

1978 No. 268

**WATER, ENGLAND AND WALES**

**The West Kent Water (Hartlake) Order 1978**

*Made* - - - - 24th February 1978

*Coming into Operation* 10th March 1978

The Secretary of State for the Environment, in exercise of powers conferred by section 23 of the Water Act 1945(a) as extended by section 3 of the Water Act 1948(b) and section 33(2) of the Compulsory Purchase Act 1965(c) and now vested in him (d) and of all other powers enabling him in that behalf, hereby orders as follows:—

1.—(1) This order may be cited as the West Kent Water (Hartlake) Order 1978. Citation.

(2) The West Kent Water Acts and Orders 1878 to 1977 and this order may be cited together as the West Kent Water Acts and Orders 1878 to 1978.

2.—(1) In this order, unless the context otherwise requires—

*Interpre-*  
*tation.*

“the Company” means the West Kent Water Company;

“the deposited plans” means the plans prepared in duplicate, signed by an Under Secretary in the Department of the Environment and marked “Plans referred to in the West Kent Water (Hartlake) Order 1978”, one duplicate of which is deposited and available for inspection at the principal offices of the Company and the other at the offices of the Secretary of State for the Environment;

“the Third Schedule” means the Third Schedule to the Water Act 1945;

“the undertaking” means the undertaking of the Company as for the time being authorised by any enactment;

“the works” means Works Nos. 1 to 5 and any works, apparatus or conveniences constructed, provided or installed by the Company as part of or in connection with, or for the purposes of, those works or any of them.

(2) References in this order to reference points shall be construed as references to the National Grid reference points.

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(a) 1945 c. 42.  
(c) 1965 c. 56.

(b) 1948 c. 22.  
(d) S.I. 1951/142, 1900, 1970/1681.

Application of certain provisions of Third Schedule.

3. For the purposes of this order, the provisions of the Third Schedule which are specified in column (1) of the Schedule to this order shall apply to the undertaking and are hereby incorporated with this order subject to the modifications set out in column (2) of the said Schedule.

Application of Part I of Compulsory Purchase Act 1965.

4. In its application to this order, Part I of the Compulsory Purchase Act 1965 shall have effect subject to the following exceptions and modifications—

(a) at the end of section 4 there shall be added the following proviso—

“Provided that such powers shall in relation to any of the land be deemed to have been exercised if before the expiration of the said three years notice to treat has been served in respect of that land.”;

(b) in subsection (1) of section 11 for the words “fourteen days” there shall be substituted the words “one month”;

(c) subsection (2) of section 11 shall have effect as if at the end of the first paragraph thereof there were inserted the words “(other than paragraph 3(3) thereof)”;

(d) in subsection (3) of section 11 for the words “not less than three nor more than fourteen days’ notice” there shall be substituted the words “not less than seven days’ notice in the case of the first entry and not less than twenty-four hours’ notice in the case of a subsequent entry”;

(e) section 27 shall not apply.

Power to make and continue works.

5.—(1) Subject to the provisions of this order, the Company on or under the lands delineated on the deposited plans, may make and maintain in the lines or situations and according to the levels shown upon the deposited plans and sections and within the limits of deviation there shown the following works outside the Company’s limits of supply in the county of Kent—

In the District of Tonbridge and Malling and the Borough of Tunbridge Wells—

Work No 1—three collecting wells and a line or lines of underground pipes within the lands delineated on the said plans partly in the parish of Hadlow in the District of Tonbridge and Malling and partly in the parish of Capel in the Borough of Tunbridge Wells in enclosures numbered 4900, 1700 and 3400, on the 1:2500 Ordnance Survey National Grid plans numbered TQ 6247/TQ 6347 1962 and TQ 6246/TQ 6346 1962;

In the Borough of Tunbridge Wells—

Work No. 2—a line or lines of underground pipes in the said parish of Capel commencing by a junction with Work No. 1 at reference point 56253 14680 and terminating by a junction with Work No. 3 at reference point 56273 14572;

Work No. 3—a balancing tank and pumping station and a line or lines of underground pipes within the lands delineated on the said plans in the said parish of Capel in enclosure number 4766 on the 1:2500 Ordnance Survey National Grid plan numbered TQ 6245/TQ 6345 1963;

Work No. 4—a line or lines of pipes partly in the said parish of Capel and partly in the parish of Pembury in the Borough of Tunbridge Wells commencing by a junction with Work No. 3 at reference point 56268 14561 and terminating at the Company's Pembury Waterworks at reference point 56291 14270;

Work No. 5—a line or lines of pipes in the said parish of Pembury commencing at the Company's Pembury Waterworks at reference point 56294 14259 and terminating at the Company's Pembury Waterworks at reference point 56293 14259.

(2) The works authorised by this order shall for all purposes be deemed to form part of the undertaking.

6. Subject to the provisions of this order, the Company may purchase compulsorily such of the lands delineated on the deposited plans as they may require for the purpose of the making of all or any of the works authorised by this order.

Power to Company to acquire lands.

7. Notwithstanding anything in section 6 (Power to Company to acquire lands) of this order, the Company shall not acquire compulsorily any land required only for the making of Works Nos. 2, 4 and 5 (other than any works to be made on the surface of the ground forming part of, or connected with, any of those works) if the owners thereof are able and willing to grant or sell to the Company such easements or rights in that land as may be sufficient for the purpose of making, maintaining and protecting any such work as aforesaid at a price to be agreed or, failing agreement, to be determined by arbitration in accordance with the provisions of the Land Compensation Act 1961(a).

Easements only to be acquired for underground works, etc.

8.—(1) The Company, during and for the purposes of the execution of any of the works, may temporarily stop up, alter, divert or otherwise interfere with any watercourse or any highway or any private right of way, and, in the case of any highway or right of way, may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the highway or right of way from passing along and using the same.

Temporary stoppage of watercourses, highways, etc.

(2) The Company shall provide reasonable access for foot passengers, with or without animals, bona fide going to or from any such land, house or building.

(3) (a) The powers of paragraph (1) of this section shall not be exercised in relation to a highway without the consent of the highway authority, which consent shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority may require, and any question whether such consent is unreasonably withheld or any conditions so imposed are

unreasonable, shall be determined by a person appointed by the President of the Institution of Civil Engineers.

(b) The powers of paragraph (1) of this section shall not be exercised in relation to any watercourse without providing a proper substitute before interrupting the passage of water in or through such watercourse, and the Company shall make compensation for any damage caused to any person by the exercise of such powers in relation to any watercourse, the amount of such compensation being, in case of dispute, determined by the Lands Tribunal.

(4) (a) The exercise of the powers conferred by this section in relation to a highway shall not affect the powers of the Post Office under the Telegraph Acts 1863 to 1916 to maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that highway for any of those purposes.

(b) In this paragraph "telegraphic line" has the same meaning as in the Telegraph Act 1878(a).

Costs of  
order.

9. All costs, charges and expenses of or incidental to the application for this order and the preparation and making thereof may be paid by the Company in whole or in part out of revenue.

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(a) 1878 c. 76.

## THE SCHEDULE

### PROVISIONS OF THIRD SCHEDULE APPLIED

Provisions applied (1)	Modifications (2)
Section 2 (Permissible limits of deviation)	For the words "the plans submitted to the Minister" there shall be substituted the words "the deposited plans" and for the words "the said plans" wherever they occur there shall be substituted the words "the deposited sections".
Section 4 (General power to construct subsidiary works)	The words "and to any other provisions of the special Act limiting the powers of the undertakers to abstract water" shall be omitted, for the words "any land for the time being held by them in connection with their water undertaking" there shall be substituted the words "the land described in the special Act", and after the word "cisterns" there shall be inserted the words "valve chambers, surface boxes, electrical equipment kiosks, drains, drainage soakaways".
Section 5 (Power of undertakers to lay or erect telephone wires, &c.)	For the words "their works" there shall be substituted the words "the works".
Section 6 (Penalty for obstructing construction of works)	—
Section 7 (Power to acquire easements for underground works)	—
Section 8 (Persons under disability may grant easements, &c.)	—
Section 9 (Extinction of private rights of way)	—
Part IV (Minerals Underlying Waterworks)	In section 12 for the words "after this section is incorporated with their enactments" there shall be substituted the words "under the special Act"; for the words "all existing pipes or other conduits for the collection, passage or distribution of water and underground works belonging to them" there shall be substituted the words "all such pipes or other conduits or underground works" and the words "for the time being belonging to them" shall be omitted.

Provisions applied (1)	Modifications (2)
Part VI (Breaking Open Streets, &c.)	In section 22 the words "within their limits of supply" and "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" shall be omitted and after the word "removing" where it first appears there shall be inserted the words "any works authorised by the special Act".
Section 82 (Power to enter premises)	—
Section 83 (Penalty for obstructing execution of special Act)	—
Section 84 (Power to require occupier to permit works to be executed by owner)	—
Section 85 (Summary proceedings for offences)	—
Section 91 (Mode of reference to arbitration)	—
Section 92 (Liability of undertakers to pay compensation)	—
Section 93 (Protection for works of navigation authorities and for catchment boards and railways)	—
Section 94 (Copies of special Act to be kept by undertakers in their office, and deposited with certain officers)	—

Signed by authority of  
the Secretary of State

24th February 1978.

*A. G. Semple,*  
An Under Secretary in the  
Department of the Environment.