

[1 EDW. 8. &
1 GEO. 6.]

*Gosport Water
Act, 1937.*

[Ch. lxxvii.]



CHAPTER lxxvii.

An Act to authorise the Gosport Waterworks Company to construct additional waterworks to extend the limits of supply and to enlarge the capital and borrowing powers of the Company to confer further powers upon the Company and for other purposes.

A.D. 1937.

[13th July 1937.]

WHEREAS the Gosport Waterworks Company (hereinafter referred to as "the Company") were incorporated by the Gosport Waterworks Act 1858 and are under and by virtue of that Act and subsequent Acts and Orders authorised to supply and are supplying water within an area which comprises the borough of Gosport the parishes of Swanmore Shedfield and Wickham in the rural district of Droxford and so much of the urban district of Fareham as formerly constituted the parish of Crofton all in the county of Southampton:

21 & 22 Vict.
c. v.

And whereas it is expedient that the Company should be empowered to construct the waterworks authorised by this Act and to acquire lands and easements therefor and for the purposes of their undertaking:

And whereas it is expedient that the limits for the supply of water by the Company should be extended as by this Act provided:

And whereas the issued ordinary capital of the Company consists of twenty-two thousand and one hundred pounds ordinary stock entitled to a maximum

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And whereas the Company have issued preference stock consisting of four thousand and nine hundred pounds preference stock entitled to a preferential dividend at the rate of four and a half per centum per annum and forty-six thousand and five hundred pounds preference stock entitled to preferential dividend at the rate of five per centum per annum and the Company have received on the issue of such last mentioned preference stock premiums to the aggregate amount of one thousand seven hundred and twenty-four pounds nineteen shillings and ninepence :

And whereas the Company have exercised to the full extent their powers of raising money by the issue of ordinary or preference capital :

And whereas under the Acts or Orders for the time being relating to the Company or some of them the Company have issued debenture bonds to the aggregate amount of six thousand five hundred pounds and have from time to time created and made various issues of debenture stock to the aggregate amount of ten thousand five hundred and sixty pounds and redeemable debenture stock to the aggregate amount of thirty-six thousand one hundred and fifty pounds and the Company have unexercised powers of borrowing to the extent of six thousand nine hundred and twenty pounds :

And whereas it is expedient that the Company should be authorised to raise additional capital and to borrow further moneys for the purposes of this Act and their undertaking :

And whereas it is expedient that such further powers should be conferred upon the Company and that such other provisions should be enacted as are in this Act contained :

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

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And whereas a plan and section showing the line and level of the work by this Act authorised and the lands which may be taken or used compulsorily for the purposes thereof such plan showing also the lands which may be taken or used compulsorily for other purposes of the undertaking of the Company and a book of reference to such plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands were duly deposited with the clerk of the county council of the administrative county of Southampton and are in this Act respectively referred to as the deposited plan section and book of reference :

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 :—

PART I.

PRELIMINARY.

1.—(1) This Act may be cited as the Gosport Water Act 1937.

Short and
collective
titles.

21 & 22 Vict.
c. v.

35 & 36 Vict.
c. lxxix.

46 & 47 Vict.
c. xlviii.

60 & 61 Vict.
c. clvi.

4 Edw. 7.

c. xxiv.

(2) The Gosport Waterworks Act 1858 the Gosport Water Order 1872 (confirmed by the Gas and Water Orders Confirmation Act 1872) the Gosport Water Order 1883 (confirmed by the Water Orders Confirmation Act 1883) the Gosport Water Order 1897 (confirmed by the Water Orders Confirmation Act 1897) the Gosport Water Act 1904 the Gosport Waterworks Company (Capital Issues) Consent 1920 the Gosport Waterworks Company (Modification of Charges) Order 1923 the Gosport Water (Capital Issues) Consent 1924 and this Act may be cited together as the Gosport Water Acts and Orders 1858 to 1937.

2. This Act is divided into Parts as follows :—

Act divided
into Parts.

Part I.—Preliminary.

Part II.—Works and lands.

Part III.—Supply of water &c.

Part IV.—Financial provisions &c.

Part V.—Administrative provisions.

Part VI.—Miscellaneous provisions.

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PART I.

—cont.

Incorporation of Acts.

10 & 11 Vict.
c. 17.26 & 27 Vict.
c. 93.

3. The following Acts and parts of Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of the Gosport Water Acts and Orders 1858 to 1937) are hereby incorporated with this Act (namely):—

- (1) The Waterworks Clauses Acts 1847 and 1863 except the words “with the consent in writing” of the owner or reputed owner of any such “house or of the agent of such owner” in section 44 and except sections 76 to 78 of the first-mentioned Act:

Provided that in the application to the Company of the Waterworks Clauses Act 1847 section 30 of that Act shall be read as if the words “seven days” were substituted therein for the words “three clear days”:

- (2) The Lands Clauses Acts except sections 127 to 131 of the Lands Clauses Consolidation Act 1845 relating to the sale of superfluous lands:

Provided that any question of disputed compensation under the Lands Clauses Acts (other than a question required to be determined by two justices) shall be determined by a single arbitrator to be agreed upon between the Company and the person claiming the compensation or in default of such agreement appointed by the President of the Chartered Surveyors’ Institution on the application of either party:

8 & 9 Vict.
c. 18.

- (3) The Companies Clauses Consolidation Act 1845 except the provisions thereof with respect to the conversion of the borrowed money into capital:

- (4) Part I (relating to cancellation and surrender of shares) Part II (relating to additional capital) and Part III (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts:

Provided that in the application to the Company of the said Part III of the Companies Clauses Act 1863 section 22 of that Act shall be read and have effect as if the words “and to the same amount as” were omitted therefrom.

8 & 9 Vict.
c. 16.26 & 27 Vict.
c. 118.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction.

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PART I.
—cont.
Inter-
pretation.

And in this Act unless the subject or context otherwise requires—

“The Company” means the Gosport Waterworks Company;

“The existing limits of supply” means the area within which the Company are under or by virtue of the Gosport Waterworks Act 1858 the Gosport Water Order 1897 and the Gosport Water Act 1904 authorised to supply water;

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

“The undertaking” means the undertaking of the Company for the time being authorised;

“The authorised works” means the work shown on the deposited plan and the other works subsidiary or ancillary thereto which are by this Act authorised to be constructed;

“The directors” means the directors of the Company;

“Employee” means any workman servant or officer of the Company but does not include a director (other than a managing director and a director appointed under the section of this Act of which the marginal note is “Appointment of officers as directors”);

“Gross estimated rental” in relation to any house or building or part of a house or building means the gross value of that house building or part as appearing in the valuation list for the time being in force or if no such value appears in the valuation list as may be determined in the event of any dispute by two justices of the peace in like manner as disputes are determined under section 68 of the Waterworks Clauses Act 1847;

“The corporation” means the mayor aldermen and burgesses of the borough of Gosport;

“The Minister” means the Minister of Health.

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PART II.

WORKS AND LANDS.

Power to
make works.

5.—(1) Subject to the provisions of this Act the Company may in the parish of Soberton in the rural district of Droxford in the county of Southampton and in the lines and situations and upon in or under the lands delineated on the deposited plan and described in the deposited book of reference and according to the levels shown on the deposited section make and maintain the following work (that is to say):—

An adit or adits commencing by a junction with an existing adit connected with the existing well of the Company at their Soberton pumping station and terminating in or under the enclosure numbered 494 in the said parish of Soberton on the 1/2500 Ordnance map (edition of 1909) Hampshire sheet No. LXVII.6.

(2) In addition to the foregoing work the Company may upon in or under the lands delineated on the deposited plan make provide and maintain all such shafts borings openings buildings machinery works and apparatus of whatever character as may be necessary or convenient for the purpose of constructing maintaining repairing and ventilating or otherwise in connection with or subsidiary to the before-mentioned work but nothing in this subsection shall exonerate the Company from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them.

Limits of
deviation.

6. In the construction of the work authorised by this Act and shown on the deposited plan and section the Company may deviate laterally from the line or situation thereof as shown on the deposited plan to any extent not exceeding the limits of lateral deviation shown on that plan and they may also deviate vertically from the level of the said work shown on the deposited section to any extent not exceeding fifty feet upwards and to any extent downwards.

Power to
take waters.

7. Subject to the provisions of this Act the Company may collect take use divert and appropriate for the purposes of their waterworks and the undertaking all

such underground springs streams and waters as may be intercepted by the authorised works.

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PART II.

—cont.

8. Subject to the provisions of this Act the authorised works shall for all purposes whatsoever form part of and be comprised in the undertaking.

Works to form part of undertaking.

9. The Company may on all or any of the lands for the time being held by them execute for the purposes of or in connection with the undertaking any of the works mentioned in section 12 of the Waterworks Clauses Act 1847 other than wells and works for the taking and intercepting of water Provided that the Company shall not under the powers of this section create or permit the creation or continuance of any nuisance on any such lands.

As to exercise of powers of section 12 of Waterworks Clauses Act 1847.

10.—(1) For the purpose of constructing maintaining repairing altering enlarging extending cleansing emptying testing or examining any of the authorised works the Company may cause the water in any such work to be discharged into any available stream ditch or watercourse and for that purpose the Company may lay down and maintain in any street all necessary discharge pipes and apparatus and the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall with the necessary modifications apply thereto Provided that any water so discharged shall so far as may be reasonably practicable be free from mud or solid or offensive matter and matter injurious to fish or spawn or spawning beds or food of fish.

Discharge of water into streams.

(2) In the exercise of the powers conferred by this section the Company shall do as little damage as may be and shall pay compensation to all persons interested for all damage sustained by them in the exercise of such powers the amount of such compensation to be settled in default of agreement by arbitration in accordance with the provisions of the Arbitration Acts 1889 to 1934 or any statutory modification or re-enactment thereof for the time being in force.

(3) The powers of this section shall not be exercised so as to damage or injuriously affect the railways or works of a railway company.

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PART II.
—cont.

Limiting
powers of
executing
works for
abstraction
of water.

Power to
take lands.

Company
may acquire
easements
only in
certain
cases.

Correction
of errors
in deposited
plan and
book of
reference.

11. The Company shall not construct any works for taking or intercepting water from any lands acquired by them unless the works are authorised by and the lands upon which the same are to be constructed are specified in this or some other Act of Parliament.

12. Subject to the provisions of this Act the Company may enter upon take and use—

(a) for the purposes of the execution of the authorised works all or any of the lands delineated on the deposited plan and described in the deposited book of reference;

(b) for or in connection with any purpose of the undertaking the lands numbered on the deposited plan 3 in the parish of Soberton.

13.—(1) The Company may in lieu of acquiring for the purposes of the authorised works any of the lands numbered on the deposited plan 2 in the parish of Soberton or any part of those lands acquire such easements only in such lands as they may require for such purposes and may give notice to treat in respect of such easements describing the nature thereof and the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such easements as fully as if the same were lands within the meaning of those Acts.

(2) As regards any lands in respect of which the Company have acquired easements only under the provisions of this section the Company shall not be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall subject to such easements have the same rights to use and cultivate the said lands at all times as if this Act had not been passed.

14. If there is any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plan or specified in the deposited book of reference the Company after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices having jurisdiction in the place in which the lands are situate for the correction thereof

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and if it appears to the justices that the omission or misstatement or wrong description arose from mistake they shall certify the same accordingly and they shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and such certificate or a copy thereof shall be deposited with the clerk of the county council of the administrative county of Southampton and a duplicate thereof shall be deposited with the clerk of the rural district of Droxford and with the clerk of the parish council of the parish of Soberton and such certificate or copy and duplicate respectively shall be kept by such clerks respectively with the other documents to which the same relate and thereupon the deposited plan and book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Company to take the lands and execute the works in accordance with the certificate.

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PART II.
—cont.

15.—(1) All private rights of way over any lands which shall under the powers of this Act be acquired compulsorily by the Company shall be extinguished as from the date of the acquisition of such lands by the Company if the Company shall by resolution so determine and give notice in writing of such their resolution to the owner of any right of way referred to therein.

Extinction
of private
rights of
way.

(2) Provided that the Company shall make compensation to all parties interested in respect of any such rights so determined and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

16. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall

Persons
under
disability
may grant
easements
&c.

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PART II.

—cont.

Period for
compulsory
purchase of
lands.

extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

17. The powers of the Company for the compulsory purchase of lands for the purposes of this Act shall cease on the first day of October one thousand nine hundred and forty.

Power to
hold lands
and
exercise
powers for
protection
of waters.

18.—(1) For the purpose of protecting against pollution nuisance encroachment or injury any of the waters which the Company are from time to time empowered to take the Company may by agreement purchase take on lease or otherwise acquire any lands easements or rights and may hold such lands and any other lands which they may have acquired for the purposes of the undertaking so long as they shall deem it necessary or expedient for those purposes :

Provided that the Company shall not create or permit the creation or continuance of any nuisance on any lands acquired under this section nor erect any buildings thereon except offices and dwellings for persons in their employment and such buildings and works as may be incident to or connected with the undertaking.

(2) The Company may in and upon the lands referred to in subsection (1) of this section construct and lay down drains sewers watercourses catchpits and other works and conveniences necessary or proper for the purpose of intercepting or taking any foul waters arising or flowing upon such lands or necessary or proper for preventing the water which the Company are from time to time empowered to take from being polluted and the Company may for the purposes aforesaid carry any such drain sewer or watercourse under across or along any street or road subject and according to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes.

(3) The Company may make and carry into effect agreements with the owners lessees or occupiers of any lands with reference to the execution by the Company or such owners lessees or occupiers of such works as may be necessary for the purpose of draining

such lands or any of them or for more effectually collecting conveying and preserving the purity of any waters which the Company are from time to time empowered to take.

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PART II.
—cont.

19. Notwithstanding anything in this or any other Act or any Order to the contrary the Company may retain hold and use for such time and for such purpose as they may think fit or may sell lease exchange or otherwise dispose of to such person in such manner and for such consideration and purpose and on such terms and conditions as they may think fit and either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest in any lands acquired or authorised to be held by them under the authority of any Act or Order for the time being relating to the Company and may sell exchange or dispose of any rents reserved on the sale lease exchange or disposition of such lands or interests therein and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange.

Retention
and disposal
of lands.

20. The Company on selling any lands held by them for the purposes of the undertaking and not required for those purposes may reserve to themselves all or any part of the water rights or other easements belonging thereto and may make the sale subject to such reservations accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to the use of water the exercise of noxious trades or discharge or deposit of manure sewage or other impure matter and otherwise as they may think fit.

Reservation
of water
rights &c.

21. The Company may purchase or take on lease and maintain dwelling-houses for employees and may erect maintain and let dwelling-houses for and to employees upon any land for the time being belonging to the Company for the purposes of the undertaking and (subject to the terms of the lease) upon any lands for the time being leased to the Company for the purposes of the undertaking.

Dwelling-
houses for
employees.

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PART III.

SUPPLY OF WATER &C.

Extension
of limits of
supply.

22.—(1) The limits within which the Company may supply water and exercise the powers conferred upon them by the Gosport Water Acts and Orders 1858 to 1937 shall extend to and include in addition to the existing limits of supply the parish of Boarhunt in the rural district of Droxford in the county of Southampton.

(2) Subject to the provisions of this Act the Company within the said parish shall have and may exercise all and the like powers rights privileges and authorities for and in relation to the supply of water and shall be subject to all and the like duties and obligations in respect thereof as they now have and are subject to within the existing limits of supply.

Limit of
water
pressure.

23. The water supplied by the Company need not at any time be delivered at a pressure greater than that afforded by gravitation at the date of the passing of this Act from the reservoir situated at Gravel Hill in the parish of Shedfield in the rural district of Droxford in the county of Southampton.

Amendment
of section 35
of Water-
works Clauses
Act 1847.

24. Section 35 of the Waterworks Clauses Act 1847 in its application to the Company shall be read as if the words "one-eighth part" were substituted therein for the words "one-tenth part."

Dates for
payment of
water rates.

25. Notwithstanding anything contained in section 70 of the Waterworks Clauses Act 1847 the Company shall be entitled to demand payment of water rates rents and charges payable to them for the supply of water (otherwise than by measure) by half-yearly payments in advance on the first day of April and the first day of October in each year:

Provided that—

- (a) such rates rents and charges shall not be recoverable until the expiration of two months from the said first day of April and the said first day of October respectively; and
- (b) any person who shall occupy any premises during part only of any half-year in respect

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of which any such rate rent or charge is so required to be paid shall be liable for a part of the rate rent or charge proportionate to that part of the half-year and if any such person shall have paid to the Company a greater part of such rate rent or charge the balance shall be refunded to him by the Company.

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PART III.
—cont.

26. The Company may if they think fit allow discounts or rebates to consumers of water in consideration of prompt payment of rates for the supply of water for domestic purposes not exceeding in any case five per centum. Provided that such discounts or rebates shall be at the same rate under like circumstances to all consumers. Provided also that if and so long as the Company allow such discounts or rebates notice of the effect of this enactment shall be endorsed on every demand note for water rates.

Discount
for prompt
payment of
water rates.

27. Section 25 (Rates for supply of water for domestic purposes within extended limits) of the Gosport Water Act 1904 shall be read and have effect as if—

Amendment
of section 25
of Gosport
Water Act
1904.

- (i) for the words “within the extended limits” there were substituted the words “within the limits of the Company for the time being for the supply of water”; and
- (ii) after the words “fifty gallons” where they first occur in that section there were inserted the words “(beyond the first for which no additional charge shall be made).”

28. Where two or more houses or buildings or parts of a house or building or parts of two or more houses or buildings are connected by any means of communication not being a public highway and are in the occupation of one and the same company body firm or person they shall be deemed for the purpose of determining the amount of the water rate chargeable by the Company in respect of any supply of water for domestic purposes furnished by the Company (otherwise than by measure) to any one or more of such two or more houses or buildings or parts of a house or building or parts of two or more houses or buildings to be one tenement having a gross estimated rental equal to the aggregate of the gross estimated

Rates
payable on
connected
premises in
one occupa-
tion.

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PART III.

—cont.

Special
terms for
supplies to
caravans
shacks &c.

rentals of the separate houses or buildings or parts of a house or building or of houses or buildings so occupied.

29.—(1) Notwithstanding anything in any Act or Order relating to them the Company before supplying water to any caravan shack hut tent or other like structure may require the owner or occupier thereof—

(a) to agree with the Company to take a supply of water by measure and to pay to the Company such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing the supply or supplies required by him and will cover other standing charges incurred by them in order to meet the possible maximum demand for his caravan shack hut tent or structure and will yield a reasonable return on the cost of the water consumed or used by him; and

(b) to secure to the reasonable satisfaction of the Company by way of deposit or otherwise payment of such a sum as may be reasonable having regard to the possible maximum demand of such person for his caravan shack hut tent or structure.

(2) The sum so to be paid and the security so to be given shall be determined in default of agreement by a court of summary jurisdiction who may also order by which of the parties the costs of the proceedings before them shall be paid and the decision of the court shall be final and binding on all parties.

30.—(1) The Company shall not be bound to supply with water otherwise than by measure—

(a) any building used by an occupier as a dwelling-house whereof a part is used by the same occupier for any trade or manufacturing purpose for which water is required; or

(b) any public institution; or

(c) any hospital (whether public or private) sanatorium school club hostel assembly-hall place of public entertainment restaurant hotel or licensed premises within the meaning of that expression as used in the Licensing (Consolidation) Act 1910; or

Supply to
certain
classes of
premises.10 Edw. 7. &
1 Geo. 5.
c. 24.

(d) any boarding-house capable of accommodating twelve or more persons including the persons usually resident therein.

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PART III.
—cont.

(2) Where a supply of water to a farmhouse is used for farming purposes the Company may require that the supply for farming purposes shall be taken by measure but nothing in this section shall authorise the Company to refuse a supply of water for domestic purposes to a farmhouse at the ordinary rate calculated on the gross estimated rental thereof.

(3) The minimum quarterly charge (exclusive of meter rent) for a supply of water by measure to any of the premises in this section mentioned shall be one-fourth of the annual amount which would be payable according to the scale for the time being in force for a supply for domestic purposes to a dwelling-house of the same gross estimated rental.

31. Where a person who takes from the Company a supply of water for domestic purposes desires to use for operating a water-cooled refrigerating apparatus any of the water so supplied the Company may if they think fit require that all water so used shall—

Charges for
supplies for
refrigerating
apparatus.

(a) be taken by measure and paid for accordingly and in that event the minimum quarterly charge for the water shall be ten shillings; or

(b) be paid for at such rates as may be agreed between the consumer and the Company.

32. Where a person who takes a supply of water for domestic purposes desires to use water for a swimming bath or bathing pool the Company may require that all water required for such swimming bath or bathing pool shall be taken by measure and paid for accordingly.

Supplies to
swimming
baths and
bathing
pools.

33. Notwithstanding anything contained in section 42 (Pipes to be kept charged and water taken to extinguish fires without charge) of the Waterworks Clauses Act 1847 if any person takes or uses the water referred to in that section for extinguishing fires in heaps of refuse cinders or other waste matter or material he shall make compensation to the Company for such water unless such fire had endangered or was likely to endanger the security of life or property other

Water for
extinguish-
ing fire in
refuse heaps
&c. to be
paid for.

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PART III.
—cont.Minimum
price for
supply by
measure.

than such matter or material and the amount of such compensation shall in case of difference be determined by a court of summary jurisdiction.

34. Notwithstanding anything in any Act or Order for the time being relating to the Company the Company shall be entitled to charge for each supply of water by measure (other than a supply given under the sections of this Act of which the marginal notes are respectively "Supply to certain classes of premises" and "Charges for supplies for refrigerating apparatus") such minimum sum not exceeding ten shillings as they may prescribe in respect of the water supplied in any quarter of a year.

Revision of
rates and
charges.

35.—(1) If the Company or a local authority having jurisdiction within the limits of supply apply to the Minister for a revision of the rates and charges for the supply of water authorised by the Gosport Water Acts and Orders 1858 to 1937 or for the time being in force under any order of the Minister made in pursuance of this section and the Minister is satisfied that the cost of labour and materials or other circumstances affecting the undertaking have substantially altered, he may by order (subject to the provisions of subsection (3) of this section) vary either by way of increase or decrease such rates and charges or any of them and such order shall fix the date on which the rates and charges so varied shall come into force. Provided that in the absence of exceptional circumstances the Minister shall not vary any of the said rates and charges at less intervals than five years.

15 & 16

Geo. 5. c. 90.

(2) The making of any new valuation list under Part II of the Rating and Valuation Act 1925 shall be deemed to be a circumstance affecting the undertaking within the meaning and for the purposes of this section.

(3) The rates and charges prescribed in any such order shall be of such respective amounts as to produce (after providing for all proper expenses of and in connection with the working management and maintenance of the undertaking and making good depreciation and providing for any contribution which the Company may carry to any reserve fund or any contingency fund formed under section 122 of the Companies Clauses Consolidation Act 1845 and paying all other costs charges

and expenses (if any) properly chargeable to revenue) a reasonable return on the share capital and capital stock of the Company due regard being had to any capital which may be reasonably expected to be expended by the Company during the five years immediately following the date of such order.

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PART III.
—cont.

36. If a justice is 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 water and has failed to pay on demand any water rate rent or charge which may be due from him and intends to evade payment of the same by departing from the said premises the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the said officer to seize forthwith and detain the goods and chattels of such person until the complaint is determined upon the return of the summons.

Recovery of rates from persons about to vacate premises.

37. The Company may require that any dwelling-house the erection of which is commenced after the passing of this Act and situate on land at a higher level than fifty feet below the draw-off level of the service reservoir or tank from which a supply of water is furnished or to be furnished by them to such dwelling-house shall be provided with a cistern or cisterns capable of containing a total quantity of water sufficient to provide an adequate supply to such dwelling-house for a period of twenty-four hours and the Company shall not be bound to supply such dwelling-house until the same is provided with a cistern or cisterns in conformity with the requirements of this section.

Cisterns.

38.—(1) The Company shall not be bound to supply with water more than one house or part of a house occupied as a separate tenement by means of the same communication pipe and they may if they think fit require that a separate pipe be laid from the main pipe into each house or part of a house occupied as a separate tenement and supplied by them with water.

Separate communication pipes may be required.

(2) If the owner of any house or part of a house occupied as a separate tenement and supplied with water by the Company when so required in pursuance of the preceding subsection fails within a period of

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PART III.
—cont.

one month after the receipt of such requirement to provide a separate pipe from the main pipe into such house or part of a house the Company may themselves do the work necessary in that behalf and may recover from such owner the cost incurred by them in so doing summarily as a civil debt.

Stopcocks to
be fitted in
communi-
cation
pipes.

39.—(1) In the case of all buildings—

- (a) the erection of which is commenced after the date of the passing of this Act; and
- (b) which are connected with the mains of the Company;

the Company may in cases where the communication pipes are laid by the person requiring the supply or by the Company at his request require such person at the time when the pipes are laid to insert or to have inserted and thereafter to maintain a stopcock (which expression where used in this section shall include the necessary covers or boxes for giving access and protection thereto) in the communication pipe from the said premises in some position as near as is reasonably possible to the point at which such pipe passes the boundary of the street or to the point at which such pipe enters any premises in or under the street whichever of those points is the nearer to the main of the Company from which the supply is given to the said premises and if such person fails to comply with such requirement the Company may insert and maintain a stopcock in such communication pipe and recover the reasonable expenses incurred by them in so doing from such person summarily as a civil debt.

(2) For the purpose of complying with any obligation under this section to insert or to maintain a stopcock and for the purpose of maintaining any existing stopcock in a communication pipe from any premises within the limits of supply the person liable shall have the like power to open the ground as is conferred upon him by and subject to the conditions of sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes.

(3) The Company may by agreement with any person liable to insert or to maintain any stopcock and for that purpose authorised to open or break up any street

execute such works on behalf of such person and any expenses reasonably incurred by the Company in so doing shall be repaid by the person with whom the agreement is made and shall be recoverable summarily as a civil debt.

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PART III.
—cont.

40. Where several houses or other premises or parts of houses or other premises in the occupation of several persons are supplied with water by one common pipe belonging to the several owners or occupiers of such houses or other premises or parts of houses or other premises the said several owners or occupiers shall be liable to contribute the amount of any expenses from time to time incurred by the Company in the maintenance and repair of such pipe and their respective proportions of contributions shall be settled by the engineer of the Company or other officer duly authorised in that behalf by the Company.

Mainten-
ance of
common
pipe.

41. Notwithstanding anything in any Act or Order relating to the Company the Company shall have the exclusive right of executing any works on any of the mains or pipes of the Company for connecting any communication or service pipes therewith and the Company shall on the request of any owner or occupier of any premises who is entitled to be supplied with water by the Company execute on any such main or pipe belonging to them any work and supply all fittings and materials which shall be necessary to connect the communication or service pipe of such owner or occupier therewith and any expenses reasonably incurred by the Company in so doing shall be repaid by the owner or occupier so requesting and shall be recoverable summarily as a civil debt.

Company
to connect
communi-
cation pipes
with mains.

42. A notice to the Company from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at or sent to the office of the Company.

Notice of
discon-
tinuance.

43. Subject to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes the Company may for the purpose of measuring the quantity of water supplied or of preventing and detecting waste affix and maintain meters and other apparatus on the service

Meters in
streets to
measure
water or
detect
waste.

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PART III.
—cont.

pipes and mains of the Company and stopcocks in the pipes supplying houses with water and may insert in the roads or footways the necessary covers or boxes for giving access and protection thereto and may for that purpose temporarily stop up break up and interfere with public and private streets roads lanes footways courts and passages.

Extension
of powers for
preventing
waste &c. of
water.

23 & 24
Geo. 5. c. 51.

44.—(1) In addition to the powers conferred by section 26 (Byelaws for preventing waste &c. of water) of the Gosport Water Act 1904 the Company may make byelaws as to the testing and stamping of taps cocks ferrules valves flushing cisterns flushing apparatus and other similar fittings and apparatus and prescribing the charge for such testing and stamping and all such byelaws shall be subject to the provisions contained in subsections (2) (3) (4) (5) (6) (7) and (10) of section 250 and in sections 251 and 252 of the Local Government Act 1933 and those sections shall for the purposes of this section be construed as if the Company were a local authority within the meaning of those sections and the secretary were the clerk of the local authority The confirming authority for the purposes of the said section 250 shall be the Minister.

(2) Nothing in subsection (1) of this section or in any byelaws made thereunder shall apply to any pipe or fittings used on any premises which form part of the railway of a railway company so long as such fittings do not cause waste undue consumption misuse or contamination of water which is supplied by the Company.

(3) Any person who shall forge or counterfeit any stamp or mark used by the Company or by the authority of the Company for any of the purposes of this section or who shall use or supply anything marked with any such stamp or mark knowing the same to be forged or counterfeited shall for every such offence be liable to a penalty not exceeding twenty pounds.

Power to
Company to
repair com-
munication
pipes.

45. If in the opinion of the Company any waste of water or injury or risk of injury to person or property is caused or likely to be caused by reason of any injury to or defect in any communication pipe or any stopcock or other fitting in connection therewith which the Company are not under obligation to maintain it shall be lawful

[1 EDW. 8. &
1 GEO. 6.]

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for the Company to execute such repairs to the communication pipe stopcock or fitting as they may 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 communication pipe stopcock or fitting shall have been found the expense incurred by the Company for the purposes of ascertaining the injury or defect and executing the repairs (including the expense of breaking up filling in reinstating and making good any road pavement or soil for those purposes) shall be recoverable by the Company in like manner as the water rates in respect of the premises are recoverable Provided that (except in case of emergency) the Company shall not under the powers of this section enter into any house or private premises unless they shall have given to the occupier of such house or premises and (if the water rates in respect of the house or premises are payable by the owner thereof) to such owner not less than twenty-four hours' previous notice of their intention so to enter.

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PART III.
—cont.

46. The Company may sell meters and any fittings connected therewith upon and subject to such terms (pecuniary or otherwise) and conditions as they think fit.

Power to
sell meters.

47.—(1) The Company may if requested by any person supplied or about to be supplied by them with water furnish to him or repair or alter but shall not manufacture any such pipes valves cocks cisterns baths meters soil-pans waterclosets or other fittings as are required or permitted by their byelaws and may provide all materials and do all work necessary or proper in that behalf and the reasonable charges of the Company in providing such materials and executing such work shall be paid by the person requiring the same.

Power to
supply
fittings.

(2) Any fittings let for hire under the provisions of this section 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 any proceedings in bankruptcy against the person in whose possession the fittings may be provided that such fittings have upon them respectively either a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made

A.D. 1937. thereon sufficiently indicating the Company as the actual owners thereof.

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PART III.
—cont.

(3) All fittings let for hire by the Company notwithstanding that they be fixed or fastened to any part of the premises in which they may be situate or to the soil under any such premises shall if they bear a plate brand or mark such as is mentioned in subsection (2) of this section at all times continue to be the property of and removable by the Company.

(4) Nothing in this section shall affect the valuation for rating of any rateable hereditament.

Notice of
connection
or dis-
connection
of meters.

48. Before any person connects or disconnects any meter by means of which any of the water of the Company is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Company of his intention to do so and all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under the superintendence of any officer of or person authorised by the Company and any person offending against this enactment shall for every offence be liable to a penalty not exceeding forty shillings.

As to
register of
meters.

49.—(1) Where water is supplied by measure the register of the meter or other instrument for measuring water shall be prima facie evidence of the quantity of water consumed and in respect of which any water rate rent or charge is charged and sought to be recovered by the Company.

(2) Provided that if the Company and the person to whom the water is supplied differ as to the quantity consumed such difference shall be determined upon the application of either party by a court of summary jurisdiction who may also order by which of the parties any costs of the proceedings before them shall be paid and the decision of such court shall be final and binding on all parties.

(3) If any meter used by a consumer of water be proved to register erroneously such erroneous registration shall be deemed to have first arisen at the beginning of the then current quarter of the year unless it be proved to have first arisen during the then current quarter Any charge for water erroneously registered

as supplied to a consumer for which he has paid and any additional sum due from any consumer for water supplied to him but not registered shall be paid by or to the Company to or by the consumer as the case may be and in the case of an additional sum due from a consumer shall be recoverable in the like manner as water rates are recoverable by the Company.

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PART III.
—cont.

50.—(1) Every person who—

Injuring
meters &c.

- (a) wilfully fraudulently or by culpable negligence injures or suffers to be injured any main or pipe or any meter or other instrument for measuring water or any fittings belonging to the Company; or
- (b) fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied; or
- (c) fraudulently abstracts consumes or uses water of the Company;

shall (without prejudice to any other right or remedy for the protection of the Company) be liable to a penalty not exceeding five pounds and the Company may in addition thereto recover the amount of any damage by them sustained.

(2) In any case in which any person has—

- (a) wilfully fraudulently or by culpable negligence injured or suffered to be injured any main pipe meter instrument or fitting belonging to the Company; or
- (b) fraudulently altered the index to any meter or other instrument for measuring water or prevented the same from duly registering the quantity of water supplied; or
- (c) fraudulently abstracted consumed or used water of the Company;

the Company may (whether proceedings for a penalty under subsection (1) of this section are or are not taken or intended to be taken) enter upon the premises occupied by the offender and repair such injury and do all such

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PART III.
—cont.

works matters and things as may be necessary for ensuring the proper registration by such meter or other instrument of the quantity of water supplied by means thereof and the expense of such repair and of all such works matters and things shall be repaid to the Company by the person so offending and may be recovered by them as water rates are recoverable.

(3) The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Company when such main pipe meter instrument or fitting is under the custody or control of the consumer shall be prima facie evidence that such injury alteration prevention abstraction consumption or use (as the case may be) has been fraudulently knowingly and wilfully caused by the consumer using such main pipe meter instrument or fitting.

Power to
remove
meters and
fittings.

51. The Company by their agents or workmen after forty-eight hours' notice in writing under the hand of the secretary or some other officer of the Company to the occupier or if there be no occupier then to the owner or lessee of any house or building or land in which any pipe meter or fitting belonging to the Company is laid or fixed and through or in which the supply of water is from any cause other than the default of the Company discontinued for the space of forty-eight hours may enter such house building or land between the hours of nine in the morning and four in the afternoon or with the authority in writing of a justice at any other time for the purpose of removing and may remove every such pipe meter and fitting repairing all damage caused by such entry or removal.

Penalty for
closing
valves and
apparatus.

52. Every person who (without the consent of the Company) shall wilfully or negligently close or shut off any valve cock or other work or apparatus belonging to the Company whereby the supply of water shall be interfered with shall (without prejudice to any other right or remedy of the Company) be liable to a penalty not exceeding five pounds and the Company may in addition thereto recover the amount of any damage by them sustained. Provided that this section shall not apply to a consumer closing a valve fixed on his communication pipe which is not also used for the purposes of a supply to any other consumer.

[1 EDW. 8. &
1 GEO. 6.]

*Gosport Water
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[Ch. lxxvii.]

53. Any person being the owner or occupier of any house or building or premises or part of a house or building or premises to or in respect of which he is not for the time being entitled to a supply or the continuance of a supply of water by the Company who shall without the authority of the Company turn on any valve cock or other work or apparatus attached to any service pipe connected with any main or pipe of the Company and provided or available for the purposes of affording such supply shall be deemed to commit an offence under section 60 (Penalty for destroying valves &c.) of the Waterworks Clauses Act 1847 and the said section shall extend and apply accordingly.

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PART III.
—cont.
Penalty for
opening
valves &c.

54. In addition to the powers conferred by section 57 of the Waterworks Clauses Act 1847 any duly authorised officer of the Company may at all reasonable times between the hour of four o'clock in the afternoon and one hour after sunset enter into any house or premises supplied with water by the Company in order to examine if there be any waste or misuse of such water and if any person hinder any such officer from entering either under the said section 57 or under this section or making an examination under either of those sections he shall for every such offence be liable to a penalty not exceeding five pounds. Provided that no person shall for the same offence have the water supplied to him turned off in pursuance of the said section 57 and be liable to a penalty under this section.

Extension
of power to
inspect
premises.

55.—(1) For the purpose of complying with any obligation under the Waterworks Clauses Act 1847 or under any Act or Order relating to the Company the person liable to maintain repair renew or remove any pipe or apparatus shall have the like power to open the ground as is conferred upon the owner or occupier of a dwelling-house by and subject to the conditions of sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes.

Opening of
ground by
persons
liable to
maintain
pipes &c.

(2) The Company may by agreement with any owner or occupier entitled or required to lay maintain repair or remove any communication pipe or any apparatus connected with a communication pipe and for that purpose to open or break up any street execute such works on behalf of such owner or occupier and subject

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PART III.
—cont.

to the terms of the agreement any reasonable expenses incurred by the Company shall be repaid by the owner or occupier with whom the agreement is made and shall be recoverable summarily as a civil debt.

Power to
lay pipes in
private
streets.

56. The Company may on the application of the owner or occupier of any premises within the limits of supply abutting on or being erected in any street laid out but not dedicated to public use supply those premises with water and for that purpose the Waterworks Clauses Act 1847 shall apply as if section 29 of that Act were excepted from incorporation with this Act and any existing Act or Order relating to the Company and as if the persons having the control or management of the street included where the street is situate in the borough of Gosport the corporation :

Provided that the Company shall not exercise the powers of this section in respect of any street belonging to and forming the approach to any station or depot of the Southern Railway Company without the consent of that company but such consent shall not be unreasonably withheld nor shall any work be constructed under this section so as unreasonably to interfere with or render less convenient the access to or exit from any such station or depot Any difference between the Company and the said railway company arising under this proviso shall (unless otherwise agreed) be determined in manner provided by subsection (13) of the section of this Act of which the marginal note is "For protection of Southern Railway Company."

As to laying
of mains in
streets
forming
boundary of
limits of
supply.

57.—(1) Where the limits of supply are bounded by or abut upon any street or part of a street wholly outside those limits the Company may for the purpose of supplying water to the owner or occupier of any premises abutting upon that street or part of a street and being within the limits of supply exercise with respect to such street or part of a street outside those limits the like powers of breaking up the same for the purposes of laying maintaining inspecting repairing and renewing pipes as are exerciseable by them with respect to streets within the limits of supply subject nevertheless to the observance of the conditions imposed on an exercise of those powers.

[1 EDW. 8. &
1 GEO. 6.]

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[Ch. lxxvii.]

(2) The owner and occupier of any premises to which subsection (1) of this section applies may for the purpose of laying any communication pipe or of complying with any obligation to maintain any pipe or apparatus which he is liable to maintain exercise the like power of opening the ground between any main or pipe of the Company and his premises and of opening or breaking up so much of the pavement of the street as shall be between such main or pipe and his premises and any sewer or drain therein as if such street or part of a street were wholly within the limits of supply.

(3) Nothing in this section shall entitle or require the Company to supply water to the owner or occupier of any premises abutting upon any such street and being outside the limits of supply.

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

58.—(1) If the owner or occupier of any premises outside the limits of supply desires to obtain from the Company a supply of water the Company may with the approval of the Minister and subject to the provisions of this section and to such conditions (if any) as the Minister may impose supply water to those premises.

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PART III.
—cont.

Supply of
water by
Company to
premises
outside
limits of
supply.

(2) Before an application is made to the Minister for an approval under this section the Company shall obtain the consent of the council of the county district within whose area the premises are situate and of any undertakers authorised by an Act or Order to supply water within whose limits of supply the premises are situate.

(3) The charge made by the Company for any water supplied for any purpose in pursuance of this section shall be not less than the charge which would be made by the Company for water supplied for a similar purpose within the limits of supply.

(4) Where the Minister has given his approval to a supply of water to any premises by the Company under this section the provisions of the Acts and Orders from time to time relating to the Company shall subject to any necessary modifications apply in relation to the laying of pipes for affording a supply to those premises

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PART III.
—cont.

and otherwise for the purposes of and in relation to that supply as if the limits of supply extended as far as and so as to include the premises in respect of which a supply approved by the Minister is to be given.

(5) (a) Where the Minister has given his approval to a supply of water to any premises by the Company under this section such approval shall cease to have effect and the powers of the Company under this section shall cease with respect to those premises when the local authority within whose district or the undertakers for the supply of water within whose limits of supply the premises are situate are able and willing to give a supply of water to such premises and give not less than one month's notice thereof to the Company.

(b) When such local authority or undertakers are ready to commence to supply water to any premises in pursuance of this subsection they shall pay to the Company such portion of the expenditure incurred by the Company within the district of the local authority or within the limits of supply of the undertakers as the case may be in giving a supply to the premises as may be agreed or failing agreement as may be determined by arbitration in accordance with the provisions of the Arbitration Acts 1889 to 1934.

(c) Where in pursuance of paragraph (b) of this subsection any expenditure incurred by the Company has to be repaid by the local authority or the undertakers to the Company such expenditure shall include the purchase and acquisition by the local authority or the undertakers of any pipe or other works laid by the Company within the district of the local authority or within the limits of supply of the undertakers as the case may be for the purpose of giving a supply to the premises and the local authority or the undertakers may continue maintain and use such pipe or other works or any part thereof for the general purposes of their undertaking as if the same had been laid down and constructed by the local authority or the undertakers under the Acts and Orders relating to their undertaking and the provisions of those Acts and Orders shall apply to such pipe and other works in all respects as if the same had been laid down or constructed under the authority thereof.

59. For the protection of the corporation the following provisions shall unless otherwise agreed in writing between the corporation and the Company have effect with respect to the exercise of any of the powers of the Gosport Water Acts and Orders 1858 to 1937 affecting any highway or bridge situate within the borough of Gosport (that is to say) :—

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PART III.

—cont.

For protec-
tion of
Gosport
Corporation.

(1) The provisions of this section are in addition to and not in substitution for the provisions of the Waterworks Clauses Act 1847 (in this section referred to as “the Act of 1847”) with respect to the breaking up of streets for the purpose of laying pipes except so far as such last mentioned provisions are expressly varied by the provisions of this section :

(2) In this section—

“highway” means a road which is now or may hereafter become vested in or repairable by the corporation ;

“bridge” means a bridge vested in or repairable by the corporation and shall include the road over any such bridge and the approaches thereto and any culvert ;

“apparatus” includes any line of pipes discharge pipe or other works of the Company ;

“the surveyor” means the surveyor to the corporation :

(3) All apparatus to be laid in or along any highway or in or upon or across any bridge shall be laid in such position as the corporation in writing under the hand of the surveyor may reasonably direct :

(4) The notice required by section 30 of the Act of 1847 to be given to the corporation shall (except for laying connecting or repairing communication pipes as to which three days’ notice shall be given and except in cases of emergency) be not less than seven days instead of three days :

(5) The plan required by section 31 of the Act of 1847 shall be accompanied by a section and description of the proposed works and shall (except as aforesaid) be delivered to the surveyor by the Company not less than seven

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PART III.
—cont.

days before the Company commence to interfere with any bridge or open or break up any highway for the purpose of executing such works. If the surveyor shall not within seven days after the plan section and description shall have been delivered to him express his approval or disapproval thereof or signify his requirements in relation thereto he shall be deemed to have approved thereof:

- (6) Nothing in the Gosport Water Acts and Orders 1858 to 1937 shall authorise the Company to interfere with the structural part of any bridge without the consent in writing of the surveyor. Such consent shall not be unreasonably withheld and may be given upon such conditions as the surveyor may reasonably determine:
- (7) If any difference at any time arises between the corporation and the Company touching the provisions of this section or anything to be done or not to be done thereunder such difference shall be referred to and determined by an arbitrator to be agreed upon between the corporation and the Company or failing agreement to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination.

PART IV.

FINANCIAL PROVISIONS &C.

Additional
capital.

60.—(1) The Company may from time to time raise additional capital to such amount as shall be sufficient to produce after taking into account the premiums or discounts (if any) which may be obtained or allowed respectively on the issue or re-issue thereof an amount not exceeding in the whole sixty thousand pounds by the creation and issue of new ordinary shares or stock or new preference shares or stock or wholly or partly by any one or more of those modes respectively.

(2) The Company shall not under the powers of this Act issue any share of less nominal value than ten pounds.

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PART IV.
—cont.

61. The prescribed rate of dividend on any additional capital issued by the Company under the powers of this Act for the purposes of section 75 of the Waterworks Clauses Act 1847 and of section 13 of the Companies Clauses Act 1863 shall be—

Limits of
dividend on
additional
capital.

- (a) in the case of any ordinary shares or stock the rate of seven per centum per annum; and
- (b) in the case of any preference shares or stock the rate of six per centum per annum.

62.—(1) Except as by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital.

New shares
or stock to
be subject
to same
incidents
as other
shares or
stock.

(2) For the purposes of section 32 (Application of profits of Company) of the Gosport Water Act 1904 any ordinary or preference shares or stock created and issued by the Company under the powers of this Act shall be deemed to have been created and issued under the powers of the said Act of 1904.

63.—(1) Notwithstanding anything contained in any other enactment the holder of any preference stock of the Company issued before the date of the passing of this Act shall be entitled and shall be deemed always to have been entitled at all general meetings of the Company to one vote in respect of every ten pounds of such stock held by him.

As to voting
rights of
preference
stock-
holders.

(2) Unless otherwise provided by the resolution creating the same the holder of any share or stock of the Company created after the passing of this Act to which a preferential dividend shall be assigned shall be entitled at all general meetings of the Company to one vote for each such share or every ten pounds of such stock held by him.

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PART IV.

—cont.

Dividends
on different
classes of
ordinary
capital to
be paid
proportion-
ately.

64. If in any year the funds of the Company applicable to dividend shall be insufficient to pay the full amount of dividend at the prescribed maximum rate on each class of ordinary shares or stock in the capital of the Company a proportionate reduction shall be made in the dividend of each class but it shall be lawful for the directors to vary such proportionate reduction to such extent not exceeding one-eighth of one per centum as they may think convenient to avoid the payment as part of the dividend due to any shareholder of fractions of sixpence.

Interim
dividends
and annual
accounts.

65.—(1) It shall be lawful for the directors to declare and pay in any year an interim half-yearly dividend out of the profits of the Company on the ordinary and preference capital of the Company without the sanction of a general meeting Provided that the amount of any interim half-yearly dividend shall not as the case may be exceed one-half of the amount of the maximum annual dividend on the ordinary capital or one-half of the annual dividend assigned to the preference capital in respect of which the interim dividend is declared.

(2) The balance sheet and accounts made up by the Company in accordance with section 116 of the Companies Clauses Consolidation Act 1845 shall so far as the same relate to the profit or loss of the Company relate to the transactions of the Company in the course of the preceding year.

Sale of
shares or
stock by
auction or
tender.

66.—(1) Save as otherwise expressly provided by this Act all ordinary and preference shares or stock issued by the Company after the date of the passing of this Act shall be issued in accordance with the provisions of this section.

(2) All shares or stock so to be issued 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 directors shall from time to time determine Provided as follows :—

(a) Notice of the intended sale shall be given in writing to the town clerk of the borough of Gosport and to the clerk of the council of every urban or rural district wholly or partly included within the 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 also be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the limits of supply;

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PART IV.
—cont.

(b) A reserve price shall be fixed and notice thereof shall be sent by the Company 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 last day for the reception of tenders as the case may be;

(c) In the case of a sale by auction no lot offered for sale shall comprise shares or stock of greater nominal value than one hundred pounds and a bid (other than the first bid) shall not be recognised unless it is in advance of the last preceding bid;

(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 ordinary or preference shares or stock of the Company may be accepted in preference to the offer of the same sum by any person not such a holder as aforesaid and preference may in like manner be given to the offer of any employee or of any consumer of water supplied by the Company;

(e) It shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the Company within three months after the date of the auction or of the acceptance of the tender as the case may be.

(3) Any shares or stock which have been so offered for sale and are not sold may be offered at the reserve price to the holders of ordinary or preference shares or stock of the Company in accordance with the provisions of sections 18 19 and 20 of the Companies Clauses Act 1863 and to the employees and to the consumers of water supplied by the Company in such proportions as the directors may think fit or to one or more of those classes of persons only :

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PART IV.
—cont.

Provided that in the case of an offer to holders of shares or stock if the aggregate amount of any class of shares or stock applied for shall exceed the amount thereof so offered as aforesaid the same shall be allotted to and distributed amongst the applicants as nearly as may be in proportion to the amounts applied for by them respectively.

(4) Any shares or stock which have been offered for sale in accordance with subsection (2) or with subsections (2) and (3) of this section and are not sold may be disposed of for the purpose of realising the best price obtainable at such price and in such manner as the directors may determine.

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

Special
provision
for benefit
of small
investors.

67. Notwithstanding anything in any Act or Order relating to the Company the directors may with the approval of a resolution of a general meeting of the Company reserve a proportion not exceeding one-fourth of each future issue of ordinary or preference shares or stock of the Company for exclusive offer in the first instance to consumers of water supplied by the Company and to the employees at such price and upon such terms and conditions as to payment therefor and the payment of dividends thereon until the same become fully paid as the directors may prescribe :

Provided that every allotment of shares or stock under this section shall be at a price not less than the reserve price at which the like class of shares or stock of the same issue shall be offered under the provisions of subsection (2) of the section of this Act of which the marginal note is "Sale of shares or stock by auction or tender."

Power to
issue
capital to
employees
and con-
sumers.

68. Notwithstanding anything in any Act or Order relating to the Company the Company may with the consent of the Minister and subject to such conditions as the Minister may think fit to impose offer for subscription to consumers of water supplied by the Company and to employees any ordinary or preference shares or

stock which they may for the time being be authorised to issue without offering the same for sale by public auction or tender.

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PART IV.

—cont.

69. Notwithstanding anything in any Act or Order relating to the Company the Company may with the approval of the Minister and subject to such conditions as the Minister may think fit to impose offer for subscription by the public any ordinary or preference shares or stock which they may for the time being be authorised to issue without offering the same for sale by public auction or tender.

Power to offer shares or stock for subscription by public.

70. The Company shall not—

As to back dividends.

(a) in any year apply part of the revenues of the Company in that year to the payment of dividends in arrear before the thirty-first day of December one thousand nine hundred and eight; or

(b) in any year in which the respective rates charged by the Company for a supply of water for domestic purposes exceed the corresponding rates being charged at the date of the passing of this Act by more than twenty-five per centum apply any part of the revenues of the Company in that year to the payment of any dividends in arrear since the said thirty-first day of December one thousand nine hundred and eight.

71.—(1) The Company may without further or other authority borrow on mortgage of the undertaking in respect of the capital raised by the Company before the passing of this Act any sum or sums not exceeding in the whole (when added to any money borrowed on mortgage or raised by the creation and issue of debenture stock by the Company before the passing of this Act and outstanding at the date or respective dates on which the Company exercise the powers of this subsection) sixty-five thousand pounds.

Power to borrow.

(2) The Company may also subject to the provisions of this Act borrow on mortgage of the undertaking in respect of any capital raised by them after the passing of this Act any sum or sums not exceeding in the whole one-half of the amount (including premiums and allowing

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PART IV.
—cont.

for discounts) which at the time of borrowing has been so raised and in the case of any capital raised by the issue of redeemable preference shares or stock has not been redeemed by paying off the shares or stock. But no sum shall be borrowed in respect of any such capital (other than capital raised by the issue of shares or stock allotted under the provisions of the section of this Act of which the marginal note is "Special provision for benefit of small investors") until the Company have proved to a justice before he gives his certificate under section 40 of the Companies Clauses Consolidation Act 1845 that the whole of the amounts payable in respect of such capital together with the premiums (if any) realised on the sale thereof has been fully paid up.

(3) So much of the provisions of any Act or Order passed or made before the date of the passing of this Act as confers upon the Company any power to borrow money on mortgage of the undertaking or to create and issue debenture stock shall to the extent to which any such power has not been exercised before that date cease to have effect.

Power to
create
debenture
stock.

72. The Company may create and issue debenture stock subject to the provisions of section 8 (Power to create debenture stock) of the Gosport Water Order 1883 and notice of the effect of that enactment shall be endorsed on all mortgages and certificates of debenture stock.

Priority of
mortgages
and
debenture
stock over
other debts.

73. All money to be raised by the Company on mortgage or by the creation and issue of debenture stock under the provisions of this Act shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act. Provided that this priority shall not affect any claim against the Company or their property in respect of—

- (a) any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts; or
- (b) any rent or sum reserved by or payable under any lease granted or made to or vested in the Company which is entitled to rank in priority to or *pari passu* with the interest on their mortgages or debenture stock; or

(c) land taken used or occupied by the Company for the purposes of the undertaking and works of the Company or injuriously affected by the execution of such works or by the exercise of any powers conferred upon the Company.

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PART IV.
—cont.—

74. The principal moneys secured by all mortgages granted by the Company in pursuance of the powers of any Act of Parliament or Order before the passing of this Act and subsisting at the passing hereof shall during the continuance of such mortgages have priority over the principal moneys secured by any mortgages granted by virtue of this Act.

Priority of principal moneys secured by existing mortgages.

75. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall be not less in the whole than one-tenth of the amount for the time being borrowed by the Company and outstanding.

Appoint-
ment of
receiver.

76.—(1) In this section unless the context otherwise requires—

Redeemable preference shares or stock and debenture stock.

“ stock ” means and includes preference stock and debenture stock and “ preference stock ” includes preference shares ;

“ issue ” includes re-issue ;

“ redeemable stock ” means any stock issued under the powers of this section so as to be redeemable ;

“ redeemed stock ” means any 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 directors may from time to time by virtue of this Act and without further or other sanction issue so as to be redeemable any stock created by the Company after the date of the passing of this Act and any redeemed stock :

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PART IV.
—cont.

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 Company.

(3) Redeemable stock may be redeemed either by paying off the stock or by issuing to the holder of the stock (subject to his consent) 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 Company may create new stock or the directors may issue any redeemed stock so as to be redeemable or irredeemable as they may 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 Company are for the time being authorised to create except during any necessary interval between the creation or (in the case of redeemed stock) the issue of the stock and completion of the redemption of the redeemable stock for the purpose of redeeming which the stock of such 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 not be deemed to be paid-up capital for the purpose of any enactment regulating the borrowing powers of the Company.

(4) The redemption of any preference stock issued so as to be redeemable shall not affect the validity of any mortgage or debenture stock of which the grant or issue by the Company was lawful in the circumstances existing at the date of such grant or issue.

(5) Redeemable stock shall bear such rate of dividend or interest (not exceeding any maximum rate 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 directors 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 Company of such stock for sale and in the 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.

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PART IV.
—cont.

(6) The Company 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) Any preference stock issued solely in substitution for redeemable stock shall not be subject to the provisions of the section of this Act of which the marginal note is "Sale of shares or stock by auction or tender."

(8) Subject to the terms of any resolution creating the same any debenture stock issued by the Company before the date of the passing of this Act so as to be redeemable shall be deemed to have been issued under the powers of this section and the provisions of this section shall so far as applicable extend and apply to the redemption of any such stock or any part thereof and to the issue of stock for paying off or redeeming the same or of providing stock to be substituted therefor.

77.—(1) The Company may for the purposes of or in connection with the undertaking borrow or raise money on temporary loans from bankers by means of overdrafts or otherwise or by the issue of notes or bonds of a currency of not less than five years and of not more than ten years.

Company
may incur
temporary
loans.

(2) The powers of borrowing or raising money conferred by this section shall be in addition to any powers for the time being of the Company to borrow on mortgage of the undertaking or to raise money by the issue of debenture stock.

(3) (a) The aggregate amount outstanding at any one time of the money borrowed or raised under this section shall not exceed twenty thousand pounds.

(b) The aggregate amount of any moneys borrowed or raised by the Company under this section and under subsection (2) of the section of this Act of which the marginal note is "Power to borrow" and for the time

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PART IV.
—cont.

being outstanding shall not exceed thirty thousand pounds except (in the case of money borrowed under the said subsection (2) for the purpose of replacing money borrowed or raised under this section) during such interval as may be necessary for that purpose.

Purchase of
debenture
stock by
agreement.

78.—(1) The Company may at any time purchase by agreement any debenture stock of the Company at a price not exceeding the market value thereof and for that purpose may apply any moneys for the time being in their hands which they are entitled to apply to capital purposes.

(2) Any debenture stock purchased under the provisions of this section may at any time be cancelled and extinguished by the Company and the amount of any debenture stock so cancelled shall be deemed to be money borrowed and paid off by the Company within the meaning of section 39 of the Companies Clauses Consolidation Act 1845 and the provisions of that section as to reborrowing by the Company shall apply accordingly.

Commis-
sion on sale
of shares or
stock or
debenture
stock.

79. The Company when ordinary or preference shares or stock or debenture stock are to be issued may with the approval of the Minister and subject to such conditions as the Minister may think fit to impose pay a commission not exceeding three per centum to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any such shares or stock or debenture stock or procuring or agreeing to procure subscriptions whether absolute or conditional therefor:

Provided that—

(a) the payment of the commission and the amount or rate per centum of the commission paid or agreed to be paid shall be disclosed in every prospectus advertisement or other document of the Company relating to the issue of the ordinary or preference shares or stock or debenture stock; and

(b) nothing in this section shall affect any power of the Company to pay brokerage.

[1 EDW. 8. &
1 GEO. 6.]

*Gosport Water
Act, 1937.*

[Ch. lxxvii.]

80.—(1) All ordinary and preference stock and debenture stock of the Company shall be issued and be held in amounts of ten pounds or a multiple of ten pounds and not otherwise and the Company shall not be under any obligation to register a transfer of any ordinary or preference stock or debenture stock which would make the holding (if any) of the transferor or transferee an amount other than ten pounds or a multiple of ten pounds of ordinary or preference stock or debenture stock.

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PART IV.
—cont.

Minimum
holdings of
stock and
debenture
stock.

(2) Notice of this enactment so far as applicable shall be stated in all certificates of ordinary and preference stock and debenture stock of the Company (as the case may be) issued after the date of the passing of this Act.

81. All money raised under this Act including premiums shall be applied only to purposes to which capital is properly applicable and any sum of money which may arise by way of premium from the issue of shares or stock under the provisions of this Act (after deducting therefrom the expenses of and incidental to such issue) shall not be considered as part of the capital of the Company entitled to dividend.

Application
of money.

82.—(1) The directors may (if they think fit) in any year set apart out of the clear profits of the undertaking such sum as they may determine (subject to the provisions of subsections (3) and (4) of this section) and any sums so set apart and any sums standing to the credit of any reserve account of the Company at the date of the passing of this Act may from time to time be invested in investments in which trustees are authorised by law to invest or in such other manner as shall be authorised by a resolution of the Company and the dividends and interest arising from such investments may also be invested in the same or like investments in order that the same may accumulate at compound interest.

Reserve
fund.

(2) The fund so formed shall form a reserve fund to answer any deficiency which may at any time happen in the amount of divisible profits or to meet any extraordinary claim or demand which may at any time arise against the Company and if such fund be at any time reduced it may thereafter be again restored within the

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PART IV.
—cont.

limit prescribed by the said subsection (4) and so from time to time as often as such reduction shall happen. Provided that no sum of money shall be taken from the said fund for the purpose of meeting any extraordinary claim or demand unless it be first certified by two justices that the sum so proposed to be taken is required for the purpose of meeting an extraordinary claim or demand within the meaning of this section.

(3) The amount which may be carried by the Company in any year to the reserve fund shall not exceed a sum equal to one-half of one per centum of the capital of the Company for the time being authorised.

(4) The amount standing to the credit of the reserve fund shall not at any time exceed a sum equal to ten per centum of the capital of the Company for the time being authorised and whenever and so long as the reserve fund amounts to such sum the interest and dividends on the reserve fund shall no longer be invested but shall be applied to any of the general purposes of the undertaking to which the profits of the Company are applicable.

(5) The amount standing to the credit of the reserve account of the Company immediately before the date of the passing of this Act shall be credited to the reserve fund authorised by this section.

(6) Notwithstanding anything contained in the Gosport Water Acts and Orders 1858 to 1937 sections 76 to 78 of the Waterworks Clauses Act 1847 shall cease to apply to the Company and the undertaking.

Limit on
contingency
fund.

83.—(1) The amount which may be carried by the Company in any year to any contingency fund formed under section 122 of the Companies Clauses Consolidation Act 1845 shall not exceed one per centum of the capital (including loan capital) for the time being expended by the Company for the purposes of the undertaking.

(2) The amount standing to the credit of such contingency fund shall not at any time exceed a sum equal to ten per centum of the capital (including loan capital) for the time being expended by the Company for the purposes of the undertaking.

Limit on
carry
forward.

84. It shall be lawful for the Company to carry forward at the end of any year to the credit of the profit

and loss (net revenue) account any sum not exceeding the total of the following amounts :—

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PART IV.
—cont.

- (a) The amount required by the Company for paying any dividend or interest which the Company are entitled or required to pay but have not paid in respect of that year;
- (b) An amount equal to the total sum which the Company would be lawfully entitled to distribute as dividends on their preference and ordinary capital in respect of the next following year; and
- (c) An amount equal to the total sum which the Company will be required to pay during the next following year as interest on any mortgages or debenture stock.

PART V.

ADMINISTRATIVE PROVISIONS.

85. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 or in any Act or Order relating to the Company the future ordinary meetings of the Company shall be held once only in each year in such month as the directors may from time to time determine. Meetings of Company.

86. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 notice of all meetings of the Company whether ordinary or extraordinary may (if the directors so determine) be given by letter sent by ordinary letter post to each shareholder instead of by public advertisement. Provided that the letters giving the notice shall be directed according to the registered address or other known address of each shareholder prepaid and posted not later than seven clear days before the date of the meeting. In proving that any such notice has been given it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office as a prepaid letter not later than the time hereby prescribed. Notices of meetings.

87. At any meeting of the Company a majority of votes shall only be required to be proved if a poll be demanded at the meeting and if a poll be not demanded Proof of majority of votes only

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PART V.
—cont.required
when poll
demanded.

then a declaration by the chairman that the resolution has been carried and an entry to that effect in the book of proceedings of the Company shall be sufficient and conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the resolution.

As to
appoint-
ment of
proxies.

88. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 the attorney of any shareholder duly authorised in writing may appoint a proxy to vote for and on behalf of the shareholder and for that purpose may execute on behalf of the shareholder the necessary forms of proxy:

Provided that except in cases where the instrument appointing the attorney shall have been previously registered with the Company the same or (in the case of an instrument deposited in the central office of the Supreme Court) an office copy thereof shall be transmitted to the secretary at the same time as the instrument appointing the proxy.

Joint
holders.

89. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 where several persons are jointly entitled to and registered as holders of any shares or stock in the capital of the Company to which voting rights are attached any one of those persons may at any meeting at which holders of shares or stock of the same class are entitled so to do vote either personally or by proxy in respect of the shares or stock as if he were solely entitled thereto but if more than one of the joint holders be present at any meeting personally or by proxy that one of the said persons so present whose name stands first on the register in respect of the shares or stock shall alone be entitled to vote in respect thereof.

Company
not bound
to regard
trusts.

90. The Company shall not be bound to see to the execution of any trust whether express implied or constructive to which any stock or debenture stock of the Company may be subject and the provisions of section 20 of the Companies Clauses Consolidation Act 1845 shall mutatis mutandis extend and apply to any stock or debenture stock of the Company as if such stock or debenture stock were shares to which that section applies.

91. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 it shall not be obligatory upon the Company—

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PART V.

—cont.

Register of
shareholders
and share-
holders'
address
book.

(a) to keep separately a register of shareholders and a shareholders' address book but in lieu thereof the Company may if they think fit keep one register only containing such particulars as are required by the said Act to be entered in the register of shareholders and the shareholders' address book respectively; or

(b) to authenticate by the affixing of their common seal or otherwise the register of shareholders or any register which the Company may keep in lieu thereof under the powers of this section.

92. Notwithstanding anything in section 10 of the Companies Clauses Consolidation Act 1845 the Company may substitute for the shareholders' address book provided under that section a card or other index containing the names and addresses of the several shareholders of the Company and that section in its application to the Company shall be read and have effect accordingly.

Substitution
of card
index for
share-
holders'
address
book.

93.—(1) The directors may close the register of transfers of any ordinary or preference shares or stock of the Company for a period not exceeding fourteen days previous to the payment of any interim dividend on any such shares or stock and may close the register of transfers of debentures or debenture stock or mortgages of the Company for a period not exceeding fourteen days previous to the payment of any interest on any such debentures or debenture stock or mortgages and the directors may in any such case fix a day for the closing of any register which they are authorised to close under the provisions of this section. Seven days' notice of the closing of any such register shall be given by advertisement in some newspaper circulating within the limits of supply.

Closing
of transfer
books.

(2) Any transfer of any ordinary or preference shares or stock or of any debentures or debenture stock or mortgages lodged for registration with the Company while the transfer books relating to such ordinary or preference shares or stock or to such debentures or

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PART V.
—cont.

debenture stock or mortgages are so closed shall as between the Company and the person claiming under any such transfer but not otherwise be considered as made subsequently to the payment of any such dividend or interest as the case may be.

Indemnity
before issue
of substi-
tuted
certificates
&c.

94. Notwithstanding anything in section 13 of the Companies Clauses Consolidation Act 1845 or in any other enactment the Company shall not be under any obligation to issue a new debenture or mortgage bond or a new certificate of any shares or stock or debenture stock or a new warrant in respect of interest or dividend in lieu of any debenture bond certificate or warrant lost or destroyed or alleged to be lost or destroyed until they have received from the person to whom such new debenture bond certificate or warrant is to be issued such indemnity as the directors may require against any and every claim or expense which may be made against the Company or which the Company may incur in respect of such lost or destroyed debenture bond certificate or warrant or the debenture mortgage share stock debenture stock interest or dividend represented thereby.

Qualifica-
tion of
director.

95. The qualification of a director shall be the possession in his own right of ordinary shares or stock in the capital of the Company of a total nominal amount of not less than four hundred pounds and so much of section 15 (Number and qualification of directors) of the Gosport Waterworks Act 1858 as relates to the qualification of a director shall cease to have effect.

As to
appoint-
ment of
managing
director.

96.—(1) The directors may appoint one of their body to be managing director either for a fixed term or without any limitation as to time and may remove or dismiss him from office and appoint another in his place.

(2) A managing director shall not while holding that office be subject to retirement by rotation and shall not be taken into account in determining the rotation of retirement of directors but if he ceases to hold the office of director from any other cause he shall thereupon cease to be managing director.

(3) The remuneration of a managing director shall from time to time be fixed by the directors and may be by way of salary or commission or participation in profits or by all or any of those modes.

[1 EDW. 8. &
1 GEO. 6.]

*Gosport Water
Act, 1937.*

[Ch. lxxvii.]

(4) The directors may entrust to and confer upon a managing director such of the powers exercisable by the directors and subject to such conditions as they think fit and may from time to time revoke withdraw alter or vary all or some of such powers.

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PART V.
—cont.

97.—(1) The directors may at any time appoint any chief engineer general manager or secretary of the Company to be a director and for such purpose the maximum number of directors prescribed by or under section 15 (Number and qualification of directors) and section 16 (Power to vary number of directors) of the Gosport Waterworks Act 1858 shall be deemed to be increased by one so long as the director who has been so appointed is in office as a director:

Appoint-
ment of
officers as
directors.

Provided that—

(a) in no event shall there be at the same time more than one such person holding office as a director by virtue of the provisions of this section; and

(b) any person so appointed shall unless the appointment is approved at the next ordinary general meeting of the shareholders after such appointment by a majority of the votes of the shareholders of the Company present personally or by proxy and entitled to vote and voting at the meeting cease to be a director as from the date of that meeting.

(2) Any person appointed as a director under the provisions of this section shall not be subject to retirement by rotation and shall not be taken into account in determining the rotation of retirement of directors but he shall cease to be a director upon ceasing to hold his position as chief engineer general manager or secretary as the case may be.

98. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 no person shall be disqualified from being a director by reason of his holding any office or place of trust or profit under the Company or by reason of his being interested or directly or indirectly concerned in any contract with the Company nor shall any director be required to cease from voting

Directors
holding
office under
or con-
tracting
with
Company.

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PART V.
—cont.

or acting as a director by reason of his accepting any such office or place of trust or profit or becoming interested or directly or indirectly concerned in any such contract :

Provided that—

- (a) in the case of his being or becoming interested in any contract with the Company whether such interest arises before or after his appointment as a director the nature of his interest in the contract shall if it then exists be disclosed by him at the meeting of the directors at which the contract is determined upon or in any other case at the first meeting of the directors after the acquisition of his interest or after his appointment as a director as the case may be ;
- (b) no director shall as a director vote in respect of any such contract and if he does so vote his vote shall not be counted but this prohibition shall not apply to any contract by or on behalf of the Company to give to the directors or any of them any security by way of indemnity.

Vacation of
office of
director.

99. If any of the directors shall be made bankrupt or shall go to reside abroad for a longer period than twelve months or shall become of unsound mind or shall neglect to attend the meetings of directors for twelve months (unless such neglect to attend be occasioned by illness or by any other reasonable cause allowed by the directors) then in any of the cases aforesaid the office of such director shall become vacant and thenceforth he shall cease from voting or acting as a director.

Notice of
candidature
of or of
opposition
to re-
election of
director.

100.—(1) Except in the case of a director retiring by rotation and offering himself or being proposed for re-election no person shall be capable of being elected a director at a general meeting of the Company unless notice in writing that such person intends to offer himself or will be proposed for the office of director shall have been given to the secretary or left at the principal office of the Company seven days at least before the day of

election and the secretary shall during such seven days and on the day of election keep fixed in some conspicuous place in such office a copy of every such notice so delivered.

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PART V.
—cont.

(2) In the case of a retiring director notice of opposition to his re-election shall be given in like manner.

(3) No person shall be eligible to be elected a director at any general meeting of the Company unless he shall have been the holder of the qualifying amount of shares or stock for at least two months prior to his election.

101. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may determine the remuneration of the secretary.

Directors
may deter-
mine remu-
neration of
secretary.

102.—(1) It shall be lawful for the Company at any time by resolution passed at a general meeting to decide that the accounts of the Company shall be audited by a single auditor or by a firm of accountants.

Auditors.

(2) The auditors or (in the case of a firm being appointed as auditors) the members of such firm need not hold any shares or stock of the Company.

(3) If and so long as the auditors are a firm appointed under the provisions of this section the provisions of any Act incorporated with this Act relating to the prescribed number of auditors shall not apply to the Company.

(4) No person not being a retiring auditor of the Company shall be eligible to be elected at any general meeting as auditor of the Company unless notice be given to the secretary or left at the principal office of the Company seven days at least before the date of the meeting that such person will be proposed for election as an auditor of the Company. The secretary shall on receipt of any such notice send a copy thereof to the retiring auditor and during such seven days and the day of election keep a copy of the notice fixed in some conspicuous place in the said office.

(5) If any auditor of the Company dies or resigns the directors may appoint another auditor in his place and any auditor so appointed shall hold office until the next ordinary meeting.

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PART VI.

MISCELLANEOUS PROVISIONS.

Power to
grant
pensions.

103.—(1) The directors may grant such gratuities pensions and superannuation allowances or make such other payments as they may think fit to any employee or the personal representative of any employee or (where in any particular case no adequate provision is in their opinion otherwise made) to the widow or family or any dependant of an employee and they may establish and maintain a fund out of which such gratuities pensions allowances and payments may be granted or made.

12 & 13
Geo. 5. c. 59.

(2) The directors may enter into and carry into effect agreements with any local authority as defined by the Local Government and other Officers' Superannuation Act 1922 to which that Act applies or with any insurance company or other association or company for securing gratuities pensions allowances or payments to any employee or the widow family or dependant of any employee.

(3) The directors may subscribe or make donations to any fund raised in case of national emergency or in connection with the industry of water supply and to infirmaries hospitals convalescent homes and other institutions and objects which would be for the benefit of the employees and to the benevolent and sick funds of the employees.

(4) The directors may apply the revenues of the Company for the purposes of this section.

Super-
annuation
scheme.

104.—(1) The Company may establish and carry into effect and from time to time alter modify or rescind a scheme or schemes for the provision of superannuation allowances for employees and may by any such scheme provide for the making of contributions by the Company and by the employees to the superannuation fund formed under any such scheme and for the investment of moneys for the time being forming part of any such fund and the accumulation of interest or dividends on such investments by way of compound interest :

Provided that no such modification alteration or rescission of any such scheme shall without his consent place any employee who at the date of any such

modification alteration or rescission is entitled under such scheme to a superannuation allowance in a worse position than he would have been if such modification alteration or rescission had not been made.

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PART VI.
—cont.

(2) Any superannuation fund formed under any scheme established by the Company under the powers of this section shall not come into operation until it has been registered under the Superannuation and other Trust Funds (Validation) Act 1927.

17 & 18
Geo. 5. c. 41.

(3) The directors may apply the revenues of the Company to any of the purposes of this section.

105.—(1) Any notice to be served by the Company shall be sufficiently authenticated by the signature of the secretary or other officer of the Company for the time being authorised in writing by the directors or by the name of the officer being printed or stamped on the notice.

Authentica-
tion and
service of
notices by
Company.

(2) Any such notice may be served either personally or by a prepaid letter sent by post and addressed to the person to be served by name at his last known or usual place of abode or of business or by delivering the notice to some inmate at his last known or usual place of abode or business or to any inmate of the premises supplied or if such premises be unoccupied and the place of abode of the person to be served is after proper inquiry unknown it shall in the case of any notice not being a notice to pay any charge be sufficient to affix such notice or a copy thereof upon some conspicuous part of such premises.

106. Penalties imposed under any Act or Order from time to time relating to the Company for one and the same offence shall not be cumulative.

Penalties
not cumu-
lative.

107. A judge of any court or a justice shall not be disqualified from acting in the execution of any Act or Order from time to time relating to the Company by reason of his being liable to the payment of any water rent meter rent rate or charge.

Liability to
water rent
&c. not to
disqualify
justices &c.

108. Where the payment of more than one sum by any person is due under any one or more of the Acts or Orders from time to time relating to the Company any summons or warrant issued for the purposes of any one or more of such Acts or Orders in respect of that

Several
sums in one
summons.

A.D. 1937. person may contain in the body thereof or in a schedule thereto all the sums payable by him.

PART VI.

—cont.

Recovery of
penalties &c.

109. Save as otherwise expressly provided by any Act or Order from time to time relating to the Company all offences against any such Act or Order and all penalties forfeitures costs and expenses imposed by or recoverable under any such Act or Order or any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner. Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

Recovery of
demands.

110. Proceedings for the recovery of any demand made under the authority of any Act or Order from time to time relating to the Company or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in an action founded on contract or tort.

For protec-
tion of
Portsmouth
Corpora-
tion.45 & 46 Vict.
c. 56.62 & 63 Vict.
c. 19.

111. The provisions of section 15 of the Electric Lighting Act 1882 and of sections 17 and 18 of the schedule to the Electric Lighting (Clauses) Act 1899 shall apply to and with respect to the exercise by the Company of the powers conferred by this Act and the Company shall not interfere with any electric lines or works of the lord mayor aldermen and citizens of the city of Portsmouth (in this section referred to as "the Portsmouth Corporation") except in accordance with such provisions and such provisions shall be deemed for the purposes of this section to extend to and to include any electric lines or works of the Portsmouth Corporation placed upon or above ground.

For pro-
tection of
Southern
Railway
Company.

112. For the protection of the Southern Railway Company (in this section referred to as "the railway company") the following provisions shall notwithstanding anything contained in this Act or shown on the deposited plans and sections and unless otherwise agreed in writing between the Company and the railway company apply and have effect (that is to say):—

- (1) The Company shall not purchase or acquire any land or property of the railway company but

the Company may acquire and the railway company shall if so required by the Company grant to the Company an easement or right of constructing and maintaining the authorised works across and under the land and property of the railway company and the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such easement or right as fully as if the same were lands within the meaning of those Acts :

- (2) The adit or adits forming part of the authorised works where carried under the Meon Valley Railway of the railway company shall if so required by the chief engineer of the railway company (in this section referred to as "the engineer") be permanently lined in such manner and with such material as he may reasonably require and such lining shall extend between the boundary fences of that railway :
- (3) The authorised works and all works of maintenance repair renewal and removal thereof in so far as the same will be executed across and under or will in any way affect the railway works or property of the railway company (which portion of the authorised works and works of maintenance repair renewal and removal are in this section referred to as "the said works") shall be executed under the superintendence (if given) and to the reasonable satisfaction of the engineer and in accordance with plans sections and specifications to be previously submitted to and reasonably approved in writing by him :

Provided that if the engineer shall not signify his approval or disapproval of such plans sections and specifications within twenty-one days after they shall have been submitted to him he shall be deemed to have approved thereof :

- (4) The Company shall before carrying out the said works construct such temporary or permanent works as may be reasonably necessary to support the said railway :

A.D. 1937.

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PART VI.
—cont.

- (5) The Company shall give twenty-one days' notice in writing to the railway company before commencing any of the said works and such notice shall state the proposed date and time of such commencement and the said works shall be carried out only at such times as the engineer may reasonably approve :
- (6) The said works shall be executed by and at the expense of the Company who shall with all reasonable dispatch make good and restore to the reasonable satisfaction of the engineer any property or works of the railway company affected by the said works :
- (7) The said works shall be executed and maintained so as to cause as little injury or damage as may be to the railways and property of the railway company and so as not to cause any interruption to the passage or conduct of traffic thereover and if any such injury damage or interruption arises from the acts or operations of the Company or from the bursting leakage or failure of the said works all such injury or damage shall forthwith be made good by the Company or if the railway company so elect by the railway company at the expense of the Company and the Company shall be responsible for and shall indemnify and save harmless the railway company from all claims arising out of or in connection with any such injury damage or interruption and shall make compensation to the railway company in respect of any loss which they may suffer by reason of such injury or interruption :
- (8) If by reason of the execution of the said works it shall become necessary to alter or strengthen any embankment or other work of the Company such alteration or strengthening shall be carried out by the railway company after giving (except in case of emergency) not less than seven days' notice of their intention so to do to the Company at such times and in such manner as they may think expedient or necessary and the reasonable cost thereof and any reasonable

expense incurred by the railway company in connection therewith shall be repaid by the Company to the railway company:

A.D. 1937.

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PART VI.

—cont.

- (9) The Company shall bear and on demand pay to the railway company the reasonable expense incurred by the railway company of and in connection with the superintendence by the engineer of the said works and of and in connection with the employment by the railway company during the carrying out of the same of such inspectors watchmen or signalmen to be appointed by the railway company as may be reasonably necessary for watching and protecting the railway and property of the railway company and the conduct of the traffic thereon with reference to and during the carrying out of the said works and for preventing as far as may be all interference obstruction danger and accident from any of the operations or from the acts or defaults of the Company or their contractors or any person in their respective employ:
- (10) Any additional expense which the railway company may reasonably incur in effecting any repair renewal widening alteration or extension of their railway or other works in pursuance of any powers existing at the passing of this Act by reason of the existence of the said works across or under the railways or works of the railway company shall be borne by the Company:
- (11) Any expenses reasonably incurred by the railway company under the provisions of subsections (7) (8) and (9) of this section shall be deemed to include any compensation payable to any workmen or their legal representatives or their dependants in respect of the injury or death of such workmen whilst employed by the railway company in and about the works respectively mentioned in the said subsections:
- (12) The Company shall not exercise the powers conferred upon them by the sections of this Act of which the marginal notes are "Power to hold

A.D. 1937.

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PART VI.
—cont.

“ lands and exercise powers for protection of “ waters ” and “ Meters in streets to measure water or detect waste ” in respect of any street or road belonging to or repairable by or at the expense of or passing under the railways of the railway company or in respect of any sewer pipe wire or apparatus belonging to the railway company without their consent which shall not be unreasonably withheld :

- (13) Any difference which may arise between the Company and the railway company under this section (except under subsection (1)) shall be referred to and determined by an arbitrator to be appointed at the request of either party after notice in writing to the other by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination.

Repeal.

113. The enactments mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

Costs of
Act.

114. All costs charges and expenses preliminary to and of and incident to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company and may in whole or in part be defrayed out of revenue.

[1 EDW. 8. &
1 GEO. 6.]

*Gosport Water
Act, 1937.*

[Ch. lxxvii.]

The SCHEDULE referred to in the
foregoing Act.

A.D. 1937.

ENACTMENTS REPEALED.

Session and chapter.	Short title.	Extent of repeal.
21 & 22 Vict. c. v.	The Gosport Waterworks Act 1858.	Section 31 (Water not necessarily to be under pressure). Section 42 (As to recovery of sums not exceeding 50 <i>l.</i>). Section 44 (Several names in one warrant). Section 45 (Costs of distress). Section 46 (Liability to rates not to disqualify justices).
60 & 61 Vict. c. clvi.	The Gosport Water Order 1897 confirmed by the Water Orders Confirmation Act 1897.	Section 12 (Restrictions as to votes in respect of preference shares or stock). Section 13 (New shares or stock to be offered by auction or tender). Section 14 (When proprietor tenders same amount as any other person proprietor to be declared the purchaser). Section 15 (Purchase money of capital sold by auction to be paid within three months). Section 16 (Notice to be given as to sale of shares and stock). Section 17 (Shares or stock not sold by auction or by tender to be offered to shareholders).
4 Edw. 7. c. xxiv.	The Gosport Water Act 1904.	Section 20 (Company may sell spare lands of undertaking).

[Ch. lxxvii.]

Gosport Water
Act, 1937.[1 EDW. 8. &
1 GEO. 6.]

A.D. 1937.

Session and chapter.	Short title.	Extent of repeal.
4 Edw. 7. c. xxiv— <i>cont.</i>	The Gosport Water Act 1904— <i>cont.</i>	Section 35 (Restriction as to votes in respect of preferential shares or stock). Section 37 (New shares or stock to be offered by auction or tender). Section 38 (Purchase money of capital sold to be paid within three months). Section 39 (Notice to be given as to sale of shares or stock). Section 40 (Shares or stock not sold by auction or by tender to be offered to holders of ordinary shares or stock). Section 42 (Appointment of receiver).

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