

**CHAPTER xxiii.**

An Act to confer further powers upon the South Suburban Gas Company and for other purposes.  
[13th June 1940.]

**W**HEREAS the South Suburban Gas Company (hereinafter referred to as "the Company") were originally incorporated by the Crystal Palace District Gas Company's Act 1858 by the name of the Crystal Palace District Gas Company :

21 & 22  
Vict.  
c. cxxix.

And whereas the Acts relating to the Company were consolidated by the South Suburban Gas Act 1928 and under that Act and subsequent Acts the Company are supplying gas in an area of supply which comprises parts of the counties of London Kent and Surrey :

18 & 19  
Geo. 5.  
c. lxxx.

And whereas by section 33 of the South Suburban Gas Act 1928 it is enacted that save as provided by that section the provisions of the Gas Regulation Act 1920 shall not apply to the Company and it is expedient that the procedure by special order under section 10 of the said Act of 1920 should be made available to the Company as by this Act provided :

10 & 11  
Geo. 5.  
c. 28.

And whereas it is expedient to authorise the Company to use additional lands for the manufacture of gas :

And whereas it is expedient that the other powers and provisions contained in this Act should be granted and made :

And whereas the objects aforesaid cannot be attained without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and 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 (that is to say) :—

Short and  
collective  
titles.

1.—(1) This Act may be cited as the South Suburban Gas Act 1940.

(2) The South Suburban Gas Acts 1928 to 1936 and this Act may be cited together as the South Suburban Gas Acts 1928 to 1940.

Incorporation of  
general  
Acts.

2. The following Acts and parts of Acts so far as the same are applicable to the purposes of and are not inconsistent with the provisions of the South Suburban Gas Acts 1928 to 1940 are hereby incorporated with this Act (namely) :—

8 & 9 Vict.  
c. 18.

The Lands Clauses Acts except sections 127 to 132 of the Lands Clauses Consolidation Act 1845; and

10 & 11 Vict.  
c. 15.  
34 & 35 Vict.  
c. 41.  
24 & 25 Geo. 5.  
c. 28.

The Gasworks Clauses Act 1847 and the Gasworks Clauses Act 1871 as respectively amended by the Gas Undertakings Act 1934.

Interpre-  
tation.

3. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith or by the Gas Undertakings Acts 1920 to 1934 shall have the same respective meanings unless there be something in the subject or context repugnant to such construction And—

“ The Company ” means the South Suburban Gas Company ;

“ The limits of supply ” means the limits within which the Company are for the time being authorised to supply gas ;

“ The directors ” means the directors of the Company ;

“ The Act of 1928 ” means the South Suburban Gas Act 1928.

4.—(1) Notwithstanding anything in section 33 (Saving for certain provisions of Act of 1920) of the Act of 1928 the provisions of section 10 of the Gas Regulation Act 1920 which relates to the making of special orders by the Board of Trade shall apply to the Company and the Board of Trade may accordingly on the application of the Company make special orders under the said section 10 with respect to the undertaking of the Company.

Power to  
Company  
to obtain  
special  
orders.

(2) References in the said section 33 and in this section to any provision of the Gas Regulation Act 1920 shall be construed as references to that provision as amended or extended by any subsequent enactment.

5. Subject to the provisions of the Gasworks Clauses Acts 1847 and 1871 as incorporated with this Act the Company may upon the lands described in the schedule to this Act erect maintain alter improve and renew gasworks with all necessary machinery and apparatus and do all such acts as may be proper for making and storing gas and for supplying gas within the limits of supply and may also upon the said lands work up and convert the residual products arising directly or indirectly from the manufacture of gas by them or purchased by them under the powers conferred by section 4 of the Gas Undertakings Act 1929 and for this purpose the Company may purchase from any source and use such material as is required to work up and convert any such residual products.

Construc-  
tion of  
gasworks.

19 & 20  
Geo. 5.  
c. 24.

6. In addition to the powers conferred upon them by section 4 of the Gas Undertakings Act 1929 the Company may purchase and may sell liquid butane or liquid propane or any other similar liquid which is intended to be converted into gas and which is derived from a process other than the process of carbonisation or gasification of coal or coke and may also use such liquid for the enrichment of gas supplied by them.

Extension  
of section 4  
of Gas  
Under-  
takings  
Act 1929.

7.—(1) The Company may for the purpose of supplying gas to the owner or occupier of any premises within the limits of supply exercise with respect to any street or part of a street outside those limits the like powers of breaking up the same for the purpose of laying maintaining inspecting repairing and renewing

As to  
streets  
outside  
limits of  
supply.

pipes as are exercisable by them with respect to streets within the limits of supply subject nevertheless to the observance of the conditions imposed on the exercise of those powers therein.

(2) Nothing in this section shall entitle or require the Company to supply gas to the owner or occupier of any premises outside the limits of supply.

(3) In this section the word "street" includes any square court or alley highway lane road thoroughfare or public passage or place.

Further  
power to  
lay pipes  
in private  
streets.

8.—(1) If pursuant to the provisions of sections 6 to 12 of the Gasworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes the Company desire to lay or place any pipe or other works in any street laid out and formed but not dedicated to public use and the owner or occupier of the soil or pavement of the street withholds his consent under section 7 of the said Act of 1847 to the laying or placing of the pipe or other works in the street or attaches to his consent terms or conditions which in the opinion of the Company are unreasonable the Company may apply to a court of summary jurisdiction acting for the petty sessional division in which the street is situate to dispense with the consent of such owner or occupier or to amend or annul the terms and conditions attached by the owner or occupier to his consent.

(2) If on any such application by the Company the court is of the opinion that the consent of the owner or occupier has been unreasonably withheld or that the terms or conditions attached by the owner or occupier to his consent are unreasonable the court may by order authorise the Company to lay or place such pipe or other works in the street without the consent of such owner or occupier but subject to such terms and conditions (if any) as the court may by the order prescribe and on the making of the order the Company may exercise with respect to the street the powers of section 6 of the said Act of 1847 but subject to the provisions of sections 8 to 12 of the said Act of 1847 and to the terms and conditions (if any) prescribed by the order:

Provided that in the application of the provisions of the said sections 8 to 12 of the said Act of 1847 to any street which has been laid out and formed but not

dedicated to public use the persons having the control or management of the street shall be deemed to include the authority by whom the street would be maintained or repaired if it became a highway repairable by the inhabitants at large and the notice in writing required by the said section 8 and a copy of the plan referred to in section 9 of the said Act of 1847 shall be served on those persons.

(3) (a) Notwithstanding the foregoing provisions of this section if any street in which the Company desire to lay or place any pipe or other works pursuant to subsection (1) of this section is vested in or under the control of the Port of London Authority then in relation to that street—

- (i) subsections (1) and (2) of this section shall have effect as if references to an arbitrator were substituted therein for references to a court of summary jurisdiction; and
- (ii) any difference between the Company on the one hand and the Port of London Authority on the other hand with respect to the plan referred to in section 9 of the said Act of 1847 shall be determined by an arbitrator instead of by a court of summary jurisdiction.

(b) Any question or difference which pursuant to paragraph (a) of this subsection is required to be referred to or determined by an arbitrator shall be referred to or determined by a single arbitrator to be agreed between the Company and the Port of London Authority or failing agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other of them and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such arbitration.

(4) The powers conferred upon the Company by this section shall not be exercised in respect of any street belonging to a railway company except with the consent of that company. The said consent shall not be unreasonably withheld and if any difference arises between the said railway company and the Company as to whether such consent is in any case unreasonably

withheld the difference shall be determined by an arbitrator to be agreed upon by the said railway company and the Company or failing agreement to be appointed on the application of either party by the President of the Institution of Civil Engineers. The Company in carrying out the works authorised by this section shall not unreasonably obstruct or interfere with the access to any such street. In this subsection the expression "railway company" shall be deemed to include the London Passenger Transport Board.

(5) Nothing in this section shall limit the powers of the Company under section 72 (Power to lay pipes in private streets) of the Act of 1928.

Repairs of  
piping &c.  
in dan-  
gerous  
condition.

9.—(1) If the Company shall at any time serve notice upon any consumer to the effect that an officer or servant of the Company has reported after inspection of any internal piping or gas-consuming appliance or fitting on such consumer's premises that he is of opinion that any such internal piping or gas-consuming appliance or fitting is in such a condition as to be dangerous to the occupiers of the premises such consumer shall forthwith carry out such works as may be necessary to remove the cause of danger. If the consumer shall fail forthwith to carry out such works as aforesaid the Company may stop the gas from entering the premises of such consumer by cutting off the service pipe or by such other means as the Company shall think fit. Any expenses incurred by the Company in cutting off the gas from such premises may be recovered by the Company summarily as a civil debt.

(2) For the purposes of this section the Company shall subject to the provisions of section 21 of the Gasworks Clauses Act 1871 have and may exercise the like powers of entry as are exerciseable under that section.

(3) Nothing in this section shall apply to any internal piping appliance or fitting on the premises (not being a dwelling-house) of a railway company or the London Passenger Transport Board nor shall the powers of this section be exerciseable in respect of such premises.

10. The following provisions for the protection of the London County Council (in this section referred to as "the council") shall unless otherwise agreed in writing between the Company and the council apply and have effect (that is to say):—

For protection of London County Council.

- (1) No order shall be made under subsection (2) of section 8 (Further power to lay pipes in private streets) of this Act in respect of any street belonging to the council unless the court is satisfied that notice of the intention to make the application specifying the time and place at which it is to be made and the order which will be asked for has at least twenty-eight days before the date on which the application is made been served by registered post on the council. On the hearing of such an application the council shall have a right to be heard:
- (2) The provisions of section 9 (Repairs of piping &c. in dangerous condition) of this Act shall not apply to any hospital school or institution provided and maintained by the council or to any other building used for public purposes by the council.

11.—(1) If at any time the Company intend to alter the declared calorific value in the whole or any part of the limits of supply the Company shall by advertisement in the London Gazette and by notice in writing to the Board of Trade and to the council of each county and of each borough and urban district within or partly within the limits of supply or such part of the limits of supply as the case may be declare their intention to supply within the limits of supply or such part thereof as may be specified in such notice at the expiration of three months from the date of such notice or at such later date as may be specified in such notice gas of such calorific value as may be declared in such notice and the calorific value as so declared by the Company shall thereafter be the declared calorific value within the limits of supply or such part thereof as may be specified in such notice unless and until varied by subsequent declaration under the provisions of this section:

Variation of declared calorific value.

Provided that this section shall have effect as respects the charges to any particular consumer as from

the first reading by the Company of that consumer's meter after the date on which the alteration of the declared calorific value takes effect and not earlier :

Provided also that during the continuance of the present war the expression "one month" shall be deemed to be substituted for the expression "three months."

(2) For the purposes of this section "the declared calorific value" means the calorific value of the gas which the Company are for the time being bound to supply under the Act of 1928 or under any declaration in force under that Act or this section.

As to  
issue of  
ordinary or  
preference  
stock.

12.—(1) All ordinary or preference stock issued after the passing of this Act under any powers of the Company in that behalf may be issued by the directors (whether the ordinary stock of the Company is or is not at a premium at the date of such issue) either—

- (a) in accordance with the provisions of section 15 (As to sale of stock by auction or tender) of the Act of 1928 (as amended by the Gas Undertakings Act 1934); or
- (b) with the approval of the Board of Trade to be signified in writing under the hand of an assistant secretary of that Board to such persons at such price or prices on such terms and conditions and in such manner as the directors may determine to be most expedient for the purpose of realising the best price obtainable :

Provided that any stock issued under the foregoing paragraph (b) shall if there be any existing stock of the Company of the same class be issued at a price not less by more than five per centum than the average market price of such existing stock or if there be no such existing stock then at a price to be determined on the application of the Company by the chairman of the London Stock Exchange.

For the purposes of this proviso "the average market price" means the average of the mean daily quotations recorded in the London Stock Exchange daily list of officially quoted securities during the fourteen days immediately preceding the date of issue due allowance being made for any anticipated dividend :



Provided also that nothing in this subsection shall authorise the issue under the foregoing paragraph (b) of any redeemable preference stock at a price less by more than five per centum than the price at which such stock is to be redeemable or so as to be redeemable at a date less than fifteen years after the date of issue.

(2) It shall be one of the conditions of an issue of stock under paragraph (b) of subsection (1) of this section that the total sum payable by the persons to whom such stock is issued shall be paid to the Company within three months after the date of such issue.

(3) The foregoing provisions of this section shall not apply to any stock issued to the holder of any redeemable preference stock by way of redemption of or in substitution for such redeemable stock and the directors may without any further or other authority issue any stock created by the Company which may be required for any of the said purposes.

(4) Except as hereinbefore expressly provided the provisions of this section shall as respects the Company be in substitution for the provisions of subsections (1) (2) and (3) of section 1 of the Gas Undertakings Act 1934.

**13.**—(1) If and so long as the ordinary meetings of the Company shall be held once only in each year (any such meeting in this section being referred to as the “annual general meeting”)—

Half-yearly  
dividends.

(a) the directors may on or after the thirtieth day of June in any year without the sanction or direction of a general meeting declare and pay out of the funds of the Company applicable to dividend a dividend in respect of the half-year ended on the said thirtieth day of June on any class of share capital of the Company at such rate as the directors may think fit but no such rate shall as respects the ordinary share capital be greater than the rate of dividend ascertained pursuant to section 35 (Limitation of dividends) and section 36 (Division of surplus profits) of the Act of 1928 or as respects any preference capital be greater than the preferential annual rate of dividend assigned thereto;

8 & 9 Vict.  
c. 16.

(b) section 116 of the Companies Clauses Consolidation Act 1845 shall in its relation to the Company be read and have effect as if the words "preceding year" were substituted therein for the words "preceding half-year."

(2) When in respect of any such half-year as aforesaid the directors exercise the powers conferred by subsection (1) of this section the only dividend (if any) to be declared at the next following annual general meeting on any class of share capital of the Company in relation to which such powers were exercised shall be a dividend in respect of the half-year ended next before the date of such annual general meeting at such rate as the Company may approve not exceeding the rate of dividend requisite to enable the Company to pay in the case of ordinary share capital the balance of the dividend which pursuant to the said sections can lawfully be paid in respect of the year in which such half-year occurs and in the case of preference share capital the balance of the dividend in respect of the year in which such half-year occurs at the preferential annual rate assigned to such capital and section 120 of the Companies Clauses Consolidation Act 1845 shall in its application to the Company be read and have effect accordingly.

Contracts  
by  
directors.

14. For the purpose of section 61 (Directors holding office under or contracting with Company) of the Act of 1928 a general notice given to the directors by one of them to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may after the date of the notice be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

Appoint-  
ment of  
proxies.

15. Section 55 (As to appointment of proxies) of the Act of 1928 shall have effect as if the words "or if the instrument has been deposited in the central office of the Supreme Court of Judicature an office copy thereof" were inserted in the proviso to that section after the words "the instrument appointing the attorney."

**16.** If a justice be satisfied on complaint by any officer of the Company that any person is quitting or about to quit any premises to which the Company supply gas and has failed to pay on demand any sum which may be due from him to the Company and intends to evade payment of that sum by departing from the said premises the justice may (in addition to issuing a summons for non-payment of the sum) issue a warrant under his hand authorizing the person named therein to seize forthwith and detain the goods and chattels of the defaulter until the complaint is determined on the return of the summons.

Recovery  
of sums  
from  
persons  
removing.

**17.** The following enactments are hereby repealed:—

Repeal.

The Act of 1928—

Section 30 (Declaration of calorific value);

Section 40 (Interim dividends).

South Suburban Gas Act 1935—

Section 22 (As to streets forming boundary of limits of supply).

25 & 26  
Geo. 5.  
c. lxxxv.

South Suburban Gas Act 1936—

Section 17 (Amendment of section 22 of Act of 1935).

26 & 27  
Geo. 5.  
c. cvi.

**18.** The Company shall not later than in the session 1945 promote a Bill in Parliament proposing a revision of the basic price fixed by the Act of 1928 or giving an opportunity for such revision to be made. The council of any county and of any borough or urban district within or partly within the limits of supply shall (subject to their complying with any relevant statutory requirements and standing orders of each House of Parliament) be entitled to be heard on such Bill.

Company  
to promote  
future  
Bill.

**19.** All costs charges and expenses of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company and may be defrayed wholly or partly out of revenue.

Costs of  
Act.

The SCHEDULE referred to in the  
foregoing Act.

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GAS LANDS.

A piece of land in the borough of Dartford in the county of Kent containing by admeasurement 3 perches or thereabouts situate on the east side of Hythe Street and with the messuage or tenement erected thereon known as No. 119 Hythe Street and having a frontage to such street of 13 feet or thereabouts and bounded on the north by a road belonging or reputed to belong to the Company on the east by the land next hereinafter described and on the south by a passage adjoining No. 117 Hythe Street.

A piece of land in the borough of Dartford in the county of Kent containing by admeasurement 30 perches or thereabouts comprising the block of seven cottages and the gardens belonging thereto known as Nos. 121 123 125 127 129 131 and 133 Hythe Street and the passage abutting on the west and south sides thereof and having a frontage to the said road belonging or reputed to belong to the Company of 90 feet or thereabouts and bounded on the east by other land belonging or reputed to belong to the Company on the south by the garden belonging to No. 105 Hythe Street and on the west in part by the gardens belonging to Nos. 107 109 111 113 115 and 117 Hythe Street in part by the said passage between Nos. 117 and 119 Hythe Street and in part by the land first hereinbefore described.

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