acting in cases arising under this Act or under any local enactment incorporating any provisions of the Third Schedule to this Act, by reason only of his being liable to pay any rate or charge thereunder, or by reason only of his being liable, as one of several ratepayers or as one of any other class of persons, in common with the others to contribute to, or to be affected by, any rate or fund out of which any expenses of water undertakers are to be defrayed.

## **59 Interpretation.**

(1) In this Act the following expressions shall, subject to any express provision or anything in the context to the contrary, have the meanings hereby respectively assigned to them, that is to say—

" catchment board " and " catchment area, " in relation to such a board, have the same meanings as in the Land Drainage Act, 1930;

" clerk ", in relation to a local authority being the council of a borough, means the town clerk;

" contravention " includes failure to comply, and " contravene " shall be construed accordingly;

" county district " means a non-county borough, urban district or rural district;

" cut off, " in relation to a supply of water, means stop the supply, whether by operating a tap, by disconnecting pipes, or otherwise;

" district, " in relation to the council of a borough, means that borough and, in relation to the Common Council of the City of London, means the City of London;

" enactment " means any Act of Parliament, whether public general, local or private, any statutory order, or any provision in an Act of Parliament or statutory order;

" fishery board " and " fishery district " have the same meanings as in the Salmon and Freshwater Fisheries Act, 1923;

" joint water board " means any joint board of local authorities constituted under section six of the Public Health Act, 1936, or any enactment repealed by that Act, or under any local enactment, for the purpose of discharging functions relating to water supply, and any joint board of local authorities constituted under section nine of this Act;

" land " includes any interest in land and any easement or right in, to or over land;

" limits of supply ", in relation to any water undertaking, means the limits within which the undertakers are for the time being authorised to supply water, so, however, that when used in relation to undertakers expressed to be supplying water under a local enactment, it means the limits within which they are authorised to supply water under such an enactment;

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" local authority " means the council of a county, county borough or county district, the Common Council of the City of London or the council of a metropolitan borough;

" local enactment " means any local Act of Parliament, any public general Act of Parliament relating to the supply of water in London, any statutory order or any provision in any such Act of Parliament or statutory order;

" Minister " means Minister of Health;

" navigation authority " means any person or body of persons, whether incorporated or not, having powers under an enactment to work, maintain, conserve, improve or control any canal or other inland navigation, navigable river, estuary, harbour or dock;

" owner " means, except in the Second Schedule to this Act, the person for the time being receiving the rack-rent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if those premises were let at a rackrent;

" premises " includes land;

" prescribed " means prescribed by regulations made by the Minister under this Act;

" railway company " means any persons authorised by an enactment to construct, work or carry on a railway, and includes the London Passenger Transport Board;

" rivers board " means a joint committee, board or other body constituted under subsection (3) of section fourteen of the Local Government Act, 1888, or by or under a local Act, for the purpose of exercising powers of a sanitary authority under the Rivers Pollution Prevention Act, 1876;

" statutory order " means an order or scheme made under an Act of Parliament, including an order or scheme confirmed by Parliament;

" statutory water undertakers " means any company, local authority, board, committee, or other person supplying water under an enactment, and also includes, for the purposes of Part II of this Act only, any local authority authorised to supply water by the Public Health Act, 1936, but not actually supplying water under that Act, but the said expression does not include a railway company or navigation authority having statutory power to sell surplus water or any body or person supplying water solely for the purpose of producing motive power by hydraulic pressure;

" street " includes any highway, including a highway over any bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

" supply of water in bulk " means a supply of water for distribution by the undertakers taking the supply;

" watercourse " includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers (other than sewers vested in a local authority or a joint board of local authorities) and passages, through which water flows;

" water fittings " includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, water-closets, soil-pans and other similar apparatus used in connection with the supply and use of water.

- (2) References in this Act to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment including this Act.

(3) This section shall not apply for the purposes of the Third Schedule to this Act.

**60 Provision as to work involving alteration of telegraphic lines.**

The expression " Act of Parliament " in section seven of the Telegraph Act, 1878 (which makes provision as to work done in pursuance of Acts of Parliament involving any telegraphic lines) shall be construed as including any order made under this Act authorising the execution of works.

**61 Saving for protective provisions in other Acts.**

Except with the consent of the persons interested, no order made under section thirty-two of this Act shall abrogate or affect—

- (a) any provision contained in a local enactment for the protection or benefit of any specified person or class of persons or body of persons, whether incorporated or not;
- (b) any provision contained in a local enactment for conferring on or preserving to the public rights of enjoyment of air, exercise and recreation on land or rights of access to land for those purposes or for conferring any right of way;
- (c) any provision contained in a local enactment with respect to the quantity of compensation water to be discharged into any watercourse or the periods during which or the manner in which such compensation water is to be discharged.

**62 Repeals.**

The enactments mentioned in the Fifth Schedule to this Act are hereby repealed to the extent mentioned in the third column thereof:

Provided that this repeal shall not affect any byelaw in force at the commencement of this Act and made for purposes similar to the purposes for which byelaws can be made under this Act, or any order made under the Water Undertakings (Modification of Charges) Act, 1921, in force immediately before the commencement of this Act.

**63 Short title, extent and commencement.**

- (1) This Act may be cited as the Water Act, 1945.
- (2) This Act shall not extend to Scotland or Northern Ireland.
- (3) This Act shall come into operation on the first day of October, nineteen hundred and forty-five