



Water Act 1945

1945 CHAPTER 42

An Act to make provision for the conservation and use of water resources and for water supplies and for purposes connected therewith. [15th June 1945.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

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.
- (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—

- (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 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;
 - (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:

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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.
- (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

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- (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 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, 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—
- construct any well, borehole, or other work for the purpose of abstracting underground water ; or
 - 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—

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- (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—
 - (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.

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- (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.

- (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, 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

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- (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 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, 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.

Status: This is the original version (as it was originally enacted).

- (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 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

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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.

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.
- (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 Third 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 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

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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 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 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.

- (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.

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

Status: This is the original version (as it was originally enacted).

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;

- (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

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;

Status: This is the original version (as it was originally enacted).

- (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;

Status: This is the original version (as it was originally enacted).

" 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

SCHEDULES.

FIRST SCHEDULE

Sections 9, 10, 12, 14, 19, 23, 26, 32 and
33.

PROCEDURE FOR MAKING ORDERS, APPROVING AGREEMENTS AND MAKING AND CONFIRMING BYELAWS.

PART I

*Orders made by the Minister under sections 9 (1), 10 (1), 23, 26 (2),
section 32 (2) (if made on application of undertakers) and section 33.*

- 1 An application by a company for an order under subsection (1) of section nine or subsection (1) of section ten of this Act or an order under section twenty-three thereof authorising the raising of capital or the borrowing of money must be authorised, if the company is a company within the Companies Act, 1929, by a special resolution of the members passed in the manner provided in Part IV of that Act, and, if the company is not such a company, by a resolution passed by three-fourths in value and number of the members present, either personally or by proxy, at a special meeting of which not less than twenty-one days' notice specifying the resolution has been duly given.
- 2 Applicants for any order to which this Part of this Schedule applies shall submit to the Minister a draft of the order which they desire him to make and shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the order a notice—
 - (a) stating the general effect of the order;
 - (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of twenty-eight days from the date of the first publication of the notice;
 - (c) stating that, within the said period, any person may by notice to the Minister object to the application.

If it appears to the Minister in the case of an order relating to the Metropolitan Water Board that publication in local newspapers under this paragraph is unnecessary as respects any part of the said area, he may dispense with such publication as respects that part.

- 3 Not later than the date on which the said notice is first published, the applicants shall serve a copy thereof,—
 - (i) on the local authority of every county or district comprised wholly or partly in the area affected by the order;
 - (ii) except where the application is for an order only authorising the raising of capital or the borrowing of money, on the catchment board of any catchment area comprised wholly or partly in the area affected by the order; and

(iii) where it is proposed that the order shall authorise the execution of works, on the fishery board of any fishery district within which works are to be executed, and on any navigation authority or rivers board exercising functions in relation to a watercourse affected by the works proposed to be executed;

(iv) where it is proposed that the order shall authorise the acquisition of rights to take water, on the catchment board of any catchment area, the fishery board of any fishery district, and any navigation authority or rivers board having jurisdiction over any watercourse, from which water is to be taken under the rights acquired;

and, in the case of a copy to be served on the council of a county, shall attach thereto a copy of the draft order.

- 4 The applicants shall also publish in the London Gazette a notice stating that they are about to apply for an order under this section, naming the counties and districts comprised wholly or partly in the area affected by the order, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the order applied for will be found.
- 5 The applicants shall, at the request of any person interested, furnish to him a copy of the draft order upon payment of such charge, not exceeding two shillings, as they think reasonable.
- 6 The Minister may make an order in the terms of the draft submitted to him or in those terms as modified in such manner as he thinks fit, but where he proposes to make any modification and considers that persons other than the applicants may be adversely affected thereby, he shall require the applicants to give and publish additional notices in such manner as he thinks best adapted for informing all persons so affected of the modification proposed.
- 7 If, before the expiration of the twenty-eight days referred to in paragraph 2 of this Part of this Schedule, or of twenty-five days from the publication of the said notice in the London Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, an objection is received by the Minister from any board or authority on whom a notice is required to be served under paragraph 3 of this Part of this Schedule, or from any other person appearing to him to be affected by the application, or, as the case may be, by the proposed modification, and the objection is not withdrawn, the Minister, before making any order on the application, shall cause a local inquiry to be held.
- 8 On the making of an order to which this Part of this Schedule applies, the Minister shall give notice of the making of the order and the effect thereof to any person who has objected thereto under the foregoing provisions of this Part of this Schedule, and has not withdrawn that objection, and in that case the order shall not have effect until the expiration of twenty-eight days from the date of the said notice, and if within that period any such person gives notice to the Minister that he objects to the order and the objection is not withdrawn the order shall be provisional only and shall not have effect until it is confirmed by Parliament.
- 9 The costs incurred by the Minister in connection with the making, notification and confirmation of an order under this Part of this Schedule shall be paid by the applicants and the Minister may, in a case where there are two or more applicants, apportion such costs between them, and may require the applicants to give security for the payment of such costs.

- 10 In this Part of this Schedule the expression " area affected by the order " means, in relation to any order, the limits of supply or proposed limits of supply of the undertakers or proposed undertakers to whose undertaking the order relates and also includes, if the order authorises the execution of works, the site of those works.

PART II

Orders made by the Minister under sections 9 (2), 10 (2), 12 (3)
and 14 (1) and (if no application by undertakers) section 32 (2).

- 11 Before making an order to which this Part of this Schedule applies, the Minister shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area affected by the order a notice—
- (a) stating the general effect of the order;
 - (b) specifying a place in the said area where a copy of the draft order and of any relevant map or plan may be inspected by any person free of charge at all reasonable hours during a period of twenty-eight days from the date of the first publication of the notice; and
 - (c) stating that, within the said period, any person may by notice to the Minister object to the making of the order.

If it appears to the Minister in the case of an order relating to the Metropolitan Water Board that publication in local newspapers under this paragraph is unnecessary as respects any part of the said area, such publication shall not be required as respects that part.

- 12 Not later than the date on which the said notice is first published, the Minister shall serve a copy thereof—
- (i) on the local authority of every county or district comprised wholly or partly in the area affected by the order;
 - (ii) on the catchment board of any catchment area comprised wholly or partly in the said area; and
 - (iii) on any statutory water undertakers to whom the order relates or whose limits of supply are comprised wholly or partly in the area affected by the order; and
 - (iv) where it is proposed that the order shall authorise the execution of works, on the fishery board of any fishery district within which works are to be executed, and on any navigation authority or rivers board exercising functions in relation to a watercourse affected by the works proposed to be executed; and
 - (v) where it is proposed that the order shall provide for the furnishing of a supply of water in bulk, on the catchment board for any catchment area, the fishery board of any fishery district, and any rivers board having jurisdiction over any watercourse, from which water is taken by the persons who are to give the bulk supply;
- and in the case of a copy to be served on the council of a county shall attach thereto a copy of the draft order.

- 13 The Minister shall also publish in the London Gazette a notice stating that he is about to make the order, naming the counties and districts comprised wholly or partly in the area affected by the order, specifying a place where a copy of the draft order and of any relevant map or plan may be inspected, and giving the name and

- date of issue of a local newspaper in which the notice explaining the effect of the order will be found.
- 14 The Minister shall, at the request of any person interested, furnish him with a copy of the draft order upon payment of such charge, not exceeding two shillings, as he thinks reasonable.
- 15 The Minister may make the order either in the terms of the draft or in those terms as modified in such manner as he thinks fit, but, where he proposes to make any modification and considers that persons, other than the water undertakers to whom the order relates, may be adversely affected thereby, he shall give and publish additional notices in such manner as he thinks best adapted for informing all persons likely to be so affected of the modification proposed.
- 16 If, before the expiration of the twenty-eight days referred to in paragraph 11 of this Part of this Schedule, or of twenty-five days from the publication of the said notice in the London Gazette, or before the expiration of any period specified in notices given under the last foregoing paragraph, -an objection is received by the Minister from any board or authority on whom a notice is required to be served under paragraph 12 of this Part of this Schedule, or from any other person appearing to him to be affected by the order, or, as the case may be, by the proposed modification, and the objection is not withdrawn, the Minister, before making the order, shall cause a local inquiry to be held.
- 17 On the making of any order to which this Part of this Schedule applies, the Minister shall give notice of the making of the order and the effect thereof to any person who has objected thereto under the foregoing provisions of this Part of this Schedule, and has not withdrawn that objection, and in that case the order shall not have effect until the expiration of twenty-eight days from the date of the said notice, and if within that period any such person gives notice to the Minister that he objects to the order and the objection is not withdrawn, the order shall be provisional only and shall not have effect until it is confirmed by Parliament.
- 18 The costs incurred by the Minister in connection with the making, notification and confirmation of an order under this Part of this Schedule shall be paid by the undertakers to which the order relates, and, of there are two or more such undertakers, the Minister may apportion such costs between them, and may require the undertakers to give security for the payment of such costs.
- 19 In this Part of this Schedule the expression " area " affected by the order " means, in relation to any order, the limits of supply or proposed limits of supply of the undertakers or proposed undertakers to whose undertaking the order relates and also includes, if the order authorises the execution of works, the site of those works:
- Provided that, in relation to any order made under section fourteen of this Act, the said expression means the area defined by that order.

PART III

Agreements made by statutory water undertakers under section 12 and section 26.

- 20 Statutory water undertakers who propose to enter into an agreement to which this Part of this Schedule applies shall publish once at least in each of two successive weeks in one or more local newspapers circulating within their limits of supply, a notice explaining the effect of the proposals and stating that objections thereto

may be made to the Minister within twenty-eight days after the first publication of the notice, and shall send a copy of the notice to the council of any county, the catchment board of any catchment area, the fishery board of any fishery district, and any navigation authority or rivers boards exercising functions in relation to any watercourse, from which water is obtained by the persons who propose to give the supply, or, as the case may be, from which the water is proposed to be taken under the rights to be acquired.

If it appears to the Minister in the case of an agreement to which the Metropolitan Water Board is a party that publication in local newspapers is unnecessary as respects any part of the Board's limits of supply, he may dispense with such publication as respects that part.

- 21 The statutory water undertakers shall also publish in the London Gazette a notice stating that they propose to enter into such an agreement as aforesaid with the persons specified in the notice and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the proposals will be found.
- 22 The Minister shall not approve the agreement, before the expiration of the said twenty-eight days, or before the expiration of twenty-five days from the publication of the said notice in the London Gazette, and before approving it shall consider any objections which may have been received by him before the expiration of either of the said periods, and if before such expiration an objection is received by the Minister from any such catchment board, fishery board or navigation authority as is referred to in subsection (2) of section twelve or subsection (6) of section twenty-six of this Act, as the case may be, and the objection is not withdrawn, the Minister, before approving the agreement by order in accordance with the said subsection, shall cause a local inquiry to be held.
- 23 On approving by order / any agreement to which this Part of this Schedule applies, the Minister shall give notice of the making of the order to any catchment board, fishery board or navigation authority mentioned in the last foregoing paragraph who have objected to the approval of the agreement and have not withdrawn that objection, and in that case the order shall not have effect until the expiration of twenty-eight days from the date of the said notice, and if within that period any such board or authority give notice to the Minister that they object to the order and the objection is not withdrawn, the order shall be provisional only and shall not have effect until it is confirmed by Parliament.
- 24 The costs incurred by the Minister in connection with the approval of agreements under this Part of this Schedule (whether by order or otherwise) and the confirmation of orders thereunder shall be paid by the undertakers to which the agreement or order relates, and, in a case where there are two or more such undertakers, the Minister may apportion such costs between them, and may require the undertakers to give security for the payment of such costs.

PART IV

Byelaws made by statutory water undertakers under section 17 and section 18.

- 25 Byelaws to which this Part of this Schedule applies shall be made under the common seal of the undertakers, and shall not have effect until they are confirmed by the Minister.
- 26 At least one month before application for confirmation of the byelaws is made—

- (a) notice of the intention to apply for confirmation shall be published in the London Gazette and in one or more local newspapers circulating in the area to which the byelaws apply; and
 - (b) a copy of the byelaws shall be sent to the council of every district wholly or partly comprised in the area to which the byelaws apply, and, in the case of byelaws made under section eighteen of this Act, to the council of every county and the fishery board of any fishery district and the catchment board for any catchment area wholly or partly comprised in the area to which the byelaws apply and to any rivers board having jurisdiction in any part of the last-named area.
- 27 For at least one month before such application is made, a copy of the byelaws shall be deposited at the offices of the undertakers and shall at all reasonable hours be open to public inspection without payment and, in the case of byelaws made under section eighteen of this Act, a copy of the notice referred to in sub-paragraph (a) of paragraph 26 of this Schedule shall be exhibited in some conspicuous place in each borough, urban district and rural parish wholly or partly comprised in the area to which the byelaws apply.
- 28 The undertakers shall, at the request of any person interested, furnish to him a copy of the proposed byelaws upon payment of such sum not exceeding one shilling as they think reasonable.
- 29 The Minister may confirm, or refuse to confirm, any byelaw submitted to him under this Part of this Schedule for confirmation, and may fix the date on which the byelaw is to come into operation, but if no date is so fixed the byelaw shall come into operation at the expiration of one month from the date of its confirmation.
- 30 A copy of the byelaws, when confirmed, shall be printed and deposited at the offices of the undertakers and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum not exceeding one shilling as the undertakers think reasonable.
- 31 The production of a printed copy of the byelaws, upon which is endorsed a certificate purporting to be signed by the clerk or secretary of the undertakers, stating—
- (a) that the byelaws were made by the undertakers;
 - (b) that the copy is a true copy of the byelaws;
 - (c) that on a specified date the byelaws were confirmed by the Minister;
 - (d) the date, if any, fixed by the Minister for the coming into operation of the byelaws:
- shall be prima facie evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this paragraph.

PART V

Orders made by the Minister revising water rates and charges under section 40.

- 32 Applicants for any order to which this Part of this Schedule applies shall publish once at least in each of two successive weeks in one or more local newspapers circulating in the area within which the undertakers are supplying water, a notice—

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- (a) stating the general effect of their proposals;
 - (b) stating that, during a period of twenty-eight days from the date of the first publication of the notice, any person may by notice to the Minister object to the application.
- 33 Not later than the date on which the said notice is first published, the applicants shall serve a copy thereof on the local authority of every county or district within which the undertakers are supplying water.
- 34 The applicants shall also publish in the London Gazette a notice stating that they are about to apply for an order under this section, naming the local authorities of the counties and districts within which the undertakers are supplying water and giving the name and date of issue of a local newspaper in which the notice explaining the effect of their proposals will be found.
- 35 If, before the expiration of the twenty-eight days referred to in paragraph 32 of this Part of this Schedule, or of twenty-five days from the publication of the said notice in the London Gazette, an objection is received by the Minister from any person appearing to him to be affected by the application, and is not withdrawn, the Minister, before making any order on the application, shall cause a local inquiry to be held.

SECOND SCHEDULE

Section 24.

COMPULSORY PURCHASE ORDERS.

Form, contents and procedure.

- 1 A compulsory purchase order made under this Act shall be in the prescribed form and shall describe by reference to a map the land to which it applies, and shall incorporate, subject to the modifications hereinafter mentioned and any necessary adaptations,—
 - (a) the Lands Clauses Acts (except sections one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845);
 - (b) in a case where the purchaser is a local authority or a joint water board, the Acquisition of Land (Assessment of Compensation) Act, 1919, and Part II of the Town and Country Planning Act, 1944; and
 - (c) Part IV of the Third Schedule to this Act.
- 2 The modifications subject to which the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall be incorporated in the order are as follows:—
 - (a) the arbitrator shall not take into account any building erected or any improvement or alteration made or any interest in land created after the date on which notice of the order having been made is published in accordance with the provisions of this Schedule if, in the opinion of the arbitrator, the erection of the building or the making of the improvement or alteration or the creation of the interest in respect of which a claim is made was not reasonably necessary and was carried out with a view to obtaining or increasing compensation;
 - (b) where any land to which an order relates is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums

Status: This is the original version (as it was originally enacted).

agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for damage to be sustained by the owner by reason of severance or injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions, of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

3 Before submitting the order to the Minister, the local authority or undertakers shall—

- (a) publish in one or more local newspapers circulating within their limits or proposed limits of supply a notice in the prescribed form stating that such an order has been made and describing the area comprised therein and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours; and
- (b) serve on every owner, lessee and occupier (except tenants for a month or a less period than a month) of any land to which the order relates a notice in the prescribed form stating the effect of the order and that it is about to be submitted to the Minister for confirmation and specifying the time within and the manner in which objections thereto can be made.

4 If no objection is duly made by any of the persons upon whom notices are required to be served, or if all objections so made are withdrawn, then, subject to the provisions hereinafter in this Schedule contained, the Minister may, if he thinks fit, confirm the order with or without modification, but in any other case he shall, before confirming the order, cause a local inquiry to be held, and shall consider any objection not withdrawn and the report of the person who held the inquiry, and may then confirm the order either with or without modification:

Provided that the Minister may require any person who has made an objection to state in writing the grounds thereof and may confirm the order without causing a local inquiry to be held if he is satisfied that every objection duly made relates exclusively to matters which can be dealt with by the arbitrator by whom the compensation is to be assessed.

5 An order as confirmed by the Minister shall not, unless all persons interested consent, authorise the local authority or undertakers to purchase compulsorily any land which the order would not have authorised them so to purchase if it had been confirmed without modification.

6 In construing for the purposes of this Schedule or any order made thereunder any enactment incorporated in the order, this Act, together with the order, shall be deemed to be the special Act, and the local authority or undertakers shall be deemed to be the promoters of the undertaking.

Validity and date of operation.

7 So soon as may be after a compulsory purchase order has been confirmed by the Minister, the local authority or undertakers shall publish in one or more local newspapers circulating in their limits or proposed limits of supply a notice in the prescribed form stating that the order has been confirmed, and naming a place where a copy of the order as confirmed and of the map referred to therein may be seen at all reasonable hours, and shall serve a like notice on every person who, having given notice to the Minister of his objection to the order, appeared at the public local inquiry in support of his objection.

- 8 If any person aggrieved by such an order as aforesaid desires to question the validity thereof on the ground that it is not within the powers of this Act or that any requirement of this Act has not been complied with, he may, within six weeks after the publication of the notice of confirmation or the order, make an application for the purpose to the High Court, and where any such application is duly made, the court—
- (i) may by interim order suspend the operation of the order, either generally or in so far as it affects any property of the applicant until the final determination of the proceedings; and
 - (ii) if satisfied upon the hearing of the application that the order, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act not having been complied with, may quash the order, either generally or in so far as it affects any property of the applicant.
- 9 Subject to the provisions of the last foregoing paragraph, the order shall not be questioned by prohibition or certiorari or in any legal proceedings whatsoever, either before or after the order is confirmed, and shall become operative at the date on which notice of confirmation of the order is published in accordance with the provisions of this Schedule.
- 10 Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal in proceedings under this Schedule.

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PART I

INTERPRETATION.

Definitions, and &c.

- 1 (1) In this Schedule 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:—
 - " authorised " means authorised by the special Act;
 - " bridge authority " means—
 - (a) in the case of a county bridge, the county council;
 - (b) in the case of any other bridge maintainable at the public expense, the authority who are the highway authority in respect of the highway carried by the bridge;
 - " building " includes a part of a building if that part is separately occupied;
 - " building byelaws " means byelaws made under Part II of the Public Health Act, 1936, with respect to buildings works and fittings, and includes byelaws made with respect to those matters under any corresponding enactment repealed by that Act, or under any such enactment as amended or extended by a local Act;
 - " business " does not include a profession;
 - " catchment board " and " catchment area ", in relation to such a board have the same meanings as in the Land Drainage Act, 1930;
 - " communication pipe " means—
 - (a) where the premises supplied with water abut on the part of the street in which the main is laid, and the service pipe enters those premises otherwise than through the outer wall of a building abutting on the street and has a stopcock placed in those premises and as near to the boundary of that street as is reasonably practicable, so much of the service pipe as lies between the main and that stopcock;
 - (b) in any other case, so much of the service pipe as lies between the main and the boundary of the street in which the main is laid, and includes the ferrule at the junction of the service pipe with the main, and also—
 - (i) where the communication pipe ends at a stopcock, that stopcock; and
 - (ii) any stopcock fitted on the communication pipe between the end thereof and the main;
 - " consumer " means a person supplied, or about to be supplied, with water by the undertakers;
 - " county " means an administrative county;
 - " county district " means a non-county borough, an urban district or a rural district;

" 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;

" factory " means a factory within the meaning of the Factories Act, 1937;

" fire authority " has the same meaning as in the Fire Brigades Act, 1938;

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

" highway authority " means, in the case of a highway maintainable at the public expense, the authority in whom that highway is vested;

" house " means a dwelling-house, whether a private dwelling-house or not, and includes any part of a building if that part is occupied as a separate dwelling-house;

" land drainage authority " means a drainage authority within the meaning of the Land Drainage Act, 1930;

" 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;

" local authority " means the council of a borough or of an urban or rural district, and " district, " in relation to the local authority of a borough, means that borough;

" main " means a pipe laid by the undertakers for the purpose of giving a general supply of water as distinct from a supply to individual consumers and includes any apparatus used in connection with such a pipe;

" 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 the person for the time being receiving the rackrent 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;

" prescribed " means prescribed by the special 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;

" service pipe " means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that main, or would be so subject but for the closing of some tap;

" sewerage authority " has the same meaning as in the Public Health Act, 1936;

" special Act " means the enactment with which any provisions of this Schedule are incorporated, with or without modifications, and includes those provisions as so incorporated;

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

" statutory undertakers " means any persons authorised by an enactment to construct, work or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking;

" 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;

" a supply of water for domestic purposes " means a sufficient supply for drinking, washing, cooking and sanitary purposes, but not for any bath having a capacity (measured to the centre line of the overflow pipe, or in such other manner as the Minister may by regulations prescribe) in excess of fifty gallons; and includes—

- (a) a supply for the purposes of a profession carried on in any premises the greater part whereof is used as a house; and
- (b) where the water is drawn from a tap inside a house and no hosepipe or similar apparatus is used, a supply for watering a garden, for horses kept for private use and for washing vehicles so kept:

Provided that it does not include a supply of water for the business of a laundry or a business of preparing food or beverages for consumption otherwise than on the premises;

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

" supply pipe " means so much of any service pipe as is not a communication pipe;

" telegraphic line " has the same meaning as in the Telegraph Act, 1878;

" trunk main " means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir, or from one filter or reservoir to another filter or reservoir, or for the purpose of conveying water in bulk from one part of the limits of supply to another part of those limits, or for the purpose of giving or taking a supply of water in bulk;

" undertakers " means the persons whose water undertaking is authorised or regulated by the special Act;

" watercourse " includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sluices, sewers (other than sewers vested in a local authority or 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, waterclosets, soil-pans and other similar apparatus used in connection with the supply and use of water.

- (2) Any reference in this Schedule to the persons having the control or management of a street or bridge shall be construed as a reference, in the case of a highway or bridge maintainable at the public expense, to the authority who are the highway authority, or, as the case may be, the bridge authority in respect thereof and, in the case of any other street or bridge, to the -authority or person responsible for the maintenance thereof, or, if no authority or person is responsible therefor, to the owners of the soil of the street or, as the case may be, of the structure of the bridge.
- (3) References in this Schedule to any enactment shall be construed as including references to that enactment as amended by any subsequent enactment, including the Water Act, 1945.

PART II

WORKS AND LANDS.

Permissible limits of deviation.

- 2 In the construction of any authorised works the undertakers may deviate laterally to any extent not exceeding the limits of deviation shown on the plans submitted to the Minister and, where on any street no such limits are shown, the boundaries of the street (including for this purpose any verge or roadside waste adjoining it) shall be deemed to be such limits, and they may also deviate vertically from the levels shown on the said plans to any extent:

Provided that—

- (a) no embankment for a reservoir shall be constructed at a greater height above the general surface of the ground than that shown on the said plans and six feet in addition thereto; and
- (b) except for the purpose of crossing a river, stream, canal, dyke, watercourse or railway, or of crossing any lands where the consent of all persons having a legal interest therein has been obtained, no pipe or other conduit or aqueduct shall be raised above the surface of the ground otherwise than in accordance with the said plans.

Limit on powers of undertakers to take water.

- 3 The undertakers shall not construct any works for taking or intercepting water (other than works for intercepting foul water) from any lands acquired by them, unless the works are authorised by, and the lands on which the works are to be constructed are specified in, the special Act or some other enactment.

General power to construct subsidiary works.

- 4 Subject to the provisions of the last foregoing section and to any other provisions of the special Act limiting the powers of the undertakers to abstract water, the undertakers, in addition to any works specifically authorised, may in, on or over any land for the time being held by them in connection with their water undertaking construct, lay or erect for the purposes thereof, or in connection therewith, and may maintain, such reservoirs, sluices, tanks, cisterns, aqueducts, tunnels, culverts, mains, pipes, engines, pumps, machinery, filters, treatment plant, buildings and things for, or in connection with, the supply of water as they deem necessary:

Provided that any electrical works or apparatus constructed, laid or erected under this section shall be so constructed, laid or erected, and so maintained and used, as to prevent interference with any telegraphic line belonging to or used by the Postmaster General, or with telegraphic communication by means of any such line.

Power of undertakers to lay or erect telephone wires, and &c.

- 5 (1) For the purpose of establishing telegraphic, telephonic or other electrical communication between their offices and any part of their works, or between different parts of their works, the undertakers may lay and erect in on or over any highway, and, with the consent of the owners and occupiers of any other land, in on or over that land, such wires, posts, conductors and other apparatus as they deem

necessary and the provisions of the special Act relating to the breaking open of streets by the undertakers shall, with any necessary modification of adaptation, apply as respects any highway in relation to the laying, erection and maintenance of any such wires, posts, conductors or other apparatus:

Provided that the undertakers shall not lay or erect any such wires, posts, conductors or other apparatus except with the consent of the local authority and highway authority concerned and in accordance with such conditions as either of those authorities may attach to their consent, but such consent shall not be unreasonably withheld nor shall unreasonable conditions be attached thereto, and any question whether a withholding of consent or a condition is reasonable or not shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

- (2) The undertakers shall at any time at their own expense remove any wires, posts, conductors or other apparatus laid or erected by them under the provisions of this section if they are required so to do by the local authority or a highway authority for the purpose of enabling any widening or other improvement to be carried out to a street or highway.
- (3) Wires, posts, conductors or other apparatus laid or erected by the undertakers under the provisions of this section shall not be used in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act, 1869, or be installed or worked in contravention of the provisions of the Wireless Telegraphy Acts, 1904 to 1926, and shall be so constructed, maintained and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General, or with telegraphic communication by means of any such line.
- (4) Where the undertakers propose, in the exercise of their powers under this section, to lay or erect any wires, posts, conductors or other apparatus over, under or in the vicinity of any electric line belonging to any electricity undertakers, the undertakers shall take all reasonable precautions so as not injuriously to affect, whether by induction or otherwise, the working or user of, or the currents in, the electric line.

Any question which may arise between the undertakers and any electricity undertakers under this subsection shall be determined by an arbitrator to be agreed between the undertakers and the electricity undertakers or, failing agreement, to be appointed by the President of the Institution of Electrical Engineers, and the arbitrator may direct the undertakers to make any alterations in their wires, posts, conductors or other apparatus so as to comply with the provisions of this subsection and the undertakers shall make those alterations accordingly.

In this subsection the expressions " electric line " and " electricity undertakers " have the same respective meanings as in the Electricity (Supply) Acts, 1882 to 1936.

- (5) Where the undertakers propose, in the exercise of their powers under this section, to lay or erect any wires, posts, conductors or other apparatus which will cross or interfere with any watercourse or works vested in, or under the control of, a land drainage authority, they shall give notice of their proposals to that authority and if within twenty-eight days that authority serve on the undertakers notice of objection to their proposals, the undertakers shall not proceed with their proposals unless all objections so made are withdrawn or the Minister after a local inquiry has approved the proposals either with or without modification:

Provided that this subsection shall not apply in relation to any wires, posts, conductors or other apparatus which the undertakers propose to lay or erect in or on a bridge carrying a highway across such a watercourse as aforesaid.

Penalty for obstructing construction of works.

- 6 Any person who wilfully obstructs a person engaged by, or under authority of, the undertakers in setting out the line, level or site of any authorised works, or knowingly pulls up any peg or stake driven into the ground for the purpose of setting out such line, level or site, or knowingly defaces or destroys anything made or erected for that purpose, shall be liable to a fine not exceeding five pounds.

Power to acquire easements for underground works.

- 7 (1) Where the undertakers are empowered by the special Act to execute any underground works, they may, in lieu of purchasing land compulsorily for the purpose of executing those works, be authorised by means of a compulsory purchase order made by the undertakers and confirmed by the Minister to purchase only such easements and rights over or in that land as may be sufficient for the said purpose and the provisions of the Second Schedule to the Water Act, 1945, shall apply, with such adaptations as may be necessary, to any compulsory purchase order made under this section.
- (2) The undertakers shall not be required or, except by agreement, be entitled to fence off or sever from adjoining lands any lands in respect of which they have purchased only easements or rights under the provisions of this section, and subject to those easements or rights and to any other restrictions imposed by the special Act, the owners or occupiers for the time being of those lands shall have the same rights of using and cultivating them as if that Act had not been passed.

Persons under disability may grant easements, and &c.

- 8 Persons empowered by the Lands Clauses Acts to sell and convey, or release, any lands may, subject to the provisions of those Acts and of the special Act, grant to the undertakers any easement or right required for the purposes of the special Act over or in those lands, and the provisions of the Lands Clauses Acts with respect to lands and rentcharges shall, so far as applicable, apply in relation to such grants and to such easements and rights:

Provided that nothing in this section shall be construed as empowering persons to grant any easement or right of water in which any other person has an interest, unless that other person concurs in the grant.

Extinction of private rights of way.

- 9 (1) Any private right of way over land which the undertakers are authorised to acquire compulsorily shall, if they so resolve and give notice of their resolution to the owner of the right, be extinguished as from the acquisition by them of the land, or as from the expiration of one month from the service of the notice, whichever may be the later.
- (2) The undertakers shall pay compensation to all persons interested in respect of any such right so extinguished and such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with respect to the taking of lands otherwise than by agreement.

PART III**COMPENSATION WATER.***Provisions as to compensation water.*

- 10 (1) During the construction of any authorised impounding reservoir the undertakers may, subject as hereinafter provided, take from any stream to be impounded thereby such water as they may require:

Provided that, before taking any water from the stream, they shall, on an approved site, construct an approved gauge to gauge the now of the stream and, while the flow of water through or over the gauge is less than the prescribed flow, they shall not take any water.

- (2) After the completion of the reservoir the undertakers shall, at an approved point within such limits as may be prescribed, discharge into the stream from, or from streams feeding, the reservoir during every day of twenty-four hours reckoned from midnight in a uniform and continuous flow a quantity of water not less than the prescribed quantity, and, for the purpose of gauging such discharge, they shall construct and maintain in good order approved gauges on approved sites.
- (3) Where the undertakers are authorised to take any water from any stream, they shall, before taking any such water, construct on approved sites approved gauges to gauge the quantity of water taken and the flow of the stream, and they shall not take any water in excess of the quantity authorised to be taken or while the flow of water through or over the gauge is less than the prescribed flow.
- (4) If the undertakers—
- (a) fail to construct or maintain in good order any such gauge as aforesaid, or refuse to allow any person interested to inspect and examine any such gauge or any records made thereby or kept by them in connection therewith or to take copies of any such records; or
 - (b) take any water from the stream contrary to the provisions of subsection (1) or subsection (3) of this section, or fail to comply with the requirements of subsection (2) of this section with respect to the discharge of water into the stream,

they shall, without prejudice to their civil liability, it any, to a person aggrieved, be liable, in the case of an offence under paragraph (a) of this subsection, to a fine not exceeding fifty pounds, in respect of each day on which the offence has been committed or has continued, and in the case of an offence under paragraph (b) of this subsection—

- (i) on summary conviction, to a fine not exceeding fifty pounds in respect of each such day; and
 - (ii) on conviction on indictment, to a fine not exceeding five hundred pounds in respect of each such day.
- (5) In this section, the expression " gauge " includes a gauge weir or other apparatus for measuring the flow of water, and the expression " approved " means approved by the Minister; and, for the purposes of this section, a catchment board, a fishery board, a rivers board and a navigation authority shall be deemed to be interested in the flow of water in, and the discharge of water into, any stream within their area or district, or, as the case may be, forming part of their system of navigation or any stream feeding

such a stream or any part of that system and shall be deemed to be aggrieved by the commission of an offence under this section in relation to any such stream.

- (6) The foregoing provisions of this section shall be deemed to have been accepted by all persons interested as full compensation for all water impounded by the authorised works, except in respect of any land between the foot of the embankment of the reservoir and the point of discharge approved for the purposes of subsection (2) of this section.
- (7) Subject to the provisions of section five of the Criminal Justice Administration Act, 1914, any fine recovered under this section on the complaint of a fishery board or of an officer of, or person authorised by, a fishery board shall, as to the whole or such part thereof as the court may determine, be paid to the board in respect of the costs of the prosecution.

PART IV

MINERALS UNDERLYING WATERWORKS.

Undertakers not entitled to underlying minerals, unless expressly purchased.

- 11 Where the undertakers purchase any land they shall become entitled to such parts of any mines of coal, ironstone, slate or other minerals under that land as it may be necessary for them to dig, carry away or use in the construction of any waterworks authorised by the special Act, but, save as aforesaid, they shall not by virtue only of their purchase of the land become entitled to any such mines or minerals, which shall, save as aforesaid, be deemed to be excepted from the conveyance of the land unless expressly mentioned therein as conveyed thereby.

Map of underground works to be prepared and kept up to date.

- 12 (1) The undertakers shall, within six months after the first occasion on which any pipes, or other conduits, or underground works are laid or constructed by them after this section is incorporated with their enactments, cause the course and situation of all existing pipes or other conduits for the collection, passage, or distribution of water and underground works belonging to them to be marked on a map (drawn on a scale not less than six inches to one mile), and shall, from time to time, within six months after the making of any alterations or additions, cause the said map to be so corrected as to show the course and situation of all such pipes and conduits, and underground works for the time being belonging to them, and the map, or a copy thereof, bearing the date of its preparation and of the last occasion on which it was corrected shall be kept at the office of the undertakers.

In this subsection the expression " pipes " does not include service pipes.

- (2) The said map shall at all reasonable hours be open to inspection by any person interested free of charge.

Mines lying near the works not to be worked without notice to undertakers.

- 13 Subject to any agreement to the contrary, if the owner, lessee, or occupier of any mines of coal, ironstone, slate or other minerals lying under the reservoirs or buildings of the undertakers, or any of their pipes or other conduits or underground

works shown on the map referred to in the last foregoing section, or lying within the prescribed distance therefrom, or, if no distance be prescribed, within forty yards therefrom, desires to work the said mines or minerals, he shall give to the undertakers thirty days' notice of his intention so to do.

If undertakers unwilling to pay compensation, mines may be worked in usual manner.

- 14 (1) Upon receipt of such a notice as aforesaid, the undertakers may cause the said mines or minerals to be inspected by any person appointed by them for the purpose, and if it appears to them that the working thereof is likely to damage any of their reservoirs or buildings, or pipes, or other conduits or underground works shown on the said map, and if they are willing to pay compensation for the mines or minerals to the owner, lessee or occupier thereof, then he shall not work them, and the amount of the compensation to be paid shall, in the case of dispute, be determined by arbitration.
- (2) If the undertakers have not before the expiration of the said thirty days stated their willingness to treat with the owner, lessee, or occupier for the payment of compensation, it shall be lawful for him to work the said mines and minerals, and to drain them, by means of pumps or otherwise, as if the special Act had not been passed, so, however, that no wilful damage be done to any of the said property or works of the undertakers and that the mines and minerals be not worked in an unusual manner.
- (3) Any damage or obstruction occasioned to any of the said property or works of the undertakers by the working of such mines or minerals in an unusual manner shall be forthwith repaired or removed, and the damage made good, by the owner, lessee, or occupier of the mines or minerals, and if such repair or removal be not effected forthwith, or, if the undertakers deem it necessary to take action without waiting for the work to be done by the owner, lessee, or occupier, the undertakers may execute the work, and recover from the owner, lessee, or occupier the expenses reasonably incurred by them in so doing.

Power to make mining communications where continuous working is prevented.

- 15 If the working of any such mines or minerals as aforesaid lying under the reservoirs or buildings of the undertakers, or any of their pipes or other conduits or underground works shown on the map referred to in section twelve of this Schedule, or lying within the above-mentioned distance therefrom, mentioned in section thirteen of this Schedule, be prevented as aforesaid by reason of apprehended injury thereto, the respective owners, lessees, and occupiers of the mines or minerals may cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata the working whereof is so prevented as may be requisite to enable them to ventilate, drain, and work any mines or minerals on each or either side thereof, but no such airway, headway, gateway, or water level shall be of greater dimensions or sections than the prescribed dimensions or sections, or, if no dimensions are prescribed, eight feet wide and eight feet high, nor be cut or made upon any part of the said property or works of the undertakers so as to cause injury thereto.

Undertakers to pay compensation for expenses incurred by reason of severance.

- 16 (1) Subject to any agreement to the contrary, the undertakers shall from time to time pay compensation to the owner, lessee, or occupier of any mines of coal, slate, ironstone, and other minerals lying on both sides of any reservoir, building, pipe, or

other conduit, or other works of the undertakers for any loss and additional expense incurred by him by reason of the severance of the lands above such mines or minerals by the reservoir or other works, or by reason of the continuous working of such mines or minerals being interrupted as aforesaid, or by reason of their being worked under the restrictions imposed by the special Act, and also for any such mines or minerals not purchased by the undertakers as cannot be worked or won by reason of the making and continuance of the said works, or by reason of such apprehended injury from the working thereof as aforesaid.

- (2) The amount of any such compensation shall, in the case of dispute, be determined by arbitration.

Undertakers may enter and inspect the working of mines.

- 17 For the purpose of ascertaining whether any such mines or minerals as aforesaid are being, have been or are about to be worked so as to damage any of their said works, any authorised officer of the undertakers, after giving twenty-four hours' notice and on producing, if so required, some duly authenticated document showing his authority, may enter upon any lands in, on or near which the works are situate, and under which they know or suspect that any such mines are being, have been or are about to be worked, and may enter any such mines and the works connected therewith, using for their entry, inspection and return any apparatus or machinery belonging to the owner, lessee, or occupier of the mines, and may use all necessary means for discovering the distance from the said works to the parts of the mines which are being, have been or are about to be worked.

Undertakers not exempted from liability for injury to mines.

- 18 Nothing in the special Act shall exempt the undertakers from liability to any action or other legal proceeding to which they would have been liable in respect of any damage or injury done or occasioned to any mines by means, or in consequence, of their waterworks, if those works had been constructed or maintained otherwise than by virtue of the special Act.

PART V

POWER TO LAY MAINS, &C.

Power to lay mains.

- 19 (1) The undertakers may within their limits of supply and also, subject to the provisions of the next succeeding section, outside those limits, lay a main—
- (a) in any street, subject, however, to the provisions of Part VI of this Schedule; and
 - (b) with the consent of every owner and occupier of any land not forming part of a street and with the consent of the local authority of the district in which that land is situate and also of the highway authority concerned, if the main will be laid within two hundred and twenty feet of any highway, in, on or over that land,
- and may from time to time inspect, repair, alter or renew, or may at any time remove, any main laid down by them, whether by virtue of this section or otherwise:

Status: This is the original version (as it was originally enacted).

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

- (2) Where the undertakers propose in the exercise of their powers under this section to lay a main which will cross or interfere with any watercourse or works vested in, or under the control of, a land drainage authority, they shall give notice of their proposals to that authority, and, if within twenty-eight days that authority serve on the undertakers notice of objection to their proposals, the undertakers shall not proceed with their proposals unless all objections so made are withdrawn, or the Minister after a local inquiry has approved the proposals, either with or without modification:

Provided that this subsection shall not apply in relation to a main which the undertakers propose to lay in a bridge carrying a highway across such a watercourse as aforesaid.

- (3) Where the undertakers, in the exercise of their powers under this section, lay a main in, on or over any land not forming part of a street, or inspect, repair, alter, renew, or remove a main laid in, on or over any such land, they shall from time to time pay compensation to every person interested in that land for any damage done to, or injurious affection of, that land by reason of the inspection, laying, repair, alteration, renewal or removal of the main. Any dispute as to the amount of compensation to be paid under this subsection shall be referred to arbitration.
- (4) The undertakers may erect and maintain in any street notices indicating the position of underground water fittings used for controlling the flow of water through their mains, whether laid by virtue of this section or otherwise, and may affix such a notice to any house or other building, wall or fence.
- (5) For the purposes of this section, a private street within the curtilage of a factory shall be deemed not to be, or form part of, a street.

Conditions as to laying mains outside limits of supply.

- 20 (1) Where the undertakers, in the exercise of their powers under the last foregoing section, propose to lay a main outside their limits of supply, the provisions of that section shall apply, and the undertakers shall, in addition to giving any notice required by that section—
- (a) in the case of each county borough or county district in which they propose to lay a main, publish by advertisement in a local newspaper circulating in the borough or district a notice describing the nature of their proposals and specifying the land directly affected thereby, and naming a place where a plan illustrative of their proposals may be inspected at all reasonable hours by any person free of charge; and
 - (b) serve, not later than the date of the publication of the advertisement, a copy of the notice on the local authority of the borough or district and on the highway authority for any highway in which they propose to lay a main.
- (2) If, within twenty-eight days after the publication of the notice referred to in the last foregoing subsection, notice of objection to their proposals is served on the undertakers by any such local authority or highway authority as aforesaid, they shall not proceed with their proposals, unless all objections so made are withdrawn, or the Minister, after a local inquiry, has approved the proposals, either with or without modification.

- (3) The foregoing provisions of this section with respect to the publication and service of, and objections to, such additional notices as are therein referred to shall not apply where the work which undertakers propose to carry out outside their limits of supply consists only of the laying of a main in a highway maintainable at the public expense and they have obtained the consent of the local authority of the county borough or county district within which that highway is situate and also, where that authority are not the highway authority for the highway in question, the consent of that highway authority.

Power to lay service pipes, and &c.

- 21 (1) The undertakers may in any street within their limits of supply lay such service pipes with such stopcocks and other fittings as they deem necessary for supplying water to premises within the said limits, and may from time to time inspect, repair, alter, or renew, and may at any time remove, any service pipe laid in a street whether by virtue of this section or otherwise.
- (2) Where a service pipe has been lawfully laid in, on or over any land not forming part of a street, the undertakers may from time to time enter upon that land and inspect, repair, alter, renew or remove the pipe or lay a new pipe in substitution therefor, but shall pay compensation for any damage done by them.

Any dispute as to the amount of compensation to be paid under this subsection shall be determined by arbitration.

PART VI

BREAKING OPEN STREETS, &C.

Power to break open streets.

- 22 Subject to the provisions of this Part of this Schedule, the undertakers may within their limits of supply for the purpose of laying, constructing, inspecting, repairing, renewing or removing mains, service pipes, plant or other works, and outside those limits for the purpose of laying any mains which they are authorised to lay and of inspecting, repairing, renewing or removing mains, break open the roadway and footpaths of any street, and of any bridge carrying a street, and any sewer, drain or tunnel in or under any such roadway or footpath, and may remove and use the soil or other materials in or under any such roadway or footpath:

Provided that they shall in the exercise of the powers conferred by this section cause as little inconvenience and do as little damage as may be, and for any damage done shall pay compensation to be determined, in case of dispute, by arbitration.

Notice to be given before breaking open streets, and &c.

- 23 Not less than fourteen clear days before they commence to break open the roadway or footpath of any street or bridge, or any sewer, drain or tunnel, the undertakers shall give notice of their intentions, and of the time when they propose to commence the work, to the persons having the control or management of the street, bridge, sewer, drain or tunnel in question, or to some officer of those persons authorised by them to receive such notices:

Provided that—

- (a) in cases of emergency arising from defects in any pipes, plant or works, it shall be sufficient if the notice required by this section is given as soon as possible after the necessity for the work becomes known to the undertakers;
- (b) where the roadway or footpath is broken open for the purposes mentioned in the last but one foregoing section of this Schedule, the notice shall be seventy-two hours instead of fourteen days.

Streets, and c, not to be broken open except under supervision of persons responsible therefor.

- 24 (1) Subject to the provisions of this section, the undertakers shall not, save in such cases of emergency as aforesaid, break open the roadway or footpath of any street or bridge, or any sewer, drain or tunnel, except under the supervision of, and in accordance with plans approved by, the persons having the control or management thereof, or their authorised officer:

Provided that, if any difference arises in connection with the plans submitted for approval, that difference shall be referred to an arbitrator to be appointed, in default of agreement, by the Minister, or, if he thinks fit, by the President of the Institution of Civil Engineers, and, in cases where a sewer or drain is affected, the arbitrator may direct the undertakers to execute such work as he may deem necessary for preventing any temporary interruption of drainage through that sewer or drain, and the undertakers shall comply with any direction so given.

- (2) Notwithstanding anything in the last foregoing subsection, if the persons having the control or management of a street, bridge, sewer drain or tunnel, or their authorised officer, after having received such notice of the undertakers' intentions as is mentioned in the last foregoing section, fail to question the sufficiency or propriety of any plans submitted to them, or fail to submit any alternative plans to the undertakers, or fail to attend and exercise supervision over the work, the undertakers may proceed to carry out the work.

Protection for railway companies, navigation authorities, tramway undertakers, etc..

- 25 (1) Except in cases of emergency arising from defects in pipes, plant or works, the roadway or footpath of a street or bridge which is under the control or management of, or maintainable by, a railway company or navigation authority shall not be broken open without their consent, but that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to and determined by the Minister.
- (2) Where the undertakers propose to break open the roadway or footpath of any length of street which forms a level crossing, or crosses over or under a railway or other works of a railway company or navigation authority, and which is not under the control or management of the railway company or navigation authority, they shall give to the railway company or navigation authority the like notice as they are required by the last but one foregoing section to give to the persons having the control or management of the street and, in so far as the proposed work is likely to affect the structure of any bridge or other works belonging to the railway company or navigation authority, shall carry out the work to the reasonable satisfaction of the engineer or other authorised officer of the railway company or navigation authority in accordance with plans approved by him.

Any dispute arising under this subsection between the persons proposing to execute work and a railway company or navigation authority, shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

- (3) The last foregoing subsection shall, with any necessary adaptation, apply in relation to a level crossing which belongs to persons not being a railway company or navigation authority, as it applies in relation to a level crossing belonging to such a company or authority.
- (4) For the protection of persons entitled to the benefit of section thirty-two of the Tramways Act, 1870 (which relates to the rights of; authorities and companies, &c, to open roads), that section shall be construed as applying to operations authorised by the special Act, and in the said section as so applied any reference to a tramway shall be construed as including a reference to a trolley vehicle system.
- (5) Nothing contained in this section for the protection of owners of level crossings shall affect the decision of any question which may arise as to the legality of the construction of, or the right to continue, any level crossing.

Streets, and c, broken open to be reinstated without delay.

- 26 (1) When, for the purpose of executing any work, the undertakers break open the roadway or footpath of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed and to the reasonable satisfaction of the persons having the control or management thereof complete the work and fill in and consolidate the ground, and reinstate and make good the roadway or footpath, or the sewer, drain, or tunnel, as the case may be, and remove all rubbish resulting from their operations, and shall, after replacing and making good the roadway or footpath, keep it in good repair for three months, and for such further time, if any, not being more than twelve months in the whole, as the soil may continue to subside.
- (2) So long as any such roadway or footpath remains broken open or obstructed, the undertakers shall make adequate arrangements for the control of traffic and shall cause the roadway or footpath to be properly fenced and guarded at all times and to be efficiently lighted between the hours of sunset and of sunrise.

Remedies where undertakers fail to comply with foregoing requirements.

- 27 (1) If the undertakers fail to comply with, or contravene, any of the foregoing provisions of this Part of this Schedule, they shall, without prejudice to their civil liability, if any, to a person aggrieved, be liable to a fine not exceeding five pounds, and to a further fine not exceeding five pounds for each day on which the offence continues after notice thereof has been given to them by, or by an officer or agent of, the persons aggrieved.
- (2) If the undertakers fail to comply with any of the requirements of the last foregoing section, the persons having the control or management of the street, bridge, sewer, drain or tunnel in question, may, in addition to, or in lieu of, taking proceedings under the last foregoing subsection, themselves execute any work necessary to remedy the default and may recover the expenses reasonably incurred by them in so doing from the undertakers summarily as a civil debt.

Application of Part VI to verges and streets and highways not maintainable at the public expense.

- 28 (1) The provisions of this Part of this Schedule shall apply in relation to any land within the limits of a street, but not included in a roadway or footpath thereof, as if that land were, or formed part of, a footpath of the street.
- (2) In this Part of this Schedule the expression " persons having the control or management " shall, in relation to a street not maintainable at the public expense, be deemed to include the authority by whom the street would be maintainable if it became a highway maintainable at the public expense and, accordingly, any notice required by section twenty-three of this Schedule and a copy of the plans referred to in section twenty-four thereof shall be served on that authority, but the authority shall not take any action under subsection (2) of the last foregoing section except at the request and on behalf of the other persons having the control or management of the street, bridge, sewer, drain or tunnel in question.

PART VII

SUPPLY OF WATER FOR DOMESTIC PURPOSES.

Duty of undertakers to lay additional mains on certain conditions.

- 29 (1) The undertakers shall lay any necessary mains and bring water to any area within the limits of supply if they are required to do so by such number of owners and occupiers of premises in that area who require a supply of water for domestic purposes that the aggregate amount of water rates payable annually by those owners' and occupiers in respect of those premises at the rates for the time being charged by the undertakers will not be less than one-eighth of the expense of providing and laying the necessary mains, and if those owners and occupiers agree severally with the undertakers to take a supply of water for three years at least.
- (2) If the undertakers, after receipt of a requisition which satisfies the provisions of the last foregoing subsection and after tender to them of an agreement which satisfies those provisions, do not before the expiration of three months lay the necessary mains and bring water to the area 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 liable to a fine not exceeding fifty pounds and to a further fine not exceeding five pounds for each day on which their default continues after conviction therefor.

Right to demand supply for domestic purposes.

- 30 (1) An owner or occupier of any premises within the limits of supply who has complied in respect of those premises with the provisions of Part X of this Schedule with respect to the laying of a supply pipe and payment or tender of the wafer rate shall be entitled to demand and receive from the undertakers a supply of water sufficient for domestic purposes for those premises:

Provided that nothing in the special Act shall be construed as entitling any person to demand a supply of water from a trunk main.

- (2) Subject as hereinafter provided, if the undertakers make default in furnishing a supply of water for domestic purposes to a person who is entitled to demand and has

demand such a supply, or fail to maintain the supply during any period in respect of which the water rate therefor has been paid or tendered, they shall, without prejudice to their civil liability, if any, to the person aggrieved, be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues after notice thereof from the person aggrieved:

Provided that the undertakers shall be under no such liability if the failure to furnish or maintain a supply is due to—

- (a) frost, drought, unavoidable accident or other unavoidable cause, or the execution of necessary works; or
- (b) failure of the person aggrieved to comply with any enactment relating to, or bylaw of, the undertakers.

Duty of undertakers as respects sufficiency and purity.

- 31 The undertakers shall provide in their mains and communication pipes a supply of wholesome water sufficient for the domestic purposes of all owners and occupiers of premises within the limits of supply who under the special Act are entitled to demand a supply for those purposes.

PART VIII

SUPPLY OF WATER FOR PUBLIC PURPOSES.

Undertakers to fix and maintain fire-hydrants on pipes.

- 32 The undertakers shall, at the request of the fire authority concerned, fix fire-hydrants on their mains (other than trunk mains) at such places as may be most convenient for affording a supply of water for extinguishing any fire which may break out within the limits of supply, and shall keep in good order and from time to time renew every such hydrant.

Any difference as to the number or proper position of such hydrants shall be referred to and determined by the Minister.

Undertakers to deposit keys of hydrants at certain places.

- 33 As soon as any such hydrant is completed, the undertakers shall, if required by the fire authority, deposit a key thereof at each place within the limits of supply where any public fire engine is kept, and in such other places as may be appointed by the fire authority.

Cost of hydrants.

- 34 The cost of such hydrants as aforesaid and of fixing, maintaining and renewing them, and of providing such keys as aforesaid, shall be defrayed by the fire authority.

Hydrants to be placed near factories, and c, at the request of owners or occupiers.

- 35 The undertakers shall, at the request and expense of the owner or occupier of any factory or place of business situated in, or near to, a street in which a pipe of the undertakers is laid (not being a trunk main and being of sufficient dimensions to carry

a hydrant), fix on the pipe and keep in good order and from time to time renew one or more fire-hydrants, to be used only for extinguishing fires, as near as conveniently may be to that factory or place of business, and shall also at his expense comply as respects each such hydrant with the requirements of the last but one foregoing section.

Water to be taken to extinguish fires without charge.

- 36 The undertakers shall allow all persons to take water for extinguishing fires from any pipe of the undertakers on which a hydrant is fixed, without payment.

Supply of water for cleansing sewers, and c, and for other public purposes.

- 37 (1) In every pipe of the undertakers on which a hydrant is fixed the undertakers shall provide a supply of water for cleansing sewers and drains, for cleansing and watering highways, and for supplying any public pumps, baths, or washhouses.
- (2) A supply of water for the said purposes shall be provided at such rates, in such quantities, and upon such terms and conditions as may be agreed between the local authority, highway authority or sewerage authority concerned and the undertakers, of as, in default of agreement, may be determined by the Minister.

Penalties for default in respect of hydrants or supply of water.

- 38 If the undertakers fail to comply with any of their obligations under this Part of this Schedule, except when prevented by frost, drought, unavoidable accident or other unavoidable cause, or during the execution of necessary works, they shall be liable to a fine not exceeding fifty pounds, and to a further fine not exceeding five pounds for each day during which such failure continues after notice thereof from the authority or person concerned.

PART IX

CONSTANCY AND PRESSURE OF SUPPLY.

Duty of undertakers as respects constant supply and pressure.

- 39 (1) Subject as hereinafter provided, the undertakers shall cause the water in all pipes on which hydrants are fixed, or which are used for giving supplies for domestic purposes, to be laid on constantly and at such a pressure as will cause the water to reach to the top of the top-most storey of every building within the limits of supply:

Provided that—

- (a) nothing in this section shall require them to deliver water at a height greater than that to which it will flow by gravitation through their mains from the service reservoir or tank from which the supply in question is taken; and
 - (b) they may in their discretion determine the service reservoir or tank from which any supply is to be taken.
- (2) If the undertakers fail to comply with the foregoing requirements of this section, except when prevented by frost, drought, unavoidable accident or other unavoidable cause, or during the execution of necessary works, they shall, without prejudice to

their civil liability, if any, to a person aggrieved, be liable to a fine not exceeding ten pounds and to a further fine not exceeding forty shillings for each day during which the failure continues after notice thereof from that person.;

Provided that proceedings for the recovery of a fine shall not be instituted under this subsection by more than one person in respect of the same period of failure.

PART X

LAYING AND MAINTENANCE OF SUPPLY PIPES AND COMMUNICATION PIPES.

Laying of supply pipes, and &c.

40 An owner or occupier of any premises within the limits of supply who desires to have a supply of water for his domestic purposes from the waterworks of the undertakers, shall, subject as hereinafter provided, comply with the following requirements:—

- (a) he shall give to the undertakers fourteen days' notice of his intention to lay the necessary supply pipe and at, or before, the time of giving such notice shall pay or tender to them such sum as may be payable in advance by way of water rate in respect of his premises; and
- (b) he shall lay the supply pipe at his own expense, having first obtained, as respects any land not forming part of a street, the consent of the owners and occupiers thereof:

Provided that, where any part of the supply pipe is to be laid in a highway, he shall not himself break open the highway or lay that part of the pipe.

Laying of communication pipes, and &c.

41 (1) Upon receipt of such a notice as is referred to in the last foregoing section, the undertakers shall lay the necessary communication pipe and any part of the supply pipe which is to be laid in a highway and shall connect the communication pipe with the supply pipe: Provided that where any part of the supply pipe is to be laid in a highway, they may elect to lay a main in the highway for such distance as they think fit in lieu of a supply pipe, and in that case shall lay a communication pipe from that main and connect it with the supply pipe.

(2) If the undertakers fail to carry out the said work within fourteen days after the person by whom the notice was given has laid a supply pipe in accordance with the provisions of the last foregoing section, they shall, unless they show that the failure was due to unavoidable accident or other unavoidable cause, be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues after the expiration of the said fourteen days.

(3) The expenses reasonably incurred by the undertakers in executing the work which they are required or authorised by this section to execute shall be repaid to them by the person by whom the notice was given and may be recovered by them from him summarily as a civil debt:

Provided that, if under the provisions of this section, the undertakers lay a main in lieu of part of a supply pipe, the additional cost incurred in laying a main instead of a supply pipe shall be borne by them.

- (4) Notwithstanding anything in the foregoing provisions of this section, undertakers to whom such a notice as aforesaid is given may, within seven days after the receipt thereof, require the person giving the notice either to pay to them in advance the cost of the work, as estimated by their engineer, or to give security for payment thereof to their satisfaction, and, where they make such a requirement, the period of fourteen days referred to in subsection (2) of this section shall not commence to run until the requirement has been complied with.

If any payment so made to the undertakers exceeds the expenses which under the foregoing provisions of this section they would be entitled to recover from the person giving the notice, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, they may recover the balance from him summarily as a civil debt.

Power of undertakers to require separate service pipes.

- 42 (1) Subject to the provisions of this section, the undertakers may require the provision of a separate service pipe for each house or other building supplied, or to be supplied, by them with water.
- (2) If, in the case of a house or other building already supplied with water but not having a separate service pipe, the undertakers give notice to the owner of the house or building requiring the provision of such a pipe, the owner shall within three months lay so much of the required pipe as will constitute a supply pipe and is not required to be laid in a highway, and the undertakers shall, within fourteen days after he has done so, lay so much of the required pipe as will constitute a communication pipe or a supply pipe to be laid in a highway and make all necessary connections.
- (3) If an owner upon whom a notice has been served under the last foregoing subsection fails to comply therewith, the undertakers may themselves execute the work which he was required to execute.
- (4) The expenses reasonably incurred by the undertakers in executing the work which they are required by subsection (2) of this section to execute, or which they are empowered by the last foregoing subsection to execute, shall be repaid to them by the owner of the house or building and may be recovered by them from him summarily as a civil debt, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier of the house or building.
- (5) If the undertakers make default in executing the work which they are required by subsection (2) of this section to execute, they shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues after the expiration of the said fourteen days.
- (6) For the purposes of the foregoing provisions of this section, two or more buildings in the same occupation and forming part of the same hereditament for rating purposes shall be treated as a single building.
- (7) Where the owner of a group or block of houses is liable by law or undertakes in writing to pay the water rates in respect of all those houses, then, so long as he punctually pays those rates and the supply pipe of those houses is sufficient to meet the requirements thereof, the undertakers shall not require the provision of separate service pipes for those houses.

- (8) Without prejudice to the provisions of the last foregoing subsection, where, on the coming into force of this section, two or more houses were being supplied with water by a single service pipe, the undertakers shall not require the provision of separate service pipes for those houses until either—
- (a) the existing supply pipe becomes so defective as to require renewal, or is no longer sufficient to meet the requirements of the houses; or
 - (b) an instalment of the water rate in respect of any of the houses remains unpaid after the end of the period for which it is due; or
 - (c) the houses are, by structural alterations to one or more of them, converted into a larger number of houses.

Power to break open streets forming boundary of limits of supply.

- 43 Where any premises which are within the limits of supply abut on, or are situate near to, any street which is, as to the whole or a part of its width, outside those limits, the undertakers may, for the purpose of supplying water to the owner or occupier of those premises, exercise with respect to the whole width of the street the like powers of laying, inspecting, repairing, altering, renewing and removing service pipes with any necessary stopcocks and fittings and of breaking open the street for that purpose as are exerciseable by them with respect to streets within the said limits, subject, however, to the like conditions and obligations.

Vesting of communication pipes and repair of such pipes and of supply pipes in highways.

- 44 (1) All communication pipes, whether laid before or after the coming into force of this section, shall vest in the undertakers and the undertakers shall at their own expense carry out any necessary works of maintenance, repair or renewal of such pipes and any work on their mains incidental thereto.
- (2) The undertakers shall also carry out any such necessary works as aforesaid in the case of so much of any supply pipe as is laid in a highway, and may recover the expenses reasonably incurred by them in so doing summarily as a civil debt from the owner of the premises supplied by the pipe, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier of the premises.
- (3) If the undertakers fail to carry out any such necessary work with all reasonable despatch after service upon them of complaint of a defect from an owner or occupier of premises affected, they shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues.

PART XI

STOPCOCKS.

Provisions as to position, and c, of stopcocks.

- 45 (1) On every service pipe laid after the coming into force of this section the undertakers shall, and on every service pipe laid before that date the undertakers may, fit a stopcock enclosed in a covered box, or pit, of such size as may be reasonably necessary.

Status: This is the original version (as it was originally enacted).

- (2) Every stopcock fitted on a service pipe after the coming into force of this section shall be placed in such position as the undertakers deem most convenient:

Provided that—

- (a) a stopcock in private premises shall be placed as near as is reasonably practicable to the street from which the service pipe enters those premises; and
- (b) a stopcock in a street shall, after consultation with the highway authority concerned, be placed as near to the boundary thereof as is reasonably practicable.

PART XII

WATER RATES AND CHARGES.

Water rates.

- 46 (1) Undertakers who supply water to any premises for domestic purposes may charge in respect thereof a water rate, which shall be calculated at a rate-poundage not exceeding the prescribed rate-poundage—
- (a) in the case of a house or of any premises not used solely for business, trade or manufacturing purposes or for the exercise of functions by any public authority, on the net annual value thereof; and
 - (b) in the case of any other premises, on such proportion of the net annual value thereof as may be prescribed or, if no proportion is prescribed, as may be determined by the Minister:

Provided that the undertakers may in any case make in respect of the- supply such minimum charge as may be prescribed or, if no minimum charge is prescribed, fifteen shillings per annum.

- (2) For the purposes of this Part of this Schedule, where water supplied to a house within the curtilage of a factory is used solely for the domestic purposes of occupants of the house, the house shall be deemed separate premises not forming part of the factory.
- (3) For the purposes of this Part of this Schedule, the net annual value of any premises shall be taken to be that value as appearing in the valuation list in force on the first day of the period of twelve months covered by the rate:

Provided that, if that value does not appear therein, or if the water rate is chargeable on a part only of any hereditament entered therein, the net annual value of the premises supplied shall be taken to be such sum, or, as the case may be, such fairly apportioned part of the net annual value of the whole hereditament, as, in default of agreement, may be determined by a court of summary jurisdiction.

- (4) Subject to the provisions of subsection (2) of this section, where there is communication, otherwise than by a highway, between buildings or parts of buildings in the occupation of the same person, those buildings or parts of buildings shall, if the undertakers so decide, be treated, for the purpose of charging water rates, as one building having' a net annual value equal to the aggregate of their net annual values:

Provided that a person aggrieved by a decision of the undertakers under this subsection may appeal to a court of summary jurisdiction.

Power to make agreed charges for domestic supply.

- 47 (1) The undertakers, in lieu of charging a water rate, may agree with any person requiring a supply of water for domestic purposes to furnish the supply, whether by meter or otherwise, on such terms and conditions as may be agreed.
- (2) Charges payable under this section (including charges for any meter supplied by the undertakers) shall be recoverable in the manner in which water rates are recoverable.

Additional charges where water supplied for domestic purposes and paid for by water rate is used for other purposes.

- 48 (1) Where water which the undertakers supply for domestic purposes, and in respect of which they charge a water rate—
- (a) is used for watering a garden; or
 - (b) is used for horses, washing vehicles, or other purposes, in stables, garages or other premises where horses or vehicles are kept,
- the undertakers may in either case, if a hosepipe or other similar apparatus is used, charge in respect of that use of the water an additional annual sum not exceeding the prescribed sum or, if no sum is prescribed, such sum as the Minister may determine.
- (2) Where in either of such cases the water used is drawn from a tap outside a house, but no hosepipe or similar apparatus is used, the undertakers may charge an additional annual sum not exceeding one-half the maximum sum chargeable under the last foregoing subsection.
- (3) Sums charged under the provisions of this section shall be paid in advance either quarterly or half-yearly, as the undertakers may determine, and shall be recoverable in the manner in which water rates are recoverable.

Power to require supply to certain premises and for certain purposes to be taken by meter.

- 49 (1) The following provisions of this section shall have effect where a maximum charge for a supply of water by meter is prescribed.
- (2) The undertakers shall not be bound to supply with, water otherwise than by meter—
- (a) any premises used as a house whereof a part is used by the same occupier for any business, trade or manufacturing purpose for which water is required or any premises used as a farmhouse;
 - (b) any public institution, hospital, mental institution, nursing home, sanatorium, school, club, hostel, assembly hall, place of public entertainment, hotel, restaurant or licensed premises, within the meaning of that expression as used in the Licensing (Consolidation) Act, 1910;
 - (c) any boarding-house capable of accommodating twelve or more persons including the persons usually resident therein; or
 - (d) any premises which are used solely for business, trade or manufacturing purposes and in which a supply of water for domestic purposes only is required.
- (3) In any of the cases mentioned in the last foregoing subsection the water shall be supplied at a charge not exceeding the prescribed charge, subject, however, to a minimum annual charge equal to the annual amount which would be payable by way of water rate for a supply of water for domestic purposes furnished to the premises in question.

Status: This is the original version (as it was originally enacted).

Power to require supplies for refrigerating or water-softening apparatus, and c, to be taken by meter.

- 50 Where a person who takes a supply of water for domestic purposes from the undertakers otherwise than by meter desires to use any of the water so supplied—
- (a) for operating a water-cooled refrigerating apparatus; or
 - (b) for operating any apparatus depending while in use upon a supply of continuously running water, not being an apparatus used solely for heating the water; or
 - (c) for cleaning, regenerating or supplying motive power to any apparatus used for softening water,

the undertakers may, subject as hereinafter provided, require that all water so used shall—

- (i) if a charge for a supply of water by meter is prescribed, be taken by meter at a charge not exceeding the prescribed charge; or
- (ii) whether such a charge is prescribed or not, be paid for at a reasonable rate to be determined, in default of agreement, by a court of summary jurisdiction:

Provided that no charge shall be made under this section in respect of a water softening apparatus used within a house for which the supply of water is taken, if one such apparatus only is used and if the water softened thereby is used solely for domestic purposes.

Power to require supply for hose-pipe to be taken by meter in certain cases.

- 51 Where water which the undertakers supply for domestic purposes and in respect of which they charge a water rate is used by means of a hose-pipe, or other similar apparatus, for watering a garden, or for horses, washing vehicles, or other purposes in stables, garages or other premises where horses or vehicles are kept, and the consumer takes also a supply of water by meter for purposes other than domestic, the undertakers may require that all water used by him by means of the hose-pipe or other apparatus shall be taken by meter and paid for at the rate for the time being applicable to his supply by meter for non-domestic purposes.

Provisions as to supply to sheds, tents, vans, and &c.

- 52 (1) No person shall be entitled to demand, or to continue to receive, from the undertakers a supply of water to any habitation to which this section applies unless he has—
- (a) agreed with the undertakers to take a supply of water by meter and to pay to them such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing the required supply, and will cover other standing charges incurred by them in order to meet the possible maximum demand for his habitation, and will yield a reasonable return on the cost of the water supplied; and
 - (b) secured to the reasonable satisfaction of the undertakers, by way of deposit or otherwise, payment of such a sum as may be reasonable having regard to his possible maximum demand for water.

The annual sum to be so paid and the security to be so given shall be determined, in default of agreement, by a court of summary jurisdiction, whose decision shall be final.

- (2) The habitations to which this section applies are tents, vans or other conveyances, whether on wheels or not, and sheds or similar structures, not being structures to which the building byelaws of the local authority of the district apply.

Liability to water rates where building supplied by common pipe.

- 53 Where two or more houses or other buildings in the occupation of different persons are supplied with water by a common pipe, the owner or occupier of each of them shall be liable to pay the same water rate for the supply as he would have been liable to pay if it had been supplied with water by a separate pipe.

Water rates on certain houses may be demanded from the owners.

- 54 (1) Where a house or other building supplied with water by the undertakers has a net annual value not exceeding thirteen pounds, the owner instead of the occupier shall, if the undertakers so resolve, pay the rate for the supply of water:

Provided that in the administrative county of London twenty pounds shall be deemed to be substituted in this section for thirteen pounds and in any area in which a higher limit of value than thirteen pounds is in force for the purposes of the proviso to subsection (1) of section eleven of the Rating and Valuation Act, 1925, that higher limit shall be deemed to be substituted in this section for thirteen pounds.

- (2) An owner of premises to which a resolution of undertakers under this section applies shall, if he pays the amount due by him in respect of a water rate before the expiration of one-half of the period in respect of which the rate or instalment of the rate is payable, or before such later date as may be specified by the undertakers, be entitled to an allowance calculated at the rate of five per cent.

Making and dates for payment of water rates.

- 55 (1) Undertakers who charge water rates under the special Act shall make such a rate by fixing, in respect of a period of twelve months commencing on either the first day of January, the first day of April, the first day of July or the first day of October, the rate-poundage or, as the case may be, the scale of rate-poundages, by reference to which amounts due under the rate are to be calculated and, subject to the provisions of this section, any such rate shall be payable in advance by equal quarterly instalments on those dates, or, if the undertakers so resolve, by equal half-yearly instalments on that one of those dates which is the first day of the rate period and on the first day of the seventh month comprised in that period.
- (2) A water rate under this section, or in force under any enactments relating to the undertakers immediately before the coming into operation of this section, shall unless and until a new rate is made, continue to operate in respect of each successive period of twelve months.
- (3) If, and so long as, the water rates are payable in advance by half-yearly instalments—
- no proceedings shall be commenced for the recovery of any such instalment until the expiration of two months from the first day of the half-year in respect of which it has been demanded; and
 - if the person who is, or who, but for the provision of the last foregoing section, would be, liable to pay the water rate payable in respect of any premises is in occupation of those premises during a portion only of a half-

year, he, or, as the case may be, the owner of the premises, shall be liable to pay so much only of the half-yearly instalment as bears to the whole instalment the same proportion as the number of days within the half-year during which the first-mentioned person is in occupation bears to the number of days in the half-year, and, if any greater proportion of the instalment has been paid, the person by whom it was paid shall be entitled to recover the excess from the undertakers, except in so far as he has previously recovered it from an incoming occupier:

Provided that nothing in this paragraph shall exempt the owner of any premises from liability in respect of any subsequent portion of the half-year during which the premises may again become occupied.

- (4) Subject to the provisions of the last foregoing subsection—
- (a) where the undertakers commence to give a supply of water to any premises, either for the first time or after a discontinuance of supply, the then current instalment of the water rate shall become payable on the day on which notice requiring the supply is given to the undertakers or, if no such notice is given, on the day when they commence to give the supply; and
 - (b) the liability of a person to pay an instalment of a water rate shall not be affected by the fact that, before the end of the period in respect of which the instalment became payable by him, he or his tenant, as the case may be, removes from the premises in question, or causes the supply of water thereto to be discontinued.
- (5) Nothing in this section affects any right of the undertakers to make a minimum charge in respect of water rates.

Effect on water rates of alterations in valuation list.

- 56 (1) Where, in consequence of a proposal under section thirty-seven of the Rating and Valuation Act, 1925, an amendment is made in the valuation list for the time being in force, or in consequence of a requisition under section forty-seven of the Valuation (Metropolis) Act, 1869, a provisional list comes into operation, the amendment or provisional list shall for the purpose of calculating the amount due in respect of any water rate payable under the special Act have effect retrospectively as from the date when the proposal or requisition was made and, notwithstanding anything in the last foregoing section with respect to the equality of instalments of a water rate any necessary adjustments shall be made in the then current instalments of the rates and any subsequent instalments thereof.
- (2) If it is found that, by reason of the foregoing provisions, too much or too little has been paid in respect of any water rate, the difference shall be repaid or allowed or, as the case may be, shall be paid and may be recovered in the manner in which water rates are recoverable.

Discount for prompt payment of water rates and charges.

- 57 (1) The undertakers may allow discounts or rebates in consideration of prompt payment of water rates and charges:

Provided that such discounts or rebates shall be at the same rate under like circumstances to all persons and shall not in any case exceed five per cent.

- (2) If, and so long as, the undertakers allow such discounts or rebates, notice of the effect of this section shall be endorsed on every demand note for water rates and charges.
- (3) This section shall not apply in any case where a discount is payable under section fifty-four of this Schedule.

Recovery of rates and charges from persons leaving premises.

- 58 If it is shown to the satisfaction of a justice of the peace on sworn information in writing that a person is quitting, or is about to quit, premises to which the undertakers supply water and has failed to pay on demand an instalment of a water rate or charge payable by, and due from, him in respect of those premises, and intends to evade payment thereof by departing from the premises, the justice may, in addition to issuing a summons for non-payment of the sum due, issue a warrant under his hand authorising the person named therein forthwith to enter the premises and to seize sufficient goods and chattels of the defaulter to meet the claim of the undertakers and to detain them until the complaint is determined upon the return of the summons.

Register of meter to be evidence.

- 59 (1) Where the undertakers supply water by meter, the register of the meter shall be prima facie evidence of the quantity of water consumed.
- (2) Any question arising between the undertakers and a consumer with respect to the quantity of water consumed may, on the application of either party, be determined by a court of summary jurisdiction.
- (3) If the meter on being tested is proved to register incorrectly to any degree exceeding five per cent,—
- (a) the meter shall be deemed to have registered incorrectly to that degree since the last occasion but one before the date of the test on which a reading of the index of the meter was taken by the undertakers, unless it is proved to have begun to register incorrectly on some later date; and
 - (b) the amount of any refund to be made to, or of any extra payment to be made by, the consumer shall be paid or allowed by the undertakers or paid by the consumer, as the case may be, and in the case of an extra payment, shall be recoverable in the manner in which water rates are recoverable.

PART XIII

PROVISIONS FOR PREVENTING WASTE, &C, OF WATER, AND AS TO METERS AND OTHER FITTINGS.

Power to require provision of cisterns in certain cases.

- 60 (1) The undertakers may require that—
- (a) any building the supply of water to which need not under the special Act be constantly laid on under pressure; and
 - (b) any house the erection of which was not commenced before the coming into force of this section and to which water is required to be delivered at a height

greater than thirty-five feet below the draw-off level of the service reservoir from which a supply of water is being, or is to be, furnished by them,

shall be provided with a cistern having a ball and stop-cock fitted on the pipe conveying water to it and, in the case of such a house as is mentioned in paragraph (b) of this subsection may require that the cistern shall be capable of holding sufficient water to provide an adequate supply to the house for a period of twenty-four hours.

- (2) If a consumer, whom the undertakers have in accordance with the foregoing provisions required to provide a cistern, fails to comply with the requirement, or if a consumer fails to keep in good repair any cistern in use in his building, or the ball and stop-cock appurtenant to that cistern, the undertakers may themselves provide a cistern, or execute any repairs necessary to prevent waste of water, and may recover the expenses reasonably incurred by them in so doing summarily as a civil debt from the owner of the building, but without prejudice to the rights and obligations, as between themselves, of the owner and the consumer.

Power to test water fittings.

- 61 The undertakers may test any water fittings used in connection with water supplied by them.

Power to enter premises to detect waste or misuse of water.

- 62 An authorised officer of the undertakers may, between the hour of seven in the forenoon and one hour after sunset, on producing, if required, evidence of his authority, enter any premises supplied with water by the undertakers in order to examine if there be any waste or misuse of such water and, if, after production of his authority, he is refused admittance to the premises, or is obstructed in making his examination, the person refusing him admittance, or so obstructing him, shall be liable to a fine not exceeding ten pounds.

Power to repair supply pipes.

- 63 (1) If the undertakers have reason to think that some injury to or defect in a supply pipe which they are not under obligation to maintain is causing, or is likely to cause, waste of water or injury to person or property, they may execute such work as they think necessary or expedient in the circumstances of the case without being requested so to do and, if any injury to or defect in the pipe is discovered, the expenses reasonably incurred by the undertakers in discovering it and in executing repairs shall be recoverable by them summarily as a civil debt from the owner of the premises supplied, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier of the premises.
- (2) Where several houses or other buildings in the occupation of different persons are supplied with water by one common supply pipe belonging to the owners or occupiers of the houses or buildings, the amount of any such expenses as aforesaid reasonably incurred from time to time by the undertakers in the maintenance and repair of that pipe may be recovered by them summarily as a civil debt from those owners or occupiers in such proportions as, in case of dispute, may be settled by the court.

Penalty for waste, and c, of water by non-repair of water fittings.

- 64 (1) If any person wilfully or negligently causes or suffers any water fitting which he is liable to maintain to—
- (a) be or remain so out of order, or so in need of repair; or
 - (b) be or remain so constructed or adapted, or be so used,
- that the water supplied to him by the undertakers is, or is likely to be, wasted, misused or unduly consumed, or contaminated before use, or that foul air or any impure matter is likely to return into any pipe belonging to, or connected with a pipe belonging to, the undertakers, he shall be liable to a fine not exceeding five pounds.
- (2) If any water fitting which any person is liable to maintain is in such a condition, or so constructed or adapted as aforesaid, the undertakers, without prejudice to their right to institute proceedings under the last foregoing subsection, may require that person to carry out any necessary repairs or alterations, and, if he fails to do so within forty-eight hours, may themselves carry out the work and recover from him summarily as a civil debt the expenses reasonably incurred by them in so doing.

Penalties for misuse of water.

- 65 (1) An owner or occupier of premises supplied with water by the undertakers who without their consent supplies any of that water to another person for use in other premises, or wilfully permits another person to take any of that water for use in other premises, shall (without prejudice to the right of the undertakers to recover from such owner or occupier the value of the water so supplied or permitted to be taken) be liable to a fine not exceeding five pounds, unless that other person requires the water for the purpose of extinguishing a fire, or is a person supplied with water by the undertakers but temporarily unable, through no default of his own, to obtain water.
- (2) If a person wrongfully takes, uses or diverts water from a reservoir, watercourse, conduit, pipe or other apparatus belonging to the undertakers, or from a pipe leading to or from any such reservoir, watercourse, conduit, pipe or other apparatus, or from a cistern or other receptacle containing water belonging to the undertakers or supplied by them for the use of a consumer of water from them, he shall be liable to a fine not exceeding five pounds.
- (3) Any person who, having from the undertakers a supply of water otherwise than by meter, uses any water so supplied to him for a purpose other than those for which he is entitled to use it shall be liable to a fine not exceeding forty shillings, without prejudice to the right of the undertakers to recover from him the value of the water misused.

Penalty for fraudulent use of water.

- 66 (1) If any person fraudulently alters the index of any meter used by the undertakers for measuring the water supplied by them, or prevents any such meter from registering correctly the quantity of water supplied, or fraudulently abstracts or uses water of the undertakers, he shall, without prejudice to any other right or remedy of the undertakers, be liable to a fine not exceeding five pounds, and the undertakers may do all such work as is necessary for securing the proper working of the meter, and may recover the expenses reasonably incurred by them in so doing from the offender summarily as a civil debt.

- (2) For the purposes of this section, if it is proved that a consumer has altered the index of a meter, it shall rest upon him to prove that he did not alter it fraudulently, and the existence of any artificial means under the control of a consumer for preventing a meter from registering correctly, or for enabling him fraudulently to abstract or use water, shall be evidence that he has fraudulently prevented the meter from registering correctly or, as the case may be, has fraudulently abstracted or used water.

Penalty for interference with valves and apparatus.

67 If any person either—

- (a) wilfully and without the consent of the undertakers; or
- (b) negligently,

turns on, opens, closes, shuts off or otherwise interferes with any valve, cock or other work or apparatus belonging to the undertakers and thereby causes the supply of water to be interfered with, he shall be liable to a fine not exceeding five pounds and, whether proceedings be taken against him in respect of his offence or not, the undertakers may recover from him summarily as a civil debt the amount of any damage sustained by them:

Provided that this section shall not apply to a consumer closing the stop-cock fixed on the service pipe supplying his premises, so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

Penalty for extension or alteration of pipes, and &c.

- 68 (1) Any person who without the consent of the undertakers attaches any pipe or apparatus to a pipe belonging to the undertakers, or to a supply pipe, or makes any alteration in a supply pipe or in any apparatus attached to a supply pipe, shall be liable to a fine not exceeding five pounds, and any person who uses any pipe or apparatus which has been so attached, or altered, shall be liable to the same penalty unless he proves that he did not know, and had no grounds for suspecting, that it had been so attached or altered.
- (2) When an offence under this section has been committed, then, whether proceedings be taken against the offender in respect of his offence or not, the undertakers may recover from him summarily as a civil debt the amount of any damage sustained by them and the value of any water wasted, misused or improperly consumed.

Meters to be connected, or disconnected, by undertakers.

- 69 (1) A consumer who has not obtained the consent of the undertakers shall not connect or disconnect any meter by means of which water supplied by the undertakers is intended to be, or has been, measured for the purposes of the payment to be made to them, but, if he requires such a meter to be connected or disconnected, shall give to the undertakers not less than twenty-four hours' notice of his requirements and of the time when the work can be commenced and, thereupon, the undertakers shall carry out the necessary work and may recover from him summarily as a civil debt the expenses reasonably incurred by them in so doing.
- (2) A consumer who contravenes any of the provisions of this section, and undertakers who fail to carry out with all reasonable despatch any such work as aforesaid, shall be liable to a fine not exceeding forty shillings.

Meters, and &c., to measure water or detect waste.

- 70 Subject to the provisions of the special Act with respect to the breaking open of streets, the undertakers may for the purpose of measuring the quantity of water supplied, or preventing and detecting waste, affix and maintain meters and other apparatus on their mains and service pipes and may insert in any street, but as near as is reasonably practicable to the boundary thereof, the necessary covers or boxes for giving access and protection thereto, and may for that purpose temporarily obstruct, break open, and interfere with streets, tramways, sewers, pipes, wires and apparatus:

Provided that the undertakers shall not under the powers of this section interfere with—

- (a) any telegraphic line belonging to or used by the Postmaster-General, except in accordance with, and subject to, the provisions of the Telegraph Act, 1878; or
- (b) any works or apparatus of any electricity undertakers, except in accordance with the provisions of section fifteen of the Electric Lighting Act, 1882, or section seventeen of the Schedule to the Electric Lighting (Clauses) Act, 1899; or
- (c) any pipes or apparatus of any gas undertakers, except under the supervision (if given) of an authorised officer of those undertakers and in accordance with plans approved by them or by such officer, or, in case of any difference, by a court of summary jurisdiction.

PART XIV

POLLUTION OF WATER MANUFACTURE, &C. OF GAS.

Provisions as to pollution by liquids resulting from manufacture of gas.

- 71 (1) Any person manufacturing or supplying gas who—
- (a) causes or suffers any washing or other liquid produced in or resulting from, the manufacture or supply of gas, or the treatment of any residual products of the manufacture of gas, to run or be conducted—
 - (i) into, or into any drain communicating with, any spring, stream, reservoir, aqueduct or other waterworks belonging to the undertakers; or
 - (ii) into any depression in the ground or excavation in such proximity to any spring, well or adit belonging to any such undertakers that contamination of water therein is reasonably probable; or
 - (b) wilfully does any other act connected with the manufacture or supply of gas, or the treatment of any such residual products as aforesaid, whereby any water of the undertakers is fouled,
- shall be liable—
- (a) on summary conviction, to a fine not exceeding fifty pounds and to a further fine not exceeding ten pounds for each day during which his offence continues after the expiration of twenty-four hours from the service on him by the undertakers of notice of his offence; or
 - (b) on conviction on indictment, to a fine not exceeding two hundred pounds and to a further fine not exceeding twenty pounds for each such day as aforesaid.

Provision as to pollution by gas.

- 72 If water belonging to the undertakers is fouled by gas belonging to any person manufacturing or supplying gas, he shall be liable to a fine not exceeding twenty pounds, and to a further fine not exceeding ten pounds for each day during which his offence continues after the expiration of twenty-four hours from the service on him by the undertakers of notice of his offence.

Power to examine gas pipes to ascertain source of pollution.

- 73 (1) For the purpose of ascertaining whether water belonging to them is being fouled by gas belonging to any person manufacturing or supplying gas, the undertakers may open the ground, and examine the pipes and other works of that person:

Provided that, before proceeding so to do, they shall give twenty-four hours' notice of the time at which the examination is intended to take place both to that person and also to the persons having the control or management of the street or other place where they propose to open the ground, and shall be subject to the like obligations and liable to the same penalties in relation to reinstatement, maintenance and other matters as those to which they are subject and liable when breaking open streets for the purpose of laying water pipes.

- (2) If, upon such examination as aforesaid, it appears that water of the undertakers has been fouled by gas belonging to the said manufacturer or supplier of gas, the undertakers may recover from him summarily as a civil debt the expenses reasonably incurred by them in connection with the examination and the repair of the street or place disturbed in the examination, but otherwise the undertakers shall pay all expenses of the examination and repair, and shall also make good to the said person any injury which may be occasioned to his pipes or other works by the examination.

The amount of the expenses of any such examination and repair, and of any injury so occasioned, shall, in default of agreement, be referred to arbitration.

PART XV**FINANCIAL PROVISIONS APPLICABLE TO WATER COMPANIES.***Maximum rates of dividend.*

- 74 (1) Subject to the provisions of this section, where the undertakers are a company, they shall not in respect of any year pay dividends on the paid-up capital of their undertaking, at rates per cent. greater than the following rates, that is to say:—
- (a) on capital subscribed before the date on which this section comes into force, the rates which they were entitled to pay thereon immediately before that date; and
 - (b) on capital subscribed after that date, five per cent. or, in the case of such capital entitled by the terms of subscription to a rate of dividend lower than five per cent., that lower rate.
- (2) Nothing in the last foregoing subsection shall prevent the payment of a greater dividend in order to make up deficiencies in previous dividends:

Provided that, as respects capital subscribed after the date on which this section comes into force, this subsection shall apply only in relation to deficiencies arising during the last five years before the year in respect of which a dividend is being paid.

- (3) Paragraph (1) of subsection (1) of section one of the Trustee Act, 1925 (which includes among trustee stocks any debenture, guarantee or preference stocks of water undertakers, being a company incorporated by special Act of Parliament or by Royal Charter, if for the previous ten years the company has paid a dividend of not less than five per centum on its ordinary stock) shall apply in a case where the undertakers are incorporated by statutory order as well as in a case where they are such a company as is referred to in that paragraph, and shall have effect, in any case to which the paragraph as extended by this subsection applies, as if for the words " five per centum " there were substituted the words " four per centum. "

Sale of stock by auction or tender.

- 75 (1) Where the undertakers are a company, all ordinary and preference stock issued by them shall be issued in accordance with the following provisions of this section.
- (2) All stock issued by the undertakers shall be offered for sale by public auction or tender in such manner, at such times and subject to such conditions of sale as the undertakers from time to time determine:

Provided that—

- (a) notice of the intended sale shall be given in writing to the local authority of every district wholly or partly within their limits of supply and to the secretary of the London Stock Exchange at least seven days before the day of auction or the last day for the reception of tenders, as the case may be, and shall be advertised once in each of two successive weeks in one or more local newspapers circulating within the limits of supply;
 - (b) a reserve price shall be fixed and notice thereof shall be sent by the undertakers in a sealed letter to be received by the Minister not less than twenty-four hours before, but not to be opened until after, the day of auction or the last day for the receipt of tenders, as the case may be;
 - (c) in the case of a sale by auction, no lot offered for sale shall comprise stock of greater nominal value than one hundred pounds;
 - (d) in the case of a sale by tender, no preference shall be given to one of two or more persons tendering the same sum, except that the offer by tender of any holder of stock of the undertakers may be accepted in preference to the offer of the same sum by any person who is not such a holder as aforesaid and preference may in like manner be given to the offer of any employee of the undertakers or consumer of water supplied by the undertakers;
 - (e) in the case of a sale by auction a bid (other than a first bid) shall not be recognised unless it is in advance of the last preceding bid; and
 - (f) it shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the undertakers within three months after the date of the auction or of the acceptance of the tender, as the case may be.
- (3) Any stock which has been offered for sale in accordance with the last foregoing subsection and is not sold may be disposed of at such price and in such manner as the undertakers may determine for the purpose of realising the best price obtainable.

- (4) As soon as possible after the conclusion of the sale or sales, the undertakers shall send a report thereof to the Minister stating the total amount of each class of stock sold, the total amount obtained as premium (if any) and the highest and lowest prices obtained for each class of stock.

Reserve and contingency funds.

- 76 (1) Where the undertakers are a company, they may, subject to the provisions of this section, by setting apart in any year out of revenue such sums as they think fit, form and maintain—
- (a) a reserve fund, for the purpose of making good any deficiency which may at any time occur in the amount of divisible profits, or of meeting any extraordinary claim or demand which may at any time be made upon them;
 - (b) a contingency fund, for the purpose of meeting contingencies, or defraying the cost of renewing, repairing, enlarging or improving any part of the works forming part of the undertaking.
- (2) Any sums so set apart for the formation or maintenance of a reserve or contingency fund may from time to time be invested in securities in which trustees are authorised to invest trust moneys, and, subject to the provisions of the next but one succeeding subsection, the dividends and interest arising from such securities may also be invested in the same or like securities so as to accumulate at compound interest for the credit of the fund in question.
- (3) The undertakers shall transfer to any reserve fund or contingency fund formed under the foregoing provisions of this section any sum then standing to the credit of any existing reserve fund or contingency fund, as the case may be.
- (4) Whenever, and so long as, the aggregate amount standing to the credit of the reserve fund and contingency fund together amounts to (or, by reason of such a transfer as aforesaid, exceeds) a sum equal to twelve and a half per cent. of the capital expenditure theretofore incurred by the undertakers for the purposes of their undertaking, no contribution from the revenue of the undertaking shall be made to either of the funds, and the interest and dividends on the funds shall not be invested but shall be treated as income of the undertaking.
- (5) The aggregate amount which, subject to the provisions of the last foregoing subsection, may be carried by the undertakers in any year to the formation or maintenance of the reserve fund and contingency fund shall not exceed a sum equal to one and a quarter per cent. of the capital expenditure theretofore incurred by the undertakers for the purposes of their undertaking.

Limitation on balance carried forward at end of year.

- 77 (1) Where the undertakers are a company, it shall not be lawful for them to carry forward at the end of any year to the credit of the profit and loss (net revenue) account any sum exceeding the total of the following amounts, that is to say:—
- (a) the amount required for paying any dividend or interest which they are entitled, or required, to pay, but have not paid, in respect of that year;
 - (b) an amount equal to the total sum which they will be required to pay during the next following year as interest on any mortgages or debenture stock; and

- (c) an amount equal to the total sum which they might lawfully distribute as dividends on the preference and ordinary capital of the undertaking in respect of the next following year.
- (2) Any sum which, but for the provisions of this section, might at the end of any year have been so carried forward as aforesaid shall be applied towards the reduction of water rates and charges in future years.

Power to pay superannuation and other allowance, and c, and to assist research.

- 78 (1) Where the undertakers are a company, they may
- (a) grant gratuities, pensions or superannuation allowances to, or to the widows, families or dependants of, their employees;
 - (b) establish contributory superannuation schemes, and establish and contribute to superannuation funds for the benefit of their employees;
 - (c) enter into and carry into effect agreements with any insurance company or other association or company for securing to any such employee, widow, family or dependant such gratuities, pensions or allowances as are by this section authorised to be granted;
 - (d) give donations or subscriptions to charitable institutions, sick funds, benevolent funds and other objects calculated to benefit their employees;
 - (e) subscribe to the funds of any association formed for the purpose of furthering the interests of water undertakers;
 - (f) make contributions for furthering research in matters with which water undertakers and their officers are concerned.
- (2) No employee of the undertakers shall be required to become a contributor to any superannuation fund established under this section until the fund has been registered under the Superannuation and other Trust Funds (Validation) Act, 1927.

PART XVI

GENERAL AND MISCELLANEOUS.

Notice of discontinuance.

- 79 A consumer who wishes the supply of water to his premises to be discontinued shall give not less than twenty-four hours' notice to the undertakers.

Duty of undertakers to give notice of certain works.

- 80 The undertakers, before commencing to execute repairs or other work which will cause any material interference with the supply of water, shall, except in a case of emergency, give to all consumers likely to be affected such notice as is reasonably practicable and shall complete the work with all reasonable despatch.

Undertakers may obtain copies of valuation list on payment.

- 81 (1) The rating authority of any area within which the undertakers supply water shall on application furnish to the undertakers a copy of their current valuation list, or of such part thereof or such entries therein as may be specified in the application, and their

clerk shall, upon request, certify any such copy in accordance with the provisions of section forty-three of the Rating and Valuation Act, 1925.

- (2) In respect of every such copy the rating authority may demand a sum not exceeding five shillings for every hundred entries numbered separately, and for the purposes of this subsection any number of entries less than a complete hundred shall be treated as a complete hundred.

Power to enter premises.

- 82 (1) Subject to the provisions of this section, any authorised officer of the undertakers shall, on producing, if so required, some duly authenticated document showing his authority, has a right to enter any premises at all reasonable hours—

- (a) for the purpose of inspecting and examining meters used by the undertakers for measuring the water supplied by them, and of ascertaining therefrom the quantity of water consumed;
- (b) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of the special Act or of any byelaws made thereunder;
- (c) for the purpose of ascertaining whether or not circumstances exist which would authorise the undertakers to take any action, or execute any work, under the special Act or any such byelaws;
- (d) for the purpose of taking any action, or executing any work, authorised or required by the special Act or any such byelaws to be taken, or executed, by the undertakers:

Provided that admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

- (2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or that 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 such purpose as aforesaid,

the justice may by warrant under his hand authorise the undertakers by any authorised officer 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 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.

- (3) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, 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.
- (4) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

- (5) If any person who in compliance with the provisions of this section, or of a warrant issued thereunder, is admitted into a factory or workplace discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable to a fine not exceeding one hundred pounds, or to imprisonment for a term not exceeding three months.
- (6) Nothing in this section shall be construed as limiting the power of entry conferred in Part XIII of this Schedule for the purpose of making examination as to waste or misuse of water.

Penalty for obstructing execution of special Act.

- 83 A person who wilfully obstructs any person acting in the execution of the special Act, or of any byelaw or warrant made or issued thereunder, shall be liable to a fine not exceeding five pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.

Power to require occupier to permit works to be executed by owner.

- 84 If, on a complaint made by the owner of any premises, it appears to a court of summary jurisdiction that the occupier of those premises prevents the owner from executing any work which he is by, or under, the special Act required to execute, the court may order the occupier to permit the execution of the work.

Summary proceedings for offences.

- 85 Save as otherwise expressly provided, all offences and fines under the special Act may be prosecuted and recovered under the Summary Jurisdiction Acts.

Continuing offences and penalties.

- 86 Where provision is made by, or under, the special Act for the imposition of a daily penalty in respect of a continuing offence, the court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the court and, where a court has fixed such a period, the daily penalty shall not be recoverable in respect of any day before the expiration thereof.

Restriction on right to prosecute.

- 87 Proceedings in respect of an offence created by, or under, the special Act shall not, without the written consent of the Attorney-General, be taken by any person other than the undertakers or a person aggrieved.

Inclusion of several sums in one complaint, and &c.

- 88 Where two or more sums are claimed from any person as being due under the special Act, or under byelaws made thereunder, a complaint, summons or warrant may contain in the body thereof, or in a schedule thereto, all or any of the sums so claimed.

Appeals and applications to courts of summary jurisdiction.

- 89 (1) Where any enactment in the special Act provides—
- (a) for an appeal to a court of summary jurisdiction against a requirement, refusal or other decision of the undertakers; or
 - (b) for any matter to be determined by, or an application in respect of any matter to be made to, a court of summary jurisdiction,
- the procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings.
- (2) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the undertakers' requirement, refusal or other decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.
- (3) In any case where such an appeal lies, the document notifying to the person concerned the decision of the undertakers in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought.

Appeals to quarter sessions against decisions of justices.

- 90 Where a person aggrieved by any order, determination or other decision of a court of summary jurisdiction under the special Act is not by any other enactment authorised to appeal to a court of quarter sessions, he may, subject to any express provisions in the special Act to the contrary, appeal to such a court.

Mode of reference to arbitration.

- 91 In arbitrations under the special Act the reference shall, except where otherwise expressly provided, be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the Minister.

Liability of undertakers to pay compensation.

- 92 In any case, where no express provision with respect to compensation is made by the special Act, the undertakers shall pay to the owners and occupiers of, and all other persons interested in, any lands or streams taken or used for the purposes of that Act, or injuriously affected by the construction or maintenance of the works thereby authorised or otherwise by the execution of the powers thereby conferred, compensation for the value of the lands or streams so taken or used and for all damage sustained by those owners, occupiers and other persons by reason of the exercise as to those lands and streams of the powers conferred on the undertakers by the special Act, or any Act incorporated therewith.

The amount of such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

Protection for works of navigation authorities and for catchment boards and railways.

- 93 (1) Subject to the provisions of this section and to any provisions of the special Act empowering the undertakers to execute works specified therein, or to abstract water,

nothing in the special Act shall authorise the undertakers without the consent of the navigation authority concerned—

- (a) to interfere with any river, canal, dock, harbour, basin, lock or reservoir so as injuriously to affect navigation thereon or the use thereof or the access thereto, or to interfere with any towing path, so as to interrupt the traffic thereon;
- (b) to interfere with any bridge crossing any river, canal, dock, harbour or basin;
- (c) to execute any works in, across or under any dock, harbour, basin, wharf, quay or lock, or any land which belongs to a navigation authority and is held or used by them for the purposes of their undertaking;
- (d) to execute any works which will interfere with the improvement of, or the access to, any river, canal, dock, harbour, basin, lock, reservoir, or towing path, or with any works appurtenant thereto or any land necessary for the enjoyment or improvement thereof;

or without the consent of the catchment board to execute any works which will interfere with the exercise by a catchment board of their functions under any enactment, or without the consent of the railway company concerned, to execute any works along, across or under any railway of a railway company:

Provided that consent under this section shall not be unreasonably withheld, and if any question arises as to whether or not consent is unreasonably withheld, either party may require that it shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

- (2) Upon an arbitration under this section, the arbitrator shall determine—
 - (a) whether any works which the undertakers propose to execute are such works as under the last foregoing subsection they are not entitled to execute without consent; and
 - (b) if they are such works, whether the injury, if any, to the navigation authority, catchment board or railway company will be of such a nature as to admit of being fully compensated by money; and
 - (c) if the works are of such a nature, the conditions, including conditions of a financial character with respect to the payment of compensation, future liabilities and otherwise, subject to which—
 - (i) the navigation authority, catchment board or railway company shall, if they so elect, carry out the works on behalf of the undertakers; or
 - (ii) in default of such election, the undertakers may themselves carry out the works.

If the arbitrator should determine that the proposed works are such works as the undertakers are not entitled to execute without consent and that the works would cause injury to the navigation authority, catchment board or railway company of such a nature as not to admit of being fully compensated by money, the undertakers shall not proceed to execute the works, but in any other case they may execute the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator may have determined.

- (3) For the purposes of this section, a navigation authority shall be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir, towing path, wharf, quay or land if it belongs to them and forms part of their undertaking, or if they have statutory rights of navigating on or using it, or of demanding tolls or dues in respect of navigation thereon or the use thereof.

Status: This is the original version (as it was originally enacted).

- (4) Nothing in this section shall be construed as limiting the powers of the undertakers under the special Act in respect of the opening and breaking up of streets and bridges.

Copies of special Act to be kept by undertakers in their office, and deposited with certain officers.

- 94 (1) The undertakers shall at all times after the expiration of six months from the date on which the special Act was passed or made, keep at their principal office a copy thereof printed by the printers to His Majesty, and shall also within the said six months deposit such a copy with the clerk of the council of every county and town clerk of every county borough within which they supply, or propose to supply, water, or have, or propose to construct, any waterworks.
- (2) If the undertakers fail to comply with any of the provisions of this section, they shall be liable to a fine not exceeding twenty pounds and to a further fine not exceeding five pounds for each day during which such a copy is not so kept or has not been so deposited.

FOURTH SCHEDULE

Sections 31, 40.

AMENDMENTS OF THE PUBLIC HEALTH ACT, 1936.

In section one hundred and sixteen, for the reference to the Supply of Water in Bulk Act, 1934, there shall be substituted a reference to section twelve of this Act and subsections (4) and (6) of the said section one hundred and sixteen shall cease to have effect.

For section one hundred and twenty there shall be substituted the following section:—

“120 Incorporation of certain provisions of Water Act, 1945.

For the purpose of enabling a local authority to supply water under this Act, there shall be incorporated with this Act the following provisions of the Third Schedule to the Water Act, 1945, that is to say—

Section twenty-one of Part V,
 Section thirty of Part VII,
 Part X (Laying and maintenance of supply pipes and communication pipes),
 Part XI (Stopcocks),
 Sections fifty-three and fifty-five of Part XII,
 Part XIII (Provisions for preventing waste, &c, of water and as to meters and other fittings),
 Part XIV (Pollution of water by manufacture, &c, of gas),
 Sections seventy-nine and eighty of Part XVI.”

Section one hundred and twenty-one shall cease to have effect.

In the proviso to subsection (3) of section one hundred and twenty-seven the words " can be drawn off into a receptacle at one point only and " shall be omitted.

Sections one hundred and thirty, one hundred and thirty-two, one hundred and thirty-three and one hundred and thirty-five shall cease to have effect.

In section one hundred and thirty-six for the words " material degree " there shall be substituted the words " degree exceeding five per cent. "

In subsection (4) of section one hundred and thirty-eight after the words " section thirty-five of the Waterworks Clauses Act, 1847 " there shall be inserted the words " or section twenty-nine of the Third Schedule to the Water Act, 1945, whichever applies for the time being to the undertakers ".

Section one hundred and thirty-nine shall cease to have effect.

In section one hundred and forty-two the definition of " water fittings " shall be omitted.

In section two hundred and seventy-five, for the words " drain or communication pipe for water " there shall be substituted the words " or drain ".

For subsection (1) of section two hundred and seventy-nine there shall be substituted the following subsection:—

“279 General provisions as to breaking open streets.

- (1) For the purposes of any section of this Act which confers powers on local authorities to construct, lay or maintain sewers, drains or pipes, the provisions of Part VI of the Third Schedule to the Water Act, 1945, shall be incorporated with this Act, subject, however, to such adaptations as may be necessary to make those provisions applicable to the construction and maintenance of sewers and drains as well as to the laying and maintenance of water mains and pipes.”

In subsection (2) of the said section the words " and modifications " shall be omitted, and for the words " drain or pipe " there shall be substituted the words " or drain. "

Sections two hundred and eighty and two hundred and eighty-one shall cease to have effect.

FIFTH SCHEDULE

Section 62.

ENACTMENTS REPEALED.

| Session and Chapter. | Short Title. | Extent of Repeal. |
|----------------------|--|---|
| 8 & 9 Vict. c. 16. | The Companies Clauses Consolidation Act, 1845. | Section one hundred and twenty-two, in relation to water companies. |
| 10 & 11 Vict. c. 17. | The Waterworks Clauses Act, 1847. | The whole Act. |
| 26 & 27 Vict. c. 93. | The Waterworks Clauses Act, 1863. | The whole Act. |
| 33 & 34 Vict. c. 70. | The Gas and Water Works Facilities Act, 1870. | The whole Act, so far as it relates to water. |
| 36 & 37 Vict. c. 89. | The Gas and Water Works Facilities Act, 1870, Amendment Act, 1873. | The whole Act, so far as it relates to water. |
| 38 & 39 Vict. c. 55 | The Public Health Act, 1875 | Section three hundred and three so far as it applies to any local enactment relating to water supply. |

Status: This is the original version (as it was originally enacted).

| Session and Chapter. | Short Title. | Extent of Repeal. |
|-------------------------------|---|--|
| 50 & 51 Vict. c. 21. | The Water Companies (Regulation of Powers) Act, 1887. | The whole Act. |
| 11 & 12 Geo. 5 c. 44. | The Water Undertakings (Modification of Charges) Act, 1921. | The whole Act. |
| 24 & 25 Geo. 5 c. 15. | The Supply of Water in Bulk Act, 1934 | The whole Act. |
| 26 Geo. 5. & 1 Edw. 8. c. 49. | The Public Health Act, 1936. | Subsections (4) and (6) of section one hundred and sixteen ; sections one hundred and twenty-one, one hundred and thirty, one hundred and thirty-two, one hundred and thirty-three, one hundred and thirty-five, one hundred and thirty-nine, two hundred and eighty and two hundred and eighty-one. |
| 7 & 3 Geo. 6. c. 16. | The Rural Water Supplies and Sewerage Act, 1944. | Section three, in section four the words " with the supply of water in or" and section five. |