

Ely Ouse-Essex Water Act 1968

CHAPTER xxvi

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ELIZABETH II



1968 CHAPTER xxvi

An Act to provide for the transfer of water from the Ely Ouse River in the area of the Great Ouse River Authority to the area of the Essex River Authority; to authorise the Great Ouse River Authority and the Essex River Authority to acquire lands and to construct works; and for other purposes. [26th July 1968]

WHEREAS the Great Ouse River Authority and the Essex River Authority (hereinafter in this Act referred to respectively as "the Great Ouse Authority" and "the Essex Authority") were constituted in pursuance of the Water Resources Act, 1963 (hereinafter in this Act referred to as "the Act of 1963") as the authorities responsible for water conservation, land drainage, prevention of pollution and the management and improvement of salmon, trout and fresh water fisheries within adjoining areas which include (inter alia) the catchment areas of the Ely Ouse river and of the rivers Stour, Pant and Blackwater:

And whereas as the authorities responsible for water conservation within their respective areas the Great Ouse Authority and the Essex Authority are charged by the Act of 1963 with the duty of taking such action as they consider necessary or expedient for the purpose of conserving, redistributing or otherwise augmenting water resources in their area and of transferring water from one area to the area of another river authority:

And whereas the demand for water within the area of Essex Authority has increased, is increasing and will shortly beyond the capacity of the existing sources of supply:

And whereas the water resources of the said area are insufficient to meet the deficiency therein and the augmentation thereof now become a matter of the greatest urgency:

And whereas it has been agreed between the Great Ouse Authority and the Essex Authority that the deficiency can most effectively and expeditiously be made good by a transfer of water from the area of the Great Ouse Authority:

And whereas it has been further agreed between the said authorities that the water so to be transferred should be—

1949 c. lx.

- (1) diverted from the Ely Ouse river into the Cut Off Channel authorised by the River Great Ouse (Flood Protection) Act, 1949;
- (2) abstracted therefrom and conveyed by means of a tunnel and pipeline to and discharged into the head waters of the river Stour; and
- (3) permitted to flow down the river Stour to Wixoe where part will be abstracted and conveyed by pipeline to and discharged into the river Pant and thence into the river Blackwater:

And whereas the resulting increase in the flows of the rivers Stour and Blackwater will be available to augment the respective yields of the Abberton and Hanningfield Reservoirs which are two major sources of supply for the area of the Essex Authority and will thereby make a substantial contribution towards meeting the deficiency in the said area:

And whereas it is expedient and in the public interest that water should be transferred from the Ely Ouse river to the area of the Essex Authority by means of the works and by the methods authorised by this Act:

And whereas it is expedient that the other provisions in this Act should be enacted:

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

And whereas plans and sections showing the lines, situations and levels of the works authorised by this Act, and a book of reference to such plans containing the names of the owners, lessees, or reputed owners and lessees, and of the occupiers of the lands which may be acquired or used compulsorily under the powers of this Act, have been deposited in the office of the Clerk

of the Parliaments and in the Private Bill Office, House of Commons, and with the clerks of the county councils of the administrative counties of Cambridgeshire and Isle of Ely, Essex, Norfolk and West Suffolk, which plans, sections and book of reference are in this Act respectively referred to as the deposited plans, the deposited sections and the deposited book of reference:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen'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. This Act may be cited as the Ely Ouse-Essex Water Act Short title. 1968.

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

Division of Act into Parts.

Part I.—Preliminary.

Part II.—Works.

Part III.—Abstractions, impounding works and discharges.

Part IV.—Lands.

Part V.—Finance and miscellaneous.

3.—(1) In this Act, unless the subject or context otherwise requires— Interpretation.

“the Act of 1961” means the Land Compensation Act, 1961 c. 33. 1961;

“the Act of 1963” means the Water Resources Act 1963; 1963 c. 38.

“the Act of 1965” means the Compulsory Purchase Act 1965 c. 56. 1965;

“appropriate authority” means—

(a) in relation to the Great Ouse works and in relation to any land in respect of which powers for compulsory acquisition are conferred upon the Great Ouse Authority by this Act, the Great Ouse Authority; and

(b) in relation to the Essex works and in relation to any land in respect of which powers for compulsory acquisition are conferred upon the Essex Authority by this Act, the Essex Authority;

“Authorities” means the Great Ouse Authority and the Essex Authority and includes either of those authorities;

“Essex Authority” means the Essex River Authority;

“Essex Council” means the county council of Essex;

PART I
—cont.

1945 c. 42.

“ Essex works ” means the works authorised by this Act (other than Works A and B) and any works and conveniences connected therewith constructed or provided by the Essex Authority under the powers of this Act;

“ Great Ouse Authority ” means the Great Ouse River Authority;

“ Great Ouse works ” means Works A and B and any works and conveniences connected therewith constructed or provided by the Great Ouse Authority under the powers of this Act;

“ the Minister ” means the Minister of Housing and Local Government;

“ new functions ” has the meaning assigned to that expression by subsection (5) of section 3 of the Act of 1963;

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

“ the tribunal ” means the Lands Tribunal;

“ watercourse ” includes all rivers, streams, ditches, drains, cuts, culverts, dykes, sewers and passages through which water flows except mains (within the meaning of the Third Schedule) and local authority sewers.

(2) Unless the subject or context otherwise requires any reference in this Act to a work identified by the number of such works by a letter of the alphabet shall be construed as a reference to the work of that number or to which that letter has been attached (as the case may be) authorised by this Act.

(3) For the purposes of this Act the Ely Ouse river shall be deemed to include the watercourse known as the Ten Mile river and so much of the watercourse known as the Relief Channel which lies south of the sluice known as the A. G. Wright Sluice and any references in this Act to the Ely Ouse river shall be construed accordingly.

(4) Unless the subject or context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment including this Act.

Application
and
modification
of Third
Schedule.

4. For the purposes of this Act the provisions of the Third Schedule which are set out in column (1) of Schedule 1 to this Act are hereby incorporated with this Act and as incorporated shall have effect—

(a) as if for references therein to undertakers there were substituted references to the appropriate authority; and

(b) subject to the modifications specified in column (2) of the said Schedule.

PART I
—cont.

Application
of Part I
of Act of
1965.
1946 c. 49.

(1) Part I of the Act of 1965 (except section 4, subsection (5) section 24, section 27 and paragraph 3 (3) of Schedule 3 thereof) so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory purchase of land under this Act as it applies to a compulsory purchase to which the provisions of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act, 1946, apply and as if this Act were a compulsory purchase order under the said Act of 1946.

(2) The provisions of the Act of 1965, as so applied, shall have effect as if—

(a) the requirement in section 11 (1) of the said Act as to giving not less than fourteen days' notice before entry only applied to the lands specified in Schedule 2 to this Act and as regards any other land in respect of which notice to treat has been served it required not less than three months' notice;

(b) in section 11 (3) of the said Act after the word "purchase" there were inserted the words "or over or in which easements and rights may be compulsorily acquired" and for the words "not less than three nor more than fourteen days' notice" there were substituted the words "not less than seven days' notice in the case of the first entry and not less than twenty-four hours' notice in the case of a subsequent entry".

(3) The Lands Clauses Consolidation Act, 1845, shall not apply to the purchase of land under this Act. 1845 c. 18.

PART II
WORKS

Power to
Great Ouse
Authority to
construct
works.

(1) Subject to the provisions of this Act the Great Ouse Authority may in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown upon the deposited sections make and maintain in the parish of Denver in the rural district of Downham in the county of Norfolk the works hereinafter described together with all necessary works and conveniences connected therewith, namely:—

Work A A weir and sluice across the Cut Off Channel at the National Grid reference point TF 5907 0087.

Work B A diversion sluice and channel at the National Grid reference point TF 5898 0080.

(2) The Great Ouse Authority may from time to time renew and alter either of the works described in subsection (1) of this section.

PART II
—cont.
Power to
Essex
Authority to
construct
works.

7.—(1) Subject to the provisions of this Act the Essex Authority may in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown upon the deposited sections make and maintain in the county of Norfolk, West Suffolk, Cambridgeshire and Isle of Ely Essex the works hereinafter described together with all necessary works and conveniences connected therewith, namely:—

In the county of Norfolk—

Work No. 1 An intake (the Blackdyke intake) in the parish of Hockwold cum Wilton in the rural district of Downham on the south bank of the Cut Off Channel at the National Grid reference point TL 6915 8820:

In the counties of Norfolk, West Suffolk and Cambridgeshire and Isle of Ely—

Work No. 2 An underground tunnel, including shafts connected therewith, commencing in the said parish of Hockwold cum Wilton at Work No. 1 passing through and through the parishes of Lakenheath, Mildenhall, Worlington, Freckenham and Herringswell in the rural district of Mildenhall in the county of West Suffolk and terminating in the parish of Kennett in the rural district of Newmarket in the county of Cambridgeshire and Isle of Ely at the National Grid reference point TL 7023 6840:

In the county of Cambridgeshire and Isle of Ely—

Work No. 3 A pumping station (the Kennett pumping station) in the said parish of Kennett in the enclosure numbered 93 and 94 on the Ordnance Survey Plan numbered Cambridgeshire Sheets XXXVI.12 and XXXVII.9 (County Series Edition of 1926) and in the enclosure numbered 110 on the said Ordnance Survey Plan numbered Cambridgeshire Sheet XXXVII.9:

Work No. 4 An aqueduct in the said parish of Kennett commencing in Work No. 3 and terminating by an outfall into the river Kennett at the National Grid reference point TL 7023 6846:

In the counties of Cambridgeshire and Isle of Ely and West Suffolk—

Work No. 5 An aqueduct or line or lines of pipes commencing in the said parish of Kennett at Work No. 3 passing into and through the parish of Moulton in the said rural district of Mildenhall, the parish of Ashley in the said rural district of Newmarket and terminating in the parish of Kirtling in the said rural district of Newmarket at Work No. 6;

Work No. 5A A washout conduit or line or lines of pipes in the said parish of Kennett commencing by a junction with Work No. 5 at the National Grid reference point TL 6960 6730 and terminating in the river Kennett at the National Grid reference point TL 7042 6755;

Work No. 5B A washout conduit or line or lines of pipes in the said parish of Moulton commencing by a junction with Work No. 5 at the National Grid reference point TL 6903 6423 and terminating in the river Kennett at the National Grid reference point TL 6978 6481;

Work No. 5C A washout conduit or line or lines of pipes commencing in the said parish of Ashley by a junction with Work No. 5 at the National Grid reference point TL 7018 6175 and passing into and terminating in the parish of Dalham in the said rural district of Mildenhall in the river Kennett at the National Grid reference point TL 7120 6285;

Work No. 5D A washout conduit or line or lines of pipes in the said parish of Kirtling commencing by a junction with Work No. 5 at the National Grid reference point TL 7018 5825 and terminating in the river Kennett at the National Grid reference point TL 7032 5809:

In the county of Cambridgeshire and Isle of Ely—

Work No. 6 An outfall and open retention pond in the said parish of Kirtling in the enclosure numbered 395 on the Ordnance Survey Plan numbered Cambridgeshire Sheet XLIX.11 (County Series Edition of 1903);

Work No. 7 An access road in the said parish of Kirtling commencing on the unclassified road from Kirtling Green to Ditton Green at the National Grid reference point TL 6793 5617 and terminating at Work No. 6;

Work No. 8 An aqueduct in the said parish of Kirtling, commencing at the outfall forming part of Work No. 6 and terminating at the commencement of Work No. 9 at the National Grid reference point TL 6793 5572:

In the counties of Cambridgeshire and Isle of Ely and West Suffolk—

Work No. 9 An improvement of an unnamed tributary of the river Stour in the said parish of Kirtling and the parishes of Stetchworth and Dullingham in the said rural district of Newmarket and the parish of Great Bradley in the rural district of Clare in the county of West Suffolk consisting of a widening, deepening, straightening, strengthening or diversion

PART II
—cont.

of portions of the bed and banks of so much of said tributary as lies between the National Grid reference point TL 6793 5572 and the confluence of the tributary with the river Stour:

In the counties of West Suffolk and Essex—

Work No. 10 An improvement of the river Stour in said parish of Great Bradley and in the parishes Little Bradley, Little Thurlow, Great Thurlow, Great Wratting, Little Wratting, Kedington and Wixoe in the said rural district of Clare and the parishes Sturmer, Steeple Bumpstead and Birdbrook in the rural district of Halstead in the county of Essex consisting of an alteration, widening, deepening, strengthening, straightening or diversion of portions of the bed and banks of so much of the said river as lies between the National Grid reference point TL 6711 5378 and TL 7152 4276;

Work No. 11 An intake and pumping station (the Wixoe pumping station) in the said parishes of Wixoe, Steeple Bumpstead and Birdbrook the intake being in the said parish of Wixoe on the west bank of the river Stour (as improved by the construction of Work No. 10) in the enclosure numbered 8806 on the Ordnance Survey Plans numbered TL 7043 and 7143 (National Grid Series) and the pumping station being in the said parishes of Wixoe, Steeple Bumpstead and Birdbrook adjacent to the said river, as so improved, in the enclosure 8806 and in the enclosures numbered 751, 8400 and 9100 on the Ordnance Survey Plans numbered TL 7042, 7043, 7142 and 7143 (National Grid Series);

Work No. 12 A weir and sluice in the said parishes of Wixoe and Birdbrook across the river Stour (as improved, deepened and diverted by the construction of Work No. 10) in the enclosures numbered 8806 and 9100 on the Ordnance Survey Plans numbered TL 7042, 7043, 7142 and 7143 (National Grid Series);

Work No. 12A A flow regulator in the said parish of Wixoe in the river Stour at Wixoe Mill:

In the county of Essex—

Work No. 13 A diversion of Bumpstead Brook in the said parishes of Steeple Bumpstead and Birdbrook commencing at the National Grid reference point TL 7076 4292 and terminating at the National Grid reference point TL 7107 4291;

Work No. 14 An aqueduct or line or lines of pipes commencing in the said parish of Steeple Bumpstead at Work No. 11 and terminating in the parish of Hempstead in the rural district of Saffron Walden at Work No. 15;

Work No. 14A A washout conduit or line or lines of pipes in the said parish of Steeple Bumpstead commencing by a junction with Work No. 14 at the National Grid reference point TL 6846 4002 and terminating in the ditch at the National Grid reference point TL 6858 3988;

Work No. 15 Balancing tanks in the said parish of Hempstead in enclosures numbered 8215 and 9331 on Ordnance Survey Plans numbered TL 6638 and 6738 (National Grid Series), and numbered 0005 and 9000 on Ordnance Survey Plans numbered TL 6637, 6638, 6737 and 6738 (National Grid Series);

Work No. 16 An access road in the said parish of Hempstead and the parish of Finchingfield in the rural district of Braintree commencing on the unclassified road from Finchingfield to Helions Bumpstead at the National Grid reference point TL 6624 3790 and terminating at Work No. 15;

Work No. 17 An aqueduct in the said parishes of Hempstead, Steeple Bumpstead and Finchingfield commencing at Work No. 15 and terminating in a ditch at National Grid reference point TL 6739 3786;

Work No. 18 An aqueduct or line or lines of pipes commencing in the said parish of Hempstead at Work No. 15 passing into and through the said parish of Finchingfield, passing thence into and through parts of the parishes of Great Sampford and Little Sampford in the rural district of Saffron Walden, thence into and through another part of the said parish of Great Sampford and another part of the said parish of Little Sampford thence into and terminating in another part of the said parish of Great Sampford at Work No. 19;

Work No. 19 An outfall to the river Pant (comprising a stilling pool, a retention pool, an overflow weir and an aqueduct) in the said parishes of Great Sampford and Little Sampford in the enclosures numbered 77, 320 and 328 on the Ordnance Survey Plan numbered Essex Sheet NXIV.8 (County Series Edition of 1921);

Work No. 20 An access road in the said parish of Great Sampford commencing on the road from Great

PART II
—cont.

Sampford to Thaxted (classified road B.1051) the National Grid reference point TL 6420 3507 terminating at Work No. 19;

Work No. 21 An improvement of the river Pant in said parishes of Great Sampford, Finchingfield, Little Sampford, the parish of Little Bardfield in rural district of Dunmow, and the parishes of Great Bardfield, Wethersfield and Shalford in the rural district of Braintree consisting of an alteration widening, deepening, strengthening, straightening diversion of portions of the bed and banks of so much of the said river as lies between the National Grid reference points TL 6427 3520 and TL 7355 2800.

(2) The powers conferred by the foregoing subsection in relation to Works Nos. 10 and 21 shall include power to alter any structure or appliance in the bed or on the banks of the river Stour or river Pant (as the case may be).

(3) The Essex Authority may from time to time renew or alter any of the works described in subsection (1) of this section.

Subsidiary powers.

8.—(1) Subject to the provisions of this Act and within the limits of deviation shown on the deposited plans, the Great Ouse Authority in connection with the Great Ouse works, and the Essex Authority in connection with the Essex works, and in either case for the purposes thereof, may—

- (a) make junctions and communications between any of those works and any watercourses and any existing streets, roads, droves, ways, fords, bridges, towing paths and footpaths;
- (b) make, provide and maintain all necessary and convenient walls, banks, embankments, piling, fences, facilities for watering cattle and other animals, culverts, drains, intakes, syphons, watercourses, weirs, sluices, wharves, mattresses, pitching, roads, droves, bridges, towing paths and footpaths, and all such mains, pipes, cables, wires, pumps, machinery, works and appliances as may be required;
- (c) raise, widen, lengthen, alter and reconstruct the bridges over any watercourses widened, deepened, strengthened, straightened or diverted under the powers of this Act and the approaches to such bridges and strengthen, underpin and deepen the piers, arches and other supports and the foundations thereof without acquiring the shares in such bridges or any interest therein;
- (d) construct and maintain new fords across watercourses and approaches to such fords, and widen, lengthen, alter and reconstruct existing fords and the approaches thereto;

(e) stop up and discontinue so much of the watercourses shown on the deposited plans as will be rendered unnecessary by reason of the execution of the works authorised by this Act;

(f) dispose of spoil or other material excavated in the execution of the works authorised by this Act;

(g) execute any works for the protection of any adjoining lands or buildings;

(h) remove, alter, divert or stop up any drain, sewer, channel or watercourse, the appropriate authority providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any channel or watercourse;

(i) fell, lop or cut and remove any tree, bush, shrub or other vegetation; and

(j) alter any mains, pipes, wires and other works and apparatus for conveying or transmitting water, gas, electricity or petroleum (as defined in the Petroleum (Consolidation) Act, 1928).

1928 c. 32.

(2) In the exercise of the powers conferred by this section, the appropriate authority shall cause as little detriment and inconvenience to any person as circumstances admit.

(3) Within the limits of deviation shown on the deposited plans the appropriate authority may raise, sink or otherwise alter the position of any steps, areas, cellars, windows, pipes or spouts belonging to any house or building, and may remove all other obstructions so that the same be done with as little delay or inconvenience to the inhabitants as the circumstances of the case will admit.

(4) The powers of paragraph (c) of subsection (1) of this section shall not be exercised by the Authorities in relation to a bridge carrying a highway without the consent of the highway authority, which consent shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than monetary payment) as the highway authority may require, and any question whether such consent is unreasonably withheld or any conditions so imposed are unreasonable shall be determined by the Minister of Transport.

9. The Essex Authority may stop up the footpath (including the footbridge over the river Stour) in the parishes of Steeple Bumpstead and Sturmer in the rural district of Halstead in the county of Essex, and the parish of Wixoe in the rural district of Clare in the county of West Suffolk between the points marked S1 and S2 on the deposited plans, and thereupon all rights of way over or along the said footpath shall be extinguished:

Stopping up of footpath.

Provided that the Essex Authority shall not under the powers of this section stop up any portion of the said footpath (except

PART II
—cont.Power to
divert
footpaths.

temporarily under section 11 (Temporary stoppage of water courses, roads, footpaths and bridleways) of this Act) until a suitable alternative footpath (including a bridge over the river Stour) in substitution for the said footpath between the points marked S1 and S2 on the deposited plans has been provided by the Essex Authority and has been completed to the satisfaction of the Essex Council and is open for public use.

10.—(1) The Essex Authority may divert the footpaths in the parish of Great Bardfield in the rural district of Braintree in the county of Essex in the manner shown on the deposited plans between the points marked thereon respectively X1 to X3, X3 to X4, X5 to X6, X7 to X8, X9 to X10, X11 to X12, X13 to X14 and subject to the provisions of this Act may stop up and cause to be discontinued as a public highway so much of each of the said footpaths as will be rendered unnecessary by diversion thereof under the powers of this Act.

(2) (a) Notwithstanding anything in subsection (1) of this section where a footpath is diverted the existing public highway shall not be stopped up under the powers of this section until the highway authority concerned are satisfied that the new footpath to be substituted therefor has been completed in accordance with their reasonable requirements and is open for public use or in the case of any difference between the Essex Authority and the highway authority as to whether the said requirements have been complied with or as to their reasonableness until the matter in dispute has been referred to and determined by the Minister of Transport and he has certified that the new footpath has been completed in accordance with his determination:

Provided that the Essex Authority shall not be required under this section to construct or complete any new footpath to a greater width or better standard than the footpath for which such a footpath is substituted.

(b) Before applying to the Minister of Transport for his determination the Essex Authority shall give to the highway authority seven days' notice of their intention so to do.

(3) As from the date of completion to the satisfaction of the highway authority of any such diverted footpath or as from the date of the determination by the Minister of Transport, aforesaid (as the case may be) all rights of way over or along the portion of the footpath so stopped up shall be extinguished and the Essex Authority may appropriate and use for the purposes of the works authorised by this Act the site and soil thereof so far as they are owners of the land on both sides thereof.

(4) Any footpath diverted under the powers of this Act shall be repairable by the authority or person by which or by whom it was repairable before its diversion and be subject to the same public rights of way as were exercisable over the footpath before its diversion.

PART II
—cont.

Temporary
stoppage of
watercourses,
roads,
footpaths and
bridleways.

11.—(1) The Great Ouse Authority during and for the purpose of the execution of any of the Great Ouse works and the Essex Authority during and for the purposes of the execution of any of the Essex works may temporarily stop up and divert and interfere with any watercourse or any road, bridleway or footpath and may for any reasonable time divert the traffic from any such road, bridleway or footpath and prevent all persons other than those bona fide going to or from any land, house or building abutting the road, bridleway or footpath from passing along and using the same.

(2) Reasonable access shall be provided for foot passengers with or without animals bona fide going to or from any such land, house or building.

(3) The powers of this section shall not be exercised with reference to any road without the consent of the highway authority having powers in relation thereto and, in the case of a road which is vested in any person other than the highway authority, that person, and any such consent may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority or other person may think fit to impose but shall not be unreasonably withheld, and any question whether any such consent is or is not unreasonably withheld or whether any conditions are or are not reasonable shall be determined by the Minister of Transport.

12.—(1) Subject to the provisions of this Act the Essex Authority for the purposes of improving or regulating the flow of any of the watercourses to which this section applies may by agreement with the owner and occupier of the land—

Power to
Essex
Authority to
improve and
regulate flow
of rivers
Stour, Pant
and
Blackwater.

- (a) dredge, cleanse and scour the watercourse;
- (b) reduce or remove any shoals, shelves, banks or other accumulations therein;
- (c) alter or remove or cause to be altered or removed any weirs, sluices or other impediments or obstructions whatsoever therein or on the banks thereof.

(2) An agreement entered into under subsection (1) of this section may provide for the execution by the Essex Authority of works in, on, under or over that land for or in connection with or ancillary to the purposes mentioned in the said subsection, or any of them, including the widening, deepening, culverting, straightening, diverting, altering the course of, fencing or otherwise improving or maintaining any of the watercourses to which this section applies, and the filling in, wholly or partially, thereof.

(3) Paragraph 7 of Schedule 8 to the Act of 1963 (as applied to the exercise of compulsory powers under this Act by subsection (3) of section 41 (Application and extension of Act of 1963) of this Act) shall apply to the exercise of the powers of this section and shall apply to the exercise of compulsory powers.

PART II
—cont.

- (4) The watercourses to which this section applies are—
- (a) so much of the river Stour as lies between the termination of Work No. 10 and National Grid reference point TM 0422 3404;
 - (b) so much of the river Pant as lies between the termination of Work No. 21 and the junction of that river with river Blackwater; and
 - (c) so much of the river Blackwater as lies between the point of junction and National Grid reference point TL 8365 0900.

Agreements with owners of land and others for execution of works.

13. The appropriate authority may enter into and carry into effect agreements or arrangements with the drainage board or any drainage district or the owners of or other persons interested in any land in or through which the Great Ouse works or Essex works (as the case may be) are or may be constructed, the drainage of which may be affected by the construction of those works for or with respect to the execution of any works or the doing of any thing which may be rendered necessary or convenient by reason or in consequence of the exercise of powers of this Act. Any such agreement may provide for payment by the appropriate authority of or the making of contributions by them towards the cost incurred or to be incurred by any such drainage board, owners or other persons in or in connection with the execution of such last-mentioned works or the doing of any such thing or the payment by the appropriate authority of compensation for any injury suffered by such drainage board owners or other persons by reason or in consequence of the execution of the Great Ouse works or the Essex works (as the case may be).

Power to use bed and banks of water-courses.

14. The appropriate authority may for the purposes of the Great Ouse works or the Essex works (as the case may be) enter upon and use so much of the bed or bank of any watercourse as is within the limits of deviation of any of the said works shown on the deposited plans and as may be required for those purposes and they may also for the purposes of executing and placing temporary works and conveniences in connection with such works occupy and use temporarily so much of such bed and bank within the said limits as may be required for those purposes or any of them.

PART III

ABSTRACTIONS, IMPOUNDING WORKS AND DISCHARGES

Interpretation for purposes of Part III.

15. In this Part of this Act—
- “approved” means approved by the Water Resources Board;
 - “day” means a period of twenty-four hours reckoned from nine o'clock in the morning;

“gauge” means an automatically recording measuring gauge of approved design.

PART III
—cont.

16. Work A shall be constructed, maintained and operated by the Great Ouse Authority so that the level of the water in the Cut Off Channel immediately above that work is not at any time thereby retained at a level above one foot below Ordnance datum (Newlyn).

17.—(1) Subject to the provisions of this Act the Great Ouse Authority may take by means of the diversion sluice and channel (Work B) and divert into the Cut Off Channel water from the Ely Ouse river.

(2) The Great Ouse Authority may at any time so take and divert water at a rate equal to the amount by which the rate of flow in the Ely Ouse river at that time exceeds the prescribed rate of flow:

Provided that—

(a) the Great Ouse Authority shall not so take and divert water from the Ely Ouse river at any time when the rate of flow in the Ely Ouse river is equal to or less than the prescribed rate of flow;

(b) the Great Ouse Authority shall not so take and divert in any one day a quantity of water exceeding one hundred million gallons.

(3) The quantity of water so taken and diverted and the rate at which it is so taken and diverted shall be measured by a gauge on an approved site.

(4) The prescribed rate of flow shall be measured by one or more gauges on an approved site or sites or by some other approved method.

(5) In this section “the prescribed rate of flow” means—

(a) during the period between the 1st March and the 31st August, the rate of twenty-five million gallons per day; and

(b) during the period between the 1st September and the last day of February in the following year, the rate of seventy million gallons per day.

18.—(1) Subject to the provisions of this Act the Essex Authority may take by means of the intake (Work No. 1) and divert and appropriate for the purpose of augmenting the water resources of their area water from the Cut Off Channel.

(2) The Essex Authority may so take, divert and appropriate a quantity of water not exceeding—

(a) seventeen thousand five hundred million gallons in any period of eighteen months commencing on the 1st April in any year;

PART III
—cont.

(b) one hundred million gallons in any day:

Provided that the Essex Authority shall not so take, divert and appropriate any water from the Cut Off Channel when the level of water in the said channel at Work No. 1 is at or below 10 feet below Ordnance Datum (Newlyn).

(3) The quantity of water so taken, diverted and appropriated and the rate at which it is so taken, diverted and appropriated shall be measured at Work No. 3 by one or more gauges in any position or positions as may be agreed between the Authority or in default of agreement as may be approved.

Abstraction
from river
Stour.

19.—(1) Subject to the provisions of this Act the Essex Authority may take by means of the intake forming part of Work No. 1 and divert and appropriate water from the river Stour for the purpose of augmenting the flow of other watercourses in the said area.

(2) The Essex Authority may so take, divert and appropriate a quantity of water not exceeding—

- (a) three million four hundred thousand gallons in any hour;
- (b) eighty million gallons in any day;
- (c) thirteen thousand two hundred million gallons in any period of eighteen months commencing on the 1st January in any year:

Provided that—

- (a) no water shall be so taken, diverted and appropriated at any time when water is not being discharged into the river Stour;
- (b) the rate at which water is so taken, diverted and appropriated shall not at any time exceed the rate at which water is at that time being discharged into the river Stour or that at which it was being so discharged eighteen hours previously (whichever is the less);
- (c) no water shall be so taken, diverted and appropriated during the period of eighteen hours immediately following the commencement of a discharge of water into the river Stour.

(3) The quantity of water so taken, diverted and appropriated and the rate at which it is so taken, diverted and appropriated shall be measured at Work No. 11 by a gauge in an approved position.

(4) The rate at which water is discharged into the river Stour shall be deemed to be the same as the rate at which water is taken, diverted and appropriated from the Cut Off Channel by means of Work No. 1 as measured by the gauge at Work No. 11 referred to in subsection (3) of the last foregoing section.

(5) For the purposes of this section water discharged by means of Work No. 8 into the unnamed tributary of the river Stour

referred to in the description of Work No. 9 shall be deemed to have been discharged into the river Stour and the expression "discharge of water into the river Stour" shall be construed accordingly.

20.—(1) Works Nos. 12 and 12A shall be constructed, maintained and operated by the Essex Authority so that the level of the water in the river Stour immediately above either of those works is not at any time thereby retained at a level above 169 feet above Ordnance Datum (Newlyn). Works Nos. 12 and 12A.

(2) Work No. 12 shall also be operated so that water is allowed to flow down the northern channel of the river at a rate of not less than one million two hundred thousand gallons per day or the rate of the flow of the river immediately downstream of the sluice forming part of Work No. 11 (whichever is the less).

21.—(1) The provisions of section 17 (Abstraction from Ely Ouse river) of this Act shall be deemed to be included in a licence under the Act of 1963 granted to the Great Ouse Authority by the Minister, and those of section 18 (Abstraction from Cut Off channel) of this Act in such a licence granted to the Essex Authority by the Great Ouse Authority. Abstractions to be licensed under Act of 1963.

(2) Each such licence shall be deemed to have been granted on the passing of this Act and shall remain in force until revoked under the Act of 1963.

(3) Except as may be otherwise provided by this Act the provisions of the Act of 1963 shall apply to a licence deemed by the foregoing provisions of this section to have been granted under the Act of 1963 as they apply to a licence granted under that Act but the licence deemed to have been granted as including the provisions of the said section 18 shall not be invalidated on the grounds that if an application for the licence had been made under the Act of 1963 the Great Ouse Authority would have been precluded by subsection (2) of section 29 of that Act from granting the licence.

22.—(1) Work A and Work No. 13 shall be deemed to have been constructed under licences under section 36 of the Act of 1963 granted by the Minister to the Great Ouse Authority in the case of Work A and to the Essex Authority in the case of Work No. 13 and the provisions of section 16 (Work A) of this Act shall be deemed to be included in the licence under which Work A is deemed to have been constructed. Work A and Work No. 13 deemed to be constructed under impounding licences.

(2) Except as may be otherwise provided by this Act the provisions of the Act of 1963 relating to licences granted under section 36 of that Act shall apply to the licences deemed by the foregoing subsection to have been granted under that section as they apply to those so granted.

PART III
—cont.

Combined
licence for
Works Nos. 11,
12 and 12A.

23.—(1) The provisions of section 19 (Abstraction from Stour) and section 20 (Works Nos. 12 and 12A) of this Act be deemed to be included in and Works Nos. 12 and 12A to have been constructed under a combined licence under subsection (1) of section 37 of the Act of 1963 granted by the Minister to the Essex Authority.

(2) The said licence shall be deemed to have been granted at the time of the passing of this Act and shall remain in force until revoked under the Act of 1963.

Discharge of
water into
certain
watercourses.

24.—(1) The Great Ouse Authority may by means of Work No. 10 discharge water into the Cut Off Channel.

(2) The Essex Authority may by means of Work No. 11 discharge water into the unnamed tributary of the river Stour referred to in the description of Work No. 9 and by means of an aqueduct comprised in Work No. 19 discharge water into the river Pant.

Power to
divert
watercourses.

25.—(1) It shall be lawful for the appropriate authority to divert and alter the course or the flow of water in, into or out of any watercourse on any lands acquired or appropriated to the Great Ouse works or the Essex works (as the case may be) and the existing bed, banks and channels of the diverted portion of such watercourse shall by virtue of this Act vest in the appropriate authority and may be appropriated and used by the appropriate authority for the purposes of or in connection with those works.

(2) In the exercise of the powers conferred by this section the appropriate authority shall do as little damage as may be.

PART IV

LANDS

Power to
acquire land.

26.—(1) Subject to the provisions of this Act—

(a) the Essex Authority may enter upon, take and use any part of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the construction, maintenance and operation of the Essex works or other purposes connected therewith (including, without prejudice to the generality of the foregoing words, for the purpose of obtaining access thereto);

(b) the Great Ouse Authority may enter upon, take and use any part of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the construction, maintenance and operation of the Great Ouse works or other purposes connected therewith.

therewith (including, without prejudice to the generality of the foregoing words, for the purpose of obtaining access thereto).

PART IV
—cont.

(2) The powers of the Authorities for the compulsory acquisition of lands under this section shall cease after the expiration of three years from the 31st December, 1968.

27.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the appropriate authority after giving not less than seven days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the place where the land is situated for the correction thereof.

Correction of errors in deposited plans and book of reference.

(2) If on any such application it appears to the justices that the misstatement or wrong description arose from mistake, the justices shall certify the fact accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the Office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office of the House of Commons and with the clerk of the Cambridge and Isle of Ely County Council, the Essex County Council, the Norfolk County Council or the West Suffolk County Council (as the case may require), and a copy thereof shall be deposited with every clerk of a local authority and chairman of a parish council or parish meeting with whom a copy of the deposited plans (or so much thereof as includes the land to which the certificate relates) has been deposited in accordance with the standing orders of the Houses of Parliament or who has the custody of any copy so deposited, and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the appropriate authority to take the land and execute the works in accordance with the certificate.

(4) A person with whom a copy of the certificate is deposited under this section shall keep it with the other documents to which it relates.

28.—(1) Where a copy of this section is endorsed on, or annexed to, a notice to treat served under the Act of 1965, as applied by this Act, the following provisions of this section shall apply to the land subject to the notice instead of subsection (1) of section 8 (Parties not to be required to sell part of a house, &c.) of that Act.

Acquisition of part only of certain properties.

PART IV
—cont.

(2) Where the land subject to the notice is part only of a house building or factory, or part only of land consisting of a house together with any park or garden belonging thereto, then, if a person on whom the notice is served, within twenty-one days after the day on which the notice is served on him, serves on the appropriate authority a counter-notice objecting to the sale of the part and stating that he is willing and able to sell the whole (hereinafter in this section referred to as "the land subject to the counter-notice"), the question whether he shall be required to sell the part shall, unless the appropriate authority agree to take the land subject to the counter-notice, be referred to the tribunal.

(3) If the said person does not serve such a counter-notice as aforesaid within twenty-one days after the day on which the notice to treat is served on him, or if on such a reference to the tribunal the tribunal determine that the part subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice, or, in the case of part of land consisting of a house together with a park or garden belonging thereto, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the said person shall be required to sell the part.

(4) If on such a reference to the tribunal it determines that part only of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice, or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house, the notice to treat shall be deemed to be a notice to treat for that part.

(5) If on such a reference to the tribunal it determines that the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice but that the material detriment is confined to a part of the land subject to the counter-notice, the notice to treat shall be deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the appropriate authority are authorised to acquire compulsorily under this Act.

(6) If the appropriate authority agree to take the land subject to the counter-notice, or if the tribunal determine that—

(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder

of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice;

A notice to treat shall be deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the appropriate authority are authorised to acquire compulsorily under this Act.

(7) In any case where by virtue of a determination by the tribunal under subsection (4), (5) or (6) of this section a notice to treat is deemed to be a notice to treat for part of the land specified in the notice or for more land than is specified in the notice, the appropriate authority may, within six weeks after the tribunal make their determination withdraw the notice to treat, and if they do so shall pay to the said person compensation for any loss or expense occasioned to him by the giving and withdrawal of the notice, to be determined in default of agreement by the tribunal.

(8) Where a person is under this section required to sell part only of a house, building or factory, or of land consisting of a house together with any park or garden belonging thereto, the appropriate authority shall pay him compensation for any loss sustained by him due to the severance of that part in addition to the value of his interest therein.

29. In determining any question of disputed compensation under the Act of 1965, as applied by this Act, the tribunal shall take into account—

Disregard of recent improvements and interests.

(a) any works executed, improvement or alteration made, or building erected, or work done after the 5th December, 1967; or

(b) any interest in the land created after the said date;

which in the opinion of the tribunal was not reasonably necessary and was executed, made, erected or created with a view to obtaining or increasing the compensation or purchase money.

30.—(1) The appropriate authority may, instead of acquiring any land that they are authorised to acquire compulsorily under this Act, acquire compulsorily such easements and rights over or in the land as they may require for the purpose of constructing, using, maintaining, renewing or removing the works authorised by this Act or for the purpose of obtaining access to those works or for the purpose of doing any other thing necessary in connection with those works.

Power to acquire easements only.

PART IV
—cont.

(2) Accordingly, the appropriate authority may give notice to treat in respect of any such easement or right describing the nature thereof and may exercise the powers of this Act and "land" in Part I of the Act of 1965, as applied by this Act, includes such easements and rights as aforesaid.

(3) Where the appropriate authority have acquired an easement or right only in any land under this section—

(a) they shall not be required or, except by agreement during the execution of the works authorised by this Act, entitled to fence off or sever that land from the adjoining land;

(b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this section had not been enacted.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the appropriate authority to acquire the land, the appropriate authority shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house; and, if the tribunal does not so determine, the appropriate authority may acquire the land compulsorily notwithstanding that the period mentioned in subsection (2) of section 26 (Power to acquire land) of this Act has expired, but not later than one year after the determination of the tribunal.

Provided that nothing in this subsection shall apply to land forming part of a street.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

Easements
only to be
acquired by
Essex
Authority for
underground
works.

31. Notwithstanding anything in section 26 (Power to acquire land) or section 30 (Power to acquire easements only) of this Act the Essex Authority shall not purchase compulsorily any land for the construction of Works Nos. 2, 5, 5A, 5B, 5C, 14, 14A and 18 (other than any works to be constructed on the surface of the ground forming part of or connected with any of those works) if the owners thereof are able and willing to grant or sell to the Essex Authority such easements or rights in that land as may be sufficient for the purpose of constructing and

maintaining any such work as aforesaid at a price to be agreed or, in default of any such agreement, to be determined by arbitration in accordance with the provisions of the Act of 1961.

32. The power of the Authorities to purchase land by agreement shall include power to purchase land by agreement for the purpose of providing substituted sites or facilities for the owners and occupiers of land which may be acquired under this Act. Provision of substituted sites.

33.—(1) Any person empowered by the Act of 1965, as applied by this Act, to sell and convey or release lands may, if he thinks fit, subject to the provisions of the Act of 1965, grant to the appropriate authority any easement or right required for the purposes of this Act over or in the land, not being an easement or right of water in which some person other than the grantor has an interest. Grant of easements by persons under disability.

(2) The provisions of the Act of 1965 with respect to lands and rentcharges so far as they are applicable, shall extend and apply to any such grant and to any such easement or right as aforesaid.

34.—(1) The Authorities may enter into and carry into effect any agreement or arrangement with the owner or occupier of any land acquired or to be acquired under this Act with respect to its reinstatement. Power to reinstate owners or occupiers of property.

(2) Any such agreement may provide for the exchange of land; and for that purpose the Authorities may pay or receive money on equality of exchange.

35.—(1) The appropriate authority may enter into and carry into effect agreements with any person being the owner of, or interested in, any land adjoining any portion of the Great Ouse works or the Essex works (as the case may be) or of land which may be acquired by that authority under this Act with respect to the sale by the appropriate authority to him (subject to such reservations, restrictions or other provisions as to the appropriate authority seem fit) of any land not required for the said works. Agreements with adjoining owners.

(2) The appropriate authority may accept as satisfaction for the whole or any part of the consideration for any such sale the amount payable by the purchaser of any land required by the appropriate authority for the purposes of this Act or any easement or right so required.

PART V

FINANCE AND MISCELLANEOUS

Power to borrow.

36.—(1) The Authorities may borrow, without the consent of any sanctioning authority, for any of the purposes specified in the first column of the following table, the sum specified in relation thereto in the second column of that table.

(1) Purposes for which money may be borrowed	(2) Amount	(3) Maximum period for repayment of loan
(a) The purchase of lands, easements and rights for the Great Ouse works and the Essex works	The sum required	Sixty years.
(b) The construction of Works Nos. 2, 9, 10, 13 and 21	£3,770,000	Sixty years.
(c) The construction of Works A and B and Works Nos. 1, 3, 4, 5, 5A, 5B, 5C, 5D, 6, 7, 8, 11, 12, 12A, 14, 14A, 15, 16, 17, 18, 19 and 20, except pumping plant forming part of Works Nos. 3 and 11	£5,550,000	Fifty years.
(d) The provision of pumping plant	£1,623,000	Fifteen years.
(e) The payment out of capital of interest on moneys borrowed for, or in respect of, the foregoing purposes	The sum required	In relation to each of the following purposes, the period specified opposite thereto:— purpose (a) sixty years " (b) sixty years " (c) fifty years " (d) fifteen years
(f) The payment of the sums payable by the Authorities under section 51 (Costs of Act) of this Act	The sum required	Five years.

(2) Every sum borrowed under subsection (1) of this section shall be repaid within such period from the date of borrowing as the Authorities without the consent of any sanctioning authority may determine, not exceeding the period specified in relation thereto in the third column of the said table.

(3) The Authorities may also with the sanction of the Minister borrow such further sums as may be necessary for any of the purposes of this Act, and any sum borrowed under the powers of this subsection shall be repaid within such period, not exceeding sixty years, from the date of borrowing as the Authorities, with the consent of the Minister may determine.

PART V
—cont.

(4) The means by which the Authorities may raise the money which they are authorised to borrow under this section shall include the issue of stock or the issue of bonds and accordingly subsection (5) of section 92 of the Act of 1963 shall have effect if—

- (a) paragraph (b) of subsection (1) of section 196 and section 204 of the Local Government Act, 1933, were included among the provisions of that Act applicable to the borrowing of money under subsection (2) of the said section 92 and the said subsection (2) shall be construed accordingly; 1933 c. 51.
- (b) section 7 of and Schedule 1 to the Local Government (Financial Provisions) Act, 1963, were applicable to the borrowing of money under the said subsection (2); and 1963 c. 46.
- (c) the money borrowed under this Act was borrowed under that subsection.

37.—(1) The Essex Authority shall make such a contribution towards the cost of constructing the Great Ouse works and of acquiring any land or interest in land required for the purposes of those works as may be agreed between the Authorities or in default of agreement determined by arbitration. Contribution by Essex Authority to cost of the Great Ouse works.

(2) The Essex Authority may without the sanction of any sanctioning authority borrow such sum as may be requisite to pay the contribution which they are required to make under the foregoing subsection and subsections (2) and (4) of the last foregoing section shall apply to the borrowing of the sum as if it had been borrowed for the purpose of constructing the Great Ouse works.

38.—(1) (a) A local authority may lend to the Authorities and the Authorities may borrow from the local authority such money as the local authority think fit to lend and as the Authorities are authorised to borrow for the purpose for which such money is proposed to be borrowed and any money so lent shall be repaid to the local authority by the Authorities within the period prescribed by the sanctioning authority or otherwise for the payment thereof. Loans by local authorities.

(b) Any agreement under this subsection may be made by resolutions passed respectively by the local authority and by the authorities.

(c) A local authority may borrow such sums as may be required for the purpose of lending money to the Authorities under this subsection and the provisions of Part IX of the Local Government Act, 1933, shall extend to money borrowed by a local authority under this subsection as if it were borrowed under the said Part IX:

PART V
—cont.

Provided that the consent of the sanctioning authority shall be required.

(d) Every sum borrowed by a local authority under this section shall be repaid within the period to expire not more than one year after that for which the same was lent by them to the Authorities.

(e) A local authority shall be entitled to charge such rate of interest in respect of any particular loan under this subsection as may be agreed between the local authority and the Authority.

(2) In this section the expression "local authority" means a council of a county, county borough, borough or county district or the whole or any part of whose district is within the area of either of the Authorities.

Application of section 92 (6) of Act of 1963 to borrowing by Authorities for purposes of the Act.

39. Subsection (6) of section 92 of the Act of 1963 shall apply to any money borrowed by the Authorities for the purposes of this Act and the purpose consists of or includes the construction of buildings or other permanent works as it applies to money borrowed under subsection (2) of that section for such a purpose.

Saving for Borrowing (Control and Guarantees) Act, 1946. 1946 c. 58.

40. Nothing in the last four preceding sections of this Act shall be construed as authorising the borrowing of money in contravention of any order made under section 1 of the Borrowing (Control and Guarantees) Act, 1946, which is for the time being in force.

Application and extension of Act of 1963.

41.—(1) It is hereby declared that the Great Ouse works and the Essex works, being works to be constructed by the Authorities in the performance of their new functions, are engineering building operations and that in constructing those works and in the exercise of the other powers of this Act the Authorities shall have, in addition to the powers of this Act, all such powers as are conferred on them by the Act of 1963 in relation to engineering or building operations.

(2) The following provisions of the Act of 1963 so far as they are applicable for the purpose shall extend and apply to the exercise of the powers of this Act as if references in those provisions to the Act of 1963 were references to this Act:—

section 101 (Preservation of amenity and public rights of access);

section 123 (Application of Act to Crown);

section 130 (Provisions as to telegraphic lines).

(3) (a) Paragraph 7 of Schedule 8 to the Act of 1963 shall apply to the exercise of compulsory powers conferred by this Act as it applies to the exercise of compulsory powers conferred by an order under section 67 of the Act of 1963.

(b) The said paragraph 7 as so applied shall have effect as if—

(i) for references therein to the order there were substituted references to this Act; and

(ii) for references to the coming into operation of the order there were substituted references to the passing of this Act.

(4) Sections 19, 20 and 22 of the Third Schedule as applied generally to the Authorities by subsection (3) of section 69 of the Act of 1963 shall have effect as if the expression "main" included—

(a) any pipe used by the Authorities in the performance of any of their new functions; and

(b) discharge pipes or drains.

Discharge of water into streams.

42.—(1) For the purpose of constructing, altering, enlarging, repairing, cleaning, examining or operating any works carried out in the performance of their new functions the Authorities may cause the water in any such work to be discharged into any available watercourse and for that purpose may lay and maintain all necessary discharge pipes and apparatus.

(2) In the exercise of the powers conferred by this section the Authorities shall do as little damage as may be and shall pay compensation to all persons for any damage sustained by them or liability to which they may become subject by reason of the exercise of those powers and, for the purposes of this subsection, any extra expenditure which it becomes reasonably necessary for any public authority (including a statutory undertaker) to incur for the purpose of properly discharging their statutory functions shall be deemed to be damage sustained by them. Any question as to the amount of the compensation to be so paid shall be determined by arbitration.

(3) (a) The Authorities shall take all necessary steps to secure that any water discharged by them under this section shall be as free as may be reasonably practicable from mud and silt, from solid, polluting, offensive or injurious matters and from any matter prejudicial to fish or spawn, or to spawning beds or food of fish, and, if they fail to do so, shall be guilty of an offence.

(b) Sections 46 and 47 of the Water Act, 1945, shall apply to 1945 c. 42. any such offence as if it were an offence against that Act.

(4) Except in a case of emergency, and except in so far as may be otherwise agreed in writing between the Authorities and the other river authority, the following provisions shall have effect:—

(a) Not less than seven days before commencing to discharge any water into a watercourse within the area of some other river authority through a pipe exceeding nine inches in diameter the Authorities shall give notice of their intentions to the other river authority;

PART V
—cont.

(b) The Authorities shall have due regard to any representations which may be made to them by the river authority as to the time, mode and rate of discharge with a view to avoiding or minimising injury or inconvenience therefrom:

Provided that whenever the Authorities propose to discharge water on a number of occasions during a period, the giving them of a general notice to that effect, accompanied by particulars as it is reasonably practicable for them to give, constitute sufficient compliance by them with the provision paragraph (a) of this subsection.

Application of section 61 of Land Drainage Act, 1930.
1930 c. 44.

43. Section 61 of the Land Drainage Act, 1930, shall have effect in relation to the exercise of the powers of this Act (except those conferring powers of compulsory acquisition (as defined in subsection (7) of section 67 of the Act of 1963)) as it has effect in relation to the exercise of the powers of the said Act of 1930.

Application of section 145 of Local Government Act, 1933.
1933 c. 51.

44. The provisions of section 145 of the Local Government Act, 1933, shall apply with respect to the alteration of any watercourse under the powers of the following sections of this Act:—

section 7 (Power to Essex Authority to construct works);

section 8 (Subsidiary powers);

section 12 (Power to Essex Authority to improve and regulate flow of rivers Stour, Pant and Blackwater);

section 25 (Power to divert watercourses);

as if the alteration were done in the exercise of powers conferred by the Land Drainage Act, 1930.

For protection of Postmaster General.

45.—(1) Any electric mains, cables, wires, pumps, machinery or other works and apparatus made, provided and maintained under the provisions of this Act shall be so constructed, maintained and used as to prevent any interference with any telegraphic line belonging to or used by the Postmaster General or with telegraphic communication by means of such line.

(2) Where, in pursuance of the powers conferred by section 25 (Power to divert footpaths) of this Act, the Essex Authority stops up the whole, or any portion, of a footpath the following provisions of this subsection shall, unless otherwise agreed in writing between the Essex Authority and the Postmaster General, have effect in relation to so much of any telegraphic line belonging to, or used by, the Postmaster General as is under, in, upon, over, along or across the land which, by reason of the stopping up, ceases to be a footpath (in this subsection referred to as "the affected line") (that is to say):—

(a) The power of the Postmaster General to remove the affected line shall be exercisable notwithstanding that the

stopping up of the footpath, or portion of the footpath, so however that the said power shall not be exercisable as respects the whole, or any part, of the affected line after the expiration of a period of three months from the date of the sending of the notice referred to in subsection (3) of this section, unless, before the expiration of that period, the Postmaster General has given notice to the Essex Authority of his intention to remove the affected line or the part thereof, as the case may be;

- (b) The Postmaster General may, by notice in that behalf to the Essex Authority, abandon the affected line, or any part thereof, and shall be deemed, as respects the affected line, or any part thereof, to have abandoned it at the expiration of the said period of three months, unless before the expiration of that period he has removed it or given notice of his intention to remove it;
- (c) The Postmaster General shall be entitled to recover from the Essex Authority the expense of providing in substitution for the affected line, and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line, a telegraphic line in such other place as he may reasonably require;
- (d) Where under paragraph (b) of this subsection the Postmaster General has abandoned the whole, or any part, of the affected line it shall vest in the Essex Authority and the provisions of the Telegraph Acts, 1863 to 1962 shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

(3) As soon as practicable after the whole, or any portion, of a footpath has been stopped up in pursuance of the powers referred to in subsection (2) of this section the Essex Authority shall send by post to the Postmaster General a notice informing him of such stopping up.

(4) The exercise of the powers of section 11 (Temporary stopping up of watercourses, roads, footpaths and bridleways) of this Act in relation to any road, bridleway or footpath shall not prejudice or affect the right of the Postmaster General—

- (a) to maintain, inspect, repair, renew or remove any telegraphic line belonging to, or used by him, which, at the time of the stopping up, was under, in, upon, over, along or across that road, bridleway or footpath; or
- (b) for the purpose of such maintenance, inspection, repair, renewal or removal, to enter upon or break open that road, bridleway or footpath.

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1878 c. 76.

For protection
of Essex
Council.

(5) In this section "telegraphic line" has the same meaning as in the Telegraph Act, 1878.

46. The following provisions for the protection of the Essex Council shall, except as otherwise agreed in writing between the Essex Authority and the Essex Council, apply and have effect:

- (1) In this section, "specified works" means any of the Essex works if its construction affects any road, bridge, way, footpath, ford, bridge or culvert vested in the Essex Council, but does not include undertakers' works executed in a street;
- (2) The Essex Authority shall not, under the powers of this Act, acquire compulsorily any part of any lands vested in the Essex Council but the Essex Authority may in accordance with the provisions of section 30 (Power to acquire easements only) of this Act acquire compulsorily such easements and rights in any of such lands being lands delineated on the deposited plans and described in the deposited book of reference as they may reasonably require for the purposes of the Essex works;
- (3) (a) Before commencing to construct a specified work the Essex Authority shall submit to the Essex Council for their reasonable approval such plans, sections and particulars (including details of construction and method of construction) of the proposed work as the Essex Council may reasonably require;
- (b) If the Essex Council do not within twenty-eight days after receipt of such plans, sections and particulars give notice in writing to the Essex Authority signifying their disapproval thereof, they shall be deemed to have approved thereof;
- (c) A specified work shall be constructed in accordance with such plans, sections and particulars as may be approved (or are deemed to be approved) or, if the Essex Council have signified their disapproval thereof, as may be settled by arbitration;
- (d) The Essex Authority shall give reasonable notice to the Essex Council of the time at which the construction of such work is intended to be commenced;
- (e) A specified work when commenced shall be carried out with all reasonable dispatch and to the reasonable satisfaction of the surveyor to the Essex Council, and the Essex Authority shall at all reasonable times afford to the said surveyor access to such work for the purpose of inspection;

(f) The Essex Authority shall during the construction of a specified work and until the completion thereof, make and carry into effect such arrangements for lighting and watching the same (including the provision and working of traffic signs, light signals or manually operated stop-go signs) as may in the opinion of the Essex Council be reasonably necessary to prevent danger or accident to persons or vehicles using the highway:

(4) The Essex Authority shall repay to the Essex Council all expenses reasonably incurred by the Essex Council—

(i) in or about any strengthening, alteration, repair or renewal of any county road or county bridge, or of any ford, culvert or arch vested in the Essex Council which may be endangered or damaged by the passage of the traffic of the Essex Authority or of their contractors or servants in the exercise of the powers of this Act; and

(ii) in or about any alteration of any ford vested in the Essex Council rendered necessary by any raising of the level of the water flowing over the ford due to the discharge of water from any of the Essex works:

(5) Any difference which may arise between the Essex Authority and the Essex Council under this section shall be referred to and determined by a single arbitrator to be agreed upon between the parties or, failing agreement, appointed by the President of the Institution of Civil Engineers on the application of either party (after notice in writing to the other party).

7. For the protection of the British Railways Board (in this section referred to as "the board") the following provisions shall, unless in any case it is otherwise agreed between the Essex Authority and the board apply and have effect:—

For protection of British Railways Board.

(1) In this section—

"the railway" means any railway of the board any works connected therewith and includes any lands held or used by the board for the purposes of such railway or works;

"the works" means so much of any of the works authorised by section 7 (Power to Essex Authority to construct works) of this Act, and any works in connection therewith authorised by section 8 (Subsidiary powers) of this Act, as may be situate upon, across, under or over any railway of the board or may

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in any way affect the same and includes the construction, maintenance, repair and renewal of works;

“ the engineer ” means an engineer to be appointed by the board:

- (2) The Essex Authority shall not under the powers of the Act acquire compulsorily any lands of the board, they may acquire, and the board shall, if so required, grant to the Essex Authority, such easements, rights in the lands of the board, shown on the deposit plans as the Essex Authority may reasonably require for the purposes of the works:
- (3) The Essex Authority shall, before commencing works (other than works of maintenance and repair) furnish to the board proper and sufficient plans, sections, drawings and particulars thereof for the approval of the engineer, and shall not commence the works until such plans, sections, drawings and particulars shall have been approved by the engineer, or, in the case of difference between the engineer and the Essex Authority, they shall have been settled by arbitration:

Provided that—

(a) the approval of the engineer shall not be unreasonably withheld;

(b) if within twenty-eight days after such plans, sections, drawings and particulars have been furnished to the board the engineer shall not have intimated his approval or disapproval thereof, he shall be deemed to have approved them:

- (4) If within twenty-eight days after such plans, sections, drawings and particulars have been furnished to the board, the board shall give notice to the Essex Authority that in consequence of the nature of the works it is reasonably necessary that the board should construct any part of the works themselves, then if the Essex Authority desire that part of the works to be constructed, the board shall construct it with all reasonable dispatch on behalf of, and to the reasonable satisfaction of, the Essex Authority in accordance with the plans, sections, drawings and particulars, approved, or deemed to be approved or settled, as aforesaid (hereinafter in this section called “ the approved plans ”) and under the supervision (if given) of the Essex Authority and recover the reasonable cost of so doing from the Essex Authority:

(5) Upon signifying his approval or disapproval of the plans, sections, drawings and particulars the engineer may specify any temporary or permanent works which should be carried out before the commencement or during the construction of the works in order to ensure the stability of any railway of the board or to protect it from injury, and such temporary or permanent works as may be necessary for those purposes shall be constructed by the Essex Authority or by the board if the board so elect, with all reasonable dispatch, and the cost of constructing such protective works shall be paid by the Essex Authority and the Essex Authority shall not commence or (as the case may be) continue the construction of the works until the engineer shall have notified the Essex Authority that such temporary or permanent works have been completed to his satisfaction. The Essex Authority shall pay to the board a reasonable capitalized sum representing the cost of maintaining and renewing any such permanent protective works:

(6) The Essex Authority shall give to the engineer twenty-eight days' notice of their intention to commence the construction of any of the works and except in emergency (when they shall give such notice as may be reasonably practicable to the station master of the board's nearest station) also of their intention to carry out any works for the repair or maintenance of the works:

(7) The works shall, when commenced, be carried out with all reasonable dispatch in accordance with the approved plans and under the supervision (if given) and to the reasonable satisfaction of the engineer, and in such manner as to cause as little damage to the railway and as little interference with or delay or interruption to, the conduct of traffic on the railway, as may be; and if any damage to the railway, or any such interference, delay or interruption shall be caused or take place, the Essex Authority shall, notwithstanding any such approval as aforesaid, forthwith make good such damage and pay to the board the reasonable cost and expenses to which they may be put and reasonable compensation for any loss which they may sustain by reason of any such damage, interference, delay or interruption:

(8) The Essex Authority shall at all times afford reasonable facilities to the engineer for access to the works during their construction and shall supply him with all such information as he may reasonably require with regard to the works or the method of construction thereof:

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- (9) The board shall at all times afford reasonable facilities to the Essex Authority for access to any works carried out by the board under this section during their construction and supply the Essex Authority with all information as they may reasonably require with respect to such works or the method of construction thereof.
- (10) If any alterations or additions, either permanent or temporary, to the railway are necessary in consequence of the works, such alterations and additions may be effected by the board after notice has been given to the Essex Authority and the Essex Authority shall repay to the board the reasonable cost thereof, including any capitalized sum representing the increased or additional cost of maintaining, working and, when necessary, renewing any such alterations or additions:
- (11) The Essex Authority shall repay to the board all charges and expenses reasonably incurred by the board in connection with the works or the failure thereof—
- (a) in respect of the employment of any inspectors, signalmen, watchmen and other persons whom it may be reasonably necessary to appoint for inspecting, signalling, watching and lighting the railway, and for preventing as far as may be reasonably practicable any interference, obstruction, danger or accident arising from the works or the failure thereof;
 - (b) in respect of any special traffic working resulting from any speed restrictions which may, in the opinion of the engineer, require to be imposed or from substitution or diversion of services;
 - (c) in lighting the railway in the vicinity of the works; and
 - (d) in respect of the supervision by the engineer of the works:
- (12) The Essex Authority shall at all times after the construction of the works maintain them watertight in substantial repair, and good order and condition, and when necessary renew them to the reasonable satisfaction and under the supervision (if given) of the engineer, and if whenever the Essex Authority fail so to do after reasonable notice in that behalf, the board may make good in and upon the lands of the board or of the Essex Authority all such works and things as shall be required in that behalf, and the reasonable costs and expenses incurred by the board in so doing shall be repaid to them by the Essex Authority:

(13) Before providing any illumination or illuminated sign on or in connection with the works in the vicinity of the railway, the Essex Authority shall consult with the board and comply with any reasonable requirements of the board in regard thereto with a view to ensuring that such illumination or illuminated sign could not be confused with any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway:

(14) Any additional expense which the board may reasonably incur after giving twenty-eight days' notice to the Essex Authority in widening, altering, reconstructing or maintaining the railway in pursuance of any powers existing at the passing of this Act by reason of the existence of the works shall be repaid by the Essex Authority to the board:

(15) The Essex Authority shall be responsible for and make good to the board, all costs, charges, damages and expenses not otherwise provided for in this section which may be occasioned to the board—

(a) by reason of the construction of the works or the leakage, bursting or failure thereof, unless it is due to the wilful or negligent acts or omissions of the board or of any persons in their employ, or of their contractors or other persons who have entered on land of the board with their permission; or

(b) by reason of any act or omission of the Essex Authority or of any persons in their employ or of their contractors or others whilst engaged upon the works;

and the Essex Authority shall effectively indemnify and hold harmless the board from and against all claims or demands arising out of, or in connection with, the works or any such leakage, bursting or failure or act or omission as aforesaid, and the fact that any work or thing may have been done by the board on behalf of the Essex Authority or in accordance with any plan, section, drawings or particulars approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of the board or of any person in their employ or of their contractors or others whilst engaged upon the works) excuse the Essex Authority from any liability under the provisions of this section:

Provided that the board shall give to the Essex Authority reasonable notice of any claim or demand as

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aforesaid and no settlement or compromise thereof be made without the prior consent of the E Authority:

- (16) (a) In the application of the foregoing provisions of this section to a closed railway regard shall be had of the different considerations which apply to such railway and these considerations shall be taken into account by the board in making any requirements; the obligations of the Essex Authority shall be construed accordingly:
- (b) In this paragraph "a closed railway" means any railway of the board in respect of which rail services have, at the time being, been discontinued:
- (17) Any difference arising between the Essex Authority and the board under this section shall be referred to a single arbitrator to be agreed between the parties, failing agreement, to be appointed, on the application of either party, by the President of the Institution of Civil Engineers.

For protection of statutory undertakers.

48. For the protection of the undertakers the provisions of this section shall, unless otherwise agreed in writing between appropriate authority and the undertakers, apply and have effect:—

- (1) In this section unless the subject or context otherwise requires—

"adequate alternative apparatus" means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;

"apparatus" means—

(a) in the case of electricity undertakers, electrical lines or works (as respectively defined in the Electric Lighting Act, 1882) belonging to or lawfully laid or erected by such undertakers; or

(b) in the case of gas or water undertakers, apparatus belonging to such undertakers or for the maintenance of which they are responsible; and includes any structure for the lodging thereof; apparatus;

"in" in a context referring to apparatus includes under, over, across, along or upon;

"operational land" has the meaning assigned to that expression by section 221 of the Town and Country Planning Act, 1962;

"plan" includes a section and description;

"position" includes depth;

1882 c. 56.

1962 c. 38.

“ specified work ” means any work or thing done under the powers of this Act;

“ the undertakers ” means all or any of the following:—

- the Central Electricity Generating Board;
- the Eastern Electricity Board;
- the Gas Council;
- the Eastern Gas Board;
- the Ely, Mildenhall and Newmarket Water Board;
- the South Essex Waterworks Company;
- the Southend Waterworks Company;
- the West Suffolk Water Board;
- the Wisbech and District Water Board;

and in relation to the South Essex Waterworks Company and the Southend Waterworks Company includes any joint undertaking carried on by them:

(2) Notwithstanding anything in this Act or shown on the deposited plans, the appropriate authority shall not, under the powers of this Act, acquire any apparatus or operational land of the undertakers otherwise than by agreement:

(3) The powers conferred on the appropriate authority by paragraph (j) of subsection (1) of section 8 (Subsidiary powers) of this Act to alter apparatus shall not be exercised otherwise than in accordance with the provisions of this section:

(4) If the appropriate authority in the exercise of the powers of this Act acquire any interest in any land in which any apparatus is placed, that apparatus shall not be removed nor shall any right of the undertakers to use, maintain, repair, renew or inspect any apparatus in that land be extinguished until adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the undertakers:

(5) (a) If the appropriate authority for the purpose of the execution of any specified work, require the removal of any apparatus, they shall give to the undertakers written notice of such requirement with a plan of the proposed work;

(b) If the appropriate authority require the undertakers to remove any apparatus, or if in consequence of the execution of any specified work the undertakers shall reasonably require to remove any apparatus, the appropriate authority shall, if practicable, afford to the undertakers the necessary facilities and rights for the construction of adequate alternative apparatus in other

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lands of the appropriate authority and thereafter the maintenance, repair, renewal and inspection of such apparatus:

Provided that if the alternative apparatus or any part thereof is to be constructed elsewhere than in other lands of the appropriate authority and the appropriate authority are unable to afford such facilities and rights as aforesaid in the lands in which the alternative apparatus or such part thereof is to be constructed, the undertakers shall, on receipt of a written notice to that effect from the appropriate authority, forthwith use their best endeavours to obtain the necessary facilities and rights:

- (6) (a) Any alternative apparatus to be constructed in lands of the appropriate authority in pursuance of paragraph (5) of this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the appropriate authority or, in default of agreement, settled by arbitration;
- (b) The undertakers shall, after the manner of construction and the line and situation of any alternative apparatus has been agreed, or settled by arbitration, as aforesaid and after the grant to the undertakers of any such facilities and rights as are referred to in paragraph (5) of this section, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the appropriate authority to be removed under the provisions of this section and, in default, the appropriate authority may remove the apparatus:
- (7) Notwithstanding anything in paragraph (6) of this section, if the appropriate authority give notice in writing to the undertakers that they desire themselves to execute any part of so much of the work necessary in connection with the construction of the alternative apparatus or the removal of the apparatus required to be removed as will be situated in any lands of the appropriate authority, such work, in lieu of being executed by the undertakers shall be executed by the appropriate authority with all reasonable dispatch under the superintendence, if given, and to the reasonable satisfaction of the undertakers:

Provided that nothing in this paragraph shall authorise the appropriate authority to execute the actual placing, erection, installation, bedding, packing, removal, connection or disconnection of any apparatus or any filling around the apparatus (where the apparatus is laid in a trench) within 12 inches above the apparatus:

- (8) Where in accordance with the provisions of this section the appropriate authority afford to the undertakers facilities and rights for the construction, maintenance, repair, renewal and inspection in lands of the appropriate authority of alternative apparatus in substitution for apparatus to be removed as aforesaid, those facilities and rights shall be granted upon such terms and conditions as may be agreed between the appropriate authority and the undertakers or, in default of agreement, determined by arbitration:

Provided that—

(a) in determining such terms and conditions as aforesaid in respect of alternative apparatus to be constructed across or through a specified work the arbitrator shall—

(i) give effect to all reasonable requirements of the appropriate authority for ensuring the safety and efficient operation of the specified work and for securing any subsequent alterations or adaptations of the alternative apparatus which may be required to prevent interference with any such work; and

(ii) so far as it may be reasonable and practicable to do so in the circumstances of the particular case, give effect to any terms and conditions applicable to the apparatus constructed through the lands of the appropriate authority for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the appropriate authority in respect of any alternative apparatus, and the terms and conditions subject to which the same are to be granted are, in the opinion of the arbitrator, more or less favourable on the whole to the undertakers than the facilities, rights, terms and conditions applying to the apparatus to be removed, the arbitrator shall make such provision for the payment of compensation to or by the appropriate authority by or to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

- (9) (a) Not less than twenty-eight days before commencing to execute any specified work which is near to or is likely to affect any apparatus the removal of which has not been required by the appropriate authority under

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paragraph (5) of this section, the appropriate authority shall submit to the undertakers a plan of the work to be executed;

- (b) Such work shall be executed only in accordance with the plan submitted as aforesaid and in accordance with such reasonable requirements as may be made by the undertakers for the alteration or otherwise for the protection of the apparatus, or for securing access thereto and the undertakers shall be entitled by their officer to watch and inspect the execution of such work:

Provided that—

(i) if the undertakers within fourteen days after the submission to them of any such plan shall in consequence of the work proposed by the appropriate authority, reasonably require the removal of any apparatus and give written notice to the appropriate authority of such requirement the foregoing provisions of this section shall apply and have effect as if the removal of such apparatus had been required by the appropriate authority under paragraph (5) thereof, and

(ii) nothing in this sub-paragraph shall preclude the appropriate authority from submitting at any time or from time to time, but in no case less than twenty-eight days before commencing the execution of any such work, a new plan in lieu of the plan previously submitted and thereupon the provisions of this paragraph shall apply to and in respect of such new plan;

- (c) The appropriate authority shall not be required to comply with sub-paragraph (a) of this paragraph in a case of emergency but, in such a case, they shall give to the undertakers notice as soon as reasonably practicable and a plan of the work as soon as reasonably practicable thereafter and shall comply with sub-paragraph (b) of this paragraph so far as reasonably practicable in the circumstances:

- (10) Where any footpath in which any apparatus is situated has been permanently stopped up or diverted by the appropriate authority under the powers of section 9 (Stopping up of footpath) or section 10 (Power to divert footpaths) of this Act, the undertakers shall, notwithstanding such stopping up or diversion, continue to have the same powers and rights in respect of the apparatus remaining in the land which by reason of the stopping up or diversion has ceased to be a footpath.

as they would have if it had remained a footpath and no such rights shall be extinguished by virtue of the said sections 9 and 10 but nothing in this paragraph shall prejudice or affect any right of the appropriate authority or of the undertakers, to require removal of such apparatus under this section:

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(11) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the appropriate authority shall provide an alternative means of access to such apparatus:

(12) The appropriate authority shall repay to the undertakers the reasonable costs, charges and expenses incurred by the undertakers in or in connection with—

(a) the removal and relaying or replacing, alteration or protection of any apparatus or the provision and construction of any new apparatus under any of the provisions of this section;

(b) the cutting off of any apparatus from any other apparatus; and

(c) any other work or thing rendered reasonably necessary in consequence of the exercise by the appropriate authority of any of the powers of this Act:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act, 1950 (which 1950 c. 39. imposes limitations on undertakers' rights to payment), shall so far as applicable extend and apply to any payment to be made by the appropriate authority under this paragraph as if the appropriate authority were the promoting authority and works hereinbefore in this paragraph mentioned were such undertakers' works as are referred to in the said subsection (3) and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or settled by arbitration under section 48 (For protection of statutory undertakers) of the Ely Ouse-Essex Water Act 1968":

(13) If by reason or in consequence of the execution, user or failure of any of the specified works or any subsidence resulting from any of those works any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of the

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undertakers or any interruption in the supply of electricity, gas or water (as the case may be) by the undertakers shall be caused, the appropriate authority shall bear and pay the cost reasonably incurred by the undertakers in making good such damage, and shall—

(a) make reasonable compensation to the undertakers for any loss sustained by them; and

(b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by the undertakers;

by reason or in consequence of any such damage or interruption:

Provided that—

(i) nothing in this paragraph shall impose any liability on the appropriate authority with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of the undertakers or their contractors or workmen:

(ii) the undertakers shall give to the appropriate authority reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the appropriate authority:

(14) The temporary stopping up or diversion of any road, bridleway or footpath under the powers of section 1 (Temporary stoppage of watercourses, roads, footpaths and bridleways) of this Act shall not prevent the undertakers from obtaining access to any apparatus not in prejudice or affect any right of the undertakers—

(a) to lay, erect, maintain, inspect, repair, renew or remove any apparatus in the road, bridleway or footpath; or

(b) for the purpose of such laying, erection, maintenance, inspection, repair, renewal or removal to enter upon or break open that road, bridleway or footpath:

(15) The foregoing provisions of this section shall have effect in lieu of—

(a) the provisions of section 61 of the Land Drainage Act, 1930 (as applied by section 43 (Application of section 61 of Land Drainage Act, 1930) of this Act), and accordingly the consent of the

undertakers under the said section 61 shall not be required to the doing by the appropriate authority of a specified work which, whether directly or indirectly, interferes or will interfere with, or with the use of, apparatus; and

(b) the provisions of section 26 of the Public Utilities Street Works Act, 1950, in so far as such provisions would otherwise have effect as regards any specified work in relation to apparatus: 1950 c. 39.

(16) (a) Any difference which may arise between the appropriate authority and the undertakers under this section shall be determined by arbitration;

(b) In settling any difference under this section the arbitrator may, if he thinks fit, require the appropriate authority to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

19. For the further protection of the South Essex Waterworks Company and the Southend Waterworks Company (in this section referred to as "the companies" which expression shall mean the companies severally or jointly as the context may require) the following provisions shall, unless otherwise agreed in writing between the Essex Authority and the companies apply and have effect:— For further protection of South Essex and Southend Waterworks Companies.

(1) The Essex Authority shall not exercise the powers of section 11 (Temporary stoppage of watercourses, roads, footpaths and bridleways) of this Act so as appreciably to obstruct or interfere with the abstraction of water by the companies or the access to or exit from any property (including works) of the companies:

(2) The Essex Authority shall not exercise any of the powers conferred on them by section 12 (Power to Essex Authority to improve and regulate flow of rivers Stour, Pant and Blackwater) of this Act within a distance of 100 yards upstream or 100 yards downstream of any pipeline of the companies or within a distance of 200 yards upstream and 100 yards downstream of any intake, weir or sluice of the companies without the prior consent of the companies, which consent may be given subject to such reasonable conditions as the companies think fit, but such consent shall not be unreasonably withheld, and the exercise of such powers shall be carried out under the supervision of the engineer to the companies if the engineer elects to supervise after receiving not less than fourteen days' notice of the date when the exercise of such powers is to be commenced:

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(3) The Essex Authority shall at all times keep the companies indemnified against all claims, demands, proceedings, costs, damages and expenses which they may sustain or be liable for or reasonably and properly incur by reason or in consequence of any injury or damage which may be caused or result to any works of the companies by or in consequence of or in connection with the exercise of the powers of the said section 12 by the Essex Authority:

(4) Any difference arising between the Essex Authority and the companies under this section (other than a difference as to the meaning or construction of this section) shall be settled by arbitration.

Saving for town and country planning. 1962 c. 38.

50. The provisions of the Town and Country Planning Act 1962, and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is, or may be, authorised or regulated by or under this Act.

Costs of Act.

51. The costs, charges and expenses preliminary to, and incidental to, the applying for and the preparing, obtaining and passing of this Act shall be paid by the Authorities in such proportions as may be agreed between them or in default of agreement determined by arbitration and the amount so payable by each of those authorities shall be paid out of moneys to be borrowed for that purpose or out of any moneys in their hands.

SCHEDULES

SCHEDULE 1

PROVISIONS OF THE THIRD SCHEDULE APPLIED

Provisions applied (1)	Modifications (2)
Section 2 (Permissible limits of deviation)	For the words " the plans submitted to the Minister " there shall be substituted the words " the deposited plans " and for the words " the said plans " wherever they occur there shall be substituted the words " the deposited sections ".
Section 6 (Penalty for obstruction of works)	—
Section 83 (Penalty for obstructing execution of special Act)	—
Section 85 (Summary proceedings for offences)	—
Section 91 (Mode of reference to arbitration)	—
Section 94 (Copies of special Act to be kept by undertakers in their office, and deposited with certain officers)	—

SCHEDULE 2

LANDS IN RESPECT OF WHICH POSSESSION CAN BE TAKEN AFTER NOTICE
TO TREAT ON GIVING NOT LESS THAN FOURTEEN DAYS' NOTICE

Area (1)	No. on deposited plan (2)
In the county of Norfolk— In the parish of Hockwold cum Wilton in the rural district of Downham	1, 2, 17, 18 and 19.
In the county of West Suffolk— In the parish of Lakenheath in the rural district of Mildenhall	27.
In the parish of Mildenhall in the rural district of Mildenhall	12, 13 and 14.
In the parish of Worlington in the rural district of Mildenhall	32 and 34.
In the county of Cambridgeshire and Isle of Ely— In the parish of Kennett in the rural district of Newmarket	12, 13 and 14.

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