



## CHAPTER xliii.

An Act to confirm a Provisional Order of the Minister of Health relating to Rainham Water. A.D. 1922.  
[20th July 1922.]

**W**HEREAS the Minister of Health has made the Provisional Order set forth in the schedule hereto under the provisions of the Gas and Water Works Facilities Act 1870 and the Gas and Water Works Facilities Act 1870 Amendment Act 1873 : 33 & 34 Vict. c. 70. 36 & 37 Vict. c. 89.

And whereas it is requisite that the said Order should be confirmed by Parliament :

Be it therefore 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 :—

1. The Order set out in the schedule hereto shall be and the same is hereby confirmed and all the provisions thereof shall have full validity and force. Order in schedule confirmed.

2. This Act may be cited as the Ministry of Health Provisional Order Confirmation (Water) Act 1922. Short title.

A.D. 1922.

SCHEDULE.

RAINHAM WATER.

*Rainham  
Order.*

*Provisional Order under the Gas and Water Works  
Facilities Act 1870 and the Gas and Water Works  
Facilities Act 1870 Amendment Act 1873 for em-  
powering the Rainham Waterworks Company Limited  
to maintain and continue waterworks for increasing  
the rates leviable by and the capital of the Company  
and for other purposes.*

The Minister of Health in pursuance of the powers given to him by the Gas and Water Works Facilities Act 1870 the Gas and Water Works Facilities Act 1870 Amendment Act 1873 and of all other powers enabling him in that behalf hereby orders as follows :—

Short and  
collective  
titles.

1. This Order may be cited as the Rainham Water Order 1922 and the Rainham Water Order 1904 and this Order may be cited together as the Rainham Water Orders 1904 and 1922.

Commence-  
ment of  
Order.

2. This Order shall come into force and have effect upon the day when the Act of Parliament confirming this Order is passed which date is hereinafter referred to as "the commencement of this Order."

Incorporation of  
Acts.

3. So far as the same relate to the powers conferred by this Order the provisions of the Waterworks Clauses Acts 1847 and 1863 are (except where expressly varied by this Order) incorporated with and form part of this Order :

Provided that Section 44 of the Waterworks Clauses Act 1847 shall for the purposes of this Order have effect as if the words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" were omitted therefrom.

For the purpose of such incorporation the term "special Act" in the said Acts shall be construed to mean this Order and the term "Company" shall mean the Undertakers.

Interpreta-  
tion.

4.—(1) In this Order unless the context otherwise requires—

"The Order of 1904" means the Rainham Water Order 1904 which was confirmed by the Gas and Water Orders Confirmation Act 1904;

"The Undertakers" means the Rainham Waterworks Company Limited.

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*Provisional Order Confirmation (Water) Act, 1922.*

(2) The several words terms and expressions to which by the Acts incorporated with this Order and by the Gas and Water Works Facilities Act 1870 meanings are assigned have in this Order the same respective meanings.

A.D. 1922.  
 —  
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*Order.*

5. The Undertakers may maintain continue alter improve enlarge extend renew reconstruct and repair the following existing works in the County of Kent constructed by them that is to say :—

Confirmation  
 of existing  
 works.

- (1) A storage reservoir at Wigmore in the Parish of Bredhurst in the Rural District of Hollingbourn in the enclosure numbered 51 on the  $\frac{1}{25000}$  ordnance map of that Parish (Edition 1908 sheet xxxii 1);
- (2) A storage reservoir at Matts Hill in the Parish of Hartlip in the Rural District of Milton in the enclosure numbered 16 on the  $\frac{1}{25000}$  ordnance map of that Parish (Edition 1908 sheet xxxii 2);

and any mains pipes or other works laid down or constructed by the Undertakers in connexion therewith and the construction of the said reservoirs mains pipes and other works and the expenditure of capital thereon are hereby sanctioned and confirmed.

6. The Undertakers 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 Order or in an Act of Parliament.

Limiting  
 powers of  
 Undertakers  
 to abstract  
 water.

7.—(1) The Rainham Water (Temporary Increase of Charges) Order 1920 is hereby repealed.

Additional  
 percentage  
 of rates  
 rents and  
 charges.

(2) The provisions of Sections 28 29 and 31 of the Order of 1904 are hereby altered so as to authorise the Undertakers to charge or demand and receive for the supply of water for domestic purposes for every watercloset beyond the first and for every private fixed bath for a supply of water by meter and for each meter or other instrument for measuring water any rates sums charges or rents not exceeding by more than fifty per centum the corresponding rates sums charges or rents prescribed by the said Sections.

(3) In calculating such additional charge of fifty per centum or whatever additional percentage is for the time being in force under the provisions of this Article (hereinafter referred to as "the additional percentage") any fraction of a penny shall be counted as one penny.

(4) On the application of the Undertakers or of a local authority having jurisdiction within the limits from time to time for the supply of water by the Undertakers the Minister

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of Health may if satisfied that the circumstances have materially changed make an order varying either by way of increase or decrease the additional percentage by substituting therefor any other percentage :

Provided that the additional percentage prescribed in any such order shall be such as to provide (after paying all proper expenses of and in connexion with the working management and maintenance of the undertaking of the Undertakers and making good depreciation and paying all other costs charges and expenses (if any) properly chargeable to revenue) a reasonable return on the share capital of the Undertakers :

Provided that in the absence of exceptional reasons the Minister shall not alter the additional percentage at less intervals than every five years.

(5) In any case in which under the provisions referred to in sub-division (2) of this Article a maximum or minimum rate sum charge or rent is prescribed such maximum or minimum rate sum charge or rent shall be increased to the extent of the additional percentage.

Rates  
payable by  
owners of  
certain  
houses.

8. Where a house supplied with water is let to monthly or weekly tenants or tenants holding for any other period less than a quarter of a year the owner instead of the occupier shall if the Undertakers so determine pay the rate for the supply but the rate may be recovered from the occupier and may be deducted by him from the rent from time to time due from him to the owner : Provided that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him or which shall have accrued due from him subsequent to the service upon him of a notice to pay the rate.

Fittings  
let for hire  
not to be  
subject to  
distress.

9. Any fittings let for hire by the Undertakers 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 persons in whose possession the same may be : Provided that such fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Undertakers as the actual owners thereof.

Company  
not bound  
to supply  
several  
houses by  
one pipe.

10. The Undertakers shall not be bound to supply more than one house with water 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 supplied by them with water.

Power to  
sell meters.

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

[12 & 13. GEO. 5.] *Ministry of Health.* [Ch. xliii.]  
*Provisional Order Confirmation (Water) Act, 1922.*

12. The Undertakers may on the application of the owner or occupier of any premises within the limits from time to time for the supply of water by the Undertakers 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 in this Order and as if the street were under the control or management of the local authority.

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Power to  
lay pipes  
in private  
streets.

13. The Undertakers may on all or any of the lands for the time being held by them in connexion with their undertaking execute for the purposes of or in connexion with the said undertaking any of the works (other than wells and works for taking and intercepting water) and exercise any of the powers mentioned in or conferred by Section 12 of the Waterworks Clauses Act 1847 Provided that the Undertakers shall not under the powers of this Article 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.

14.—(1) For the purpose of complying with any obligation under the Waterworks Clauses Act 1847 or under any other Act or any Order relating to the Undertakers to maintain any pipe or apparatus used for the supply of water from the works of the Undertakers the person liable to maintain the same 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.

As to com-  
munication  
pipes.

(2) The Undertakers by agreement with any owner or occupier entitled or required to lay maintain repair or remove any communication pipe and for that purpose to open or break up any streets in the limits for the supply of water by the Undertakers may subject to the like conditions execute such works on behalf of such owner or occupier and any expenses incurred by the Undertakers shall be repaid by the owner or occupier with whom the agreement is made and shall be recoverable summarily as a civil debt.

15. Subject to the provisions of the Waterworks Clauses Act 1847 the Undertakers may for the purpose of preventing and detecting waste affix and maintain meters and similar apparatus and stopcocks on or in any mains or pipes supplying houses with water (without thereby in any way affecting the ownership of any such mains or pipes) and may insert in the roads or footways the necessary covers or boxes for giving access and protection thereto and for that purpose stop up break up and interfere temporarily with public and private streets roads lanes footways sewers courts passages tramways gas or water pipes electric lines wires and apparatus Provided that the

Detection of  
waste.

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A.D. 1922.      Undertakers shall not interfere with any electric lines wires and apparatus belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the Telegraph Act 1878.

—  
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*Order.*

Application of Section 35 of Waterworks Clauses Act 1847.      16. Section 35 of the Waterworks Clauses Act 1847 in its application to the Undertakers shall be read and construed as if the words "one-sixth part" and "five successive years" were substituted therein for the words "one-tenth part" and "three successive years" respectively.

Guarantees by district councils.      17.—(1) Any urban or rural district council whose district is in whole or in part within the limits from time to time for the supply of water by the Undertakers may give and enter into any guarantee or contract for securing payment to the Undertakers of such periodical or other sum or sums at such time or times in such manner and subject to such stipulations as may be agreed by and between such council and the Undertakers for the purpose of or with respect to the providing or laying down by the Undertakers of any main pipe or works for the supply of water within any part of such district which is within the said limits by means of such main pipe or works.

(2) The giving of such guarantee and the performance of any contract in relation thereto shall be deemed to be a purpose for which under the provisions of any general Act relating to the powers of such council they may incur expenditure and any such council may raise in like manner as money may be raised under the provisions of any such general Act any money which may become payable to the Undertakers under this Article.

Penalty for closing &c. valves and apparatus.      18. Every person who shall wilfully (without the consent of the Undertakers) or negligently close or shut off or open any valve cock or other work or apparatus belonging to the Undertakers whereby the supply of water or the control of such supply shall be interfered with shall (without prejudice to any other right or remedy of the Undertakers) be liable on conviction to a penalty not exceeding five pounds and the Undertakers may in addition thereto recover the amount of any damage by them sustained. Provided that this Article shall not apply to a consumer closing or opening a valve fixed on his communication pipe.

New capital.      19. The limitation prescribed by the Order of 1904 with respect to the amount of the share capital of the Undertakers for the purposes of the undertaking shall not prevent the Undertakers from raising for such purposes further share capital (in this Order referred to as "new capital") not exceeding twenty-four thousand pounds after taking into account the premiums or discounts (if any) which may be obtained or allowed respectively on the issue thereof:

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Provided that the share capital of the Undertakers for the purposes of their undertaking shall not exceed in the whole forty-eight thousand pounds unless the Undertakers are hereafter authorised to raise further share capital by Provisional Order under the Gas and Water Works Facilities Act 1870 or by Act of Parliament.

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*Order.*

20.—(1) All shares forming part of the new capital shall be issued in accordance with the provisions of this Article.

New capital  
to be sold by  
auction or  
tender.

(2) All shares 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 Undertakers shall by special resolution determine :

Provided as follows :—

- (a) Notice of the intended sale shall be given in writing to the clerk of the local authority of every district 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 for the supply of water by the Undertakers ;
- (b) A reserve price shall be fixed by the directors of the Undertakers and notice thereof shall be sent by the Undertakers in a sealed letter to be received by the Board of Trade not less than twenty-four hours before but not to be opened till after the day of auction or last day for the receipt of tenders as the case may be ;
- (c) No lot offered for sale shall comprise shares of greater nominal value than one hundred pounds ;
- (d) In the case of a sale by tender no preference shall be given to one of two or more persons tendering the same sum and in the case of a sale by auction a bid shall not be recognised unless it is in advance of the last preceding bid ;
- (e) It shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the Undertakers within three months after the date of the auction or of the acceptance of the tender as the case may be.

(3) Any shares which have been so offered for sale and are not sold may be offered at the reserve price to the holders of ordinary and preference shares of the Undertakers in manner prescribed in a resolution passed by the directors of the Under-

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takers and to the employees of the Undertakers and to the consumers of water supplied by the Undertakers in such proportions as the Undertakers may think fit or to one or more of these classes of persons only. Provided that in a case of an offer to holders of shares if the aggregate amount of shares applied for shall exceed the aggregate amount 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 which have been offered for sale in accordance with subdivision (2) or with subdivisions (2) and (3) of this Article and are not sold shall be again offered for sale by public auction or by tender in accordance with the provisions of this Article and any such shares then remaining unsold may be otherwise disposed of at such price and in such manner as the directors of the Undertakers may determine for the purpose of realising the best price obtainable.

(5) As soon as possible after the conclusion of the sale or sales the Undertakers shall send a report thereof to the Board of Trade stating the total amount of the respective shares sold the total amount obtained as premium (if any) and the highest and lowest prices obtained for the respective shares.

Application  
of money.

21. All moneys raised under this Order 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 under the provisions of this Order shall not be considered as part of the capital of the Undertakers entitled to dividend.

Limit of  
dividend on  
capital.

22. The Undertakers shall not in any year declare or make out of their profits any larger dividend on the new capital than seven pounds in respect of every one hundred pounds of so much of such capital as may be issued as ordinary capital unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said sum of seven pounds per centum per annum or than six pounds in respect of every one hundred pounds of so much of the new capital as may be issued as preference capital or such higher rate of dividend in each case as the Minister of Health may approve.

Amendment  
of Section 15  
of Order of  
1904.

23. Section 15 of the Order of 1904 shall be read and have effect as if the following words had been added at the end of that section namely—

“ unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend on such original or additional ordinary capital which shall have fallen short of the said sums of ten pounds and seven pounds respectively.”

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*Provisional Order Confirmation (Water) Act, 1922.*

24. Section 16 of the Order of 1904 is hereby repealed and in case in any year or in any half-year if the Undertakers declare a dividend half-yearly the net revenues of the Undertakers applicable to dividend are insufficient to pay the full amount of the prescribed maximum rate of dividend on each class of ordinary shares in the original or additional or new capital of the Undertakers a proportionate reduction shall be made in the dividends payable on each class.

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*Rainham  
Order.*

Prescribed  
rates to be  
paid propor-  
tionately.

25.—(1) Notwithstanding anything in Section 17 of the Order of 1904 the Undertakers may borrow on mortgage of their undertaking any sum or sums of money (inclusive of any sums already borrowed by them) not exceeding in the whole one-half of the amount of the capital of the Undertakers at the time actually raised by the issue of shares including any premium that may have been or may be obtained on the sale of any such shares.

Limit of  
borrowing  
powers.

(2) No higher rate of interest than seven pounds per centum per annum shall be paid by the Undertakers without the consent of the Minister of Health in respect of any moneys borrowed by the Undertakers after the commencement of this Order and secured as aforesaid and the said Section 17 in its application to any moneys so borrowed shall be read and have effect as if the words "seven pounds per centum per annum" had been inserted therein in lieu of the words "five pounds per centum per annum."

26. Any notice to be served by the Undertakers on a person supplied with water shall be sufficiently authenticated by the signature of the secretary or other officer of the Undertakers from time to time authorised in writing by the directors being affixed thereto in writing or in print or by a stamp or if it be a notice to pay any charge in respect of a supply of water by the name either of the secretary or of such other officer as aforesaid being affixed thereto as aforesaid and any such notice may be served on such person either personally or by sending the same through the post by a prepaid letter addressed to him by name at his last known or usual place of abode or of business or by delivering the same 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.

Authentica-  
tion and  
service of  
notices by  
Under-  
takers.

27. Save as otherwise expressly provided by any Act or Order from time to time relating to the Undertakers all offences against any such Act or Order and all penalties forfeitures costs and expenses imposed or recoverable under the same or any

Recovery of  
penalties &c

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A.D. 1922.      byelaw made in pursuance thereof may be prosecuted and  
recovered in a summary manner. Provided that costs or  
*Rainham* expenses except such as are recoverable along with a penalty  
*Order.* shall not be recovered as penalties but may be recovered  
summarily as civil debts.

Recovery of      28. Proceedings for the recovery of any demand made  
demands.      under the authority of any Act or Order from time to time  
relating to the Undertakers whether provision is or is not made  
for the recovery in any specified court or manner may be taken  
in any county court provided that the demand does not exceed  
the amount recoverable in that court in a personal action.

Costs of.      29. All costs charges and expenses of and incidental to the  
Order.      applying for preparing obtaining and confirming this Order and  
otherwise in relation thereto shall be paid by the Undertakers.

Given under the Official Seal of the Minister of Health this  
Fifth day of April One thousand nine hundred and  
twenty-two.

(L.S.)

F. L. TURNER  
Assistant Secretary Ministry of Health.

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