

Medway Water (Bewl Bridge Reservoir) Act 1968

CHAPTER xxxiii

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ELIZABETH II



1968 CHAPTER xxxiii

An Act to authorise the Medway Water Board to construct works and to acquire lands; to empower the Board and the Mid Kent Water Company to enter into agreements for certain purposes; and for other purposes.

[26th July 1968]

WHEREAS—

(1) By the Medway Water Act and Orders 1955 to 1966 the Medway Water Board (hereinafter referred to as "the Board") are the authorised undertakers for the supply of water within an area which includes the boroughs of Chatham, Gillingham, Gravesend and Queenborough-in-Sheppey; the city of Rochester; the urban districts of Northfleet, Sittingbourne and Milton; and parts of the rural districts of Hollingbourn, Malling, Strood and Swale:

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(2) The demand for water within the limits of supply of the Board and for supplies by them of water in bulk has increased, is increasing and is likely further to increase:

(3) With a view to ensuring that the Board shall be and continue to be in a position to meet the demands made upon them for the supply of water it is expedient that the Board should be empowered to construct the works described in this Act and to take, divert, impound and abstract waters from certain rivers and streams by means of such works:

(4) It is expedient to provide for the supply of water to the Mid Kent Water Company (hereinafter referred to as "the Company") from the said works and to provide for agreements to be made between the Board and the Company relative thereto:

(5) Consultation has taken place with the Kent River Authority before the formulation of the scheme of works authorised by this Act to meet the immediate needs of the Board and the Company for additional water resources:

(6) It is expedient that the Board should be empowered to acquire lands and easements for the purpose of the construction of the said works and for other purposes:

(7) Estimates have been prepared for the purposes hereinafter mentioned and such estimates are as follows:—

(a) The construction of the works authorised by this Act	£4,073,000
(b) The provision of mains for the purposes of the undertaking of the Board	£841,000

(8) The works included in such estimates are permanent works and it is expedient that the cost thereof should be spread over a number of years:

(9) It is expedient that the other provisions in this Act should be enacted:

(10) The objects of this Act cannot be effected without the authority of Parliament:

(11) In relation to the promotion of the Bill for this Act the requirements of section 120 (Power for a board to apply for further powers etc.) of the Kent Water Act, 1955, have been observed:

1955 c. xi.

(12) Plans and sections showing the lines and levels of the works authorised by this Act and showing the lands required or which may be taken for the purposes or under the powers of this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands were in the month of February, 1968,

deposited in the office of the Clerk of the Parliaments and in the Private Bill Office, House of Commons, with the clerk of the county council of the administrative county of East Sussex and with the clerk of the county council of the administrative county of Kent which plans, sections and book of reference are in this Act referred to respectively as the deposited plans, sections and 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.—(1) This Act may be cited as the Medway Water (Bewl Bridge Reservoir) Act 1968. Short and collective titles.

(2) The Medway Water Act and Orders, 1955 to 1966, and this Act may be cited together as the Medway Water Acts and Orders, 1955 to 1968.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Works.

Part IV.—Abstraction and discharge of water.

Part V.—Finance.

Part VI.—Protective provisions.

Part VII.—Miscellaneous.

Division of Act into Parts.

3.—(1) In this Act, unless the context otherwise requires, the expressions to which meanings are assigned by the Third Schedule have the same respective meanings; and— Interpretation

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

“ the appointed day ” means such day as the Board may by resolution determine to be the day on and after which they are able to discharge water from the reservoir in pursuance of subsection (2) of section 28 (Discharge of water from reservoir) of this Act;

“ the Board ” means the Medway Water Board;

“ bridleway ” has the same meaning as in section 295 of the Highways Act, 1959; 1959 c. 25.

“ the capital cost of construction ” has the meaning assigned thereto by section 38 (Capital cost of construction of joint works) of this Act;

“ the Company ” means the Mid Kent Water Company;

PART I
—cont.

- “ the county councils ” means the East Sussex County Council and the Kent County Council;
- “ day ” means a period of twenty-four hours reckoned from 9 o'clock in the morning;
- “ the East Sussex County Council ” means the county council of the administrative county of East Sussex;
- “ Eccles Lake ” means the flooded clay pit adjacent to the former Burham Cement Works near Bull Lane, Eccles, in the parish of Aylesford in the rural district of Malling, in the county of Kent;
- 1959 c. 25. “ footpath ” has the same meaning as in section 295 of the Highways Act, 1959 ;
- “ highway maintainable at the public expense ” has the same meaning as in section 295 of the Highways Act, 1959 ;
- 1955 c. xi. “ the joint works ” means the works authorised by section 13 (Power to construct works) of this Act and all works (including trunk mains constructed by the Board under the powers conferred on them by the Kent Water Act, 1955, but excluding any trunk mains from the Burham Treatment Works (Work No. 9), to the Board's area of supply) subsidiary thereto and also includes Eccles Lake;
- “ the Kent County Council ” means the county council of the administrative county of Kent;
- 1962 c. 38. “ local planning authority ” has the same meaning as in the Town and Country Planning Act, 1962;
- “ maintain ” includes repair and “ maintenance ” and “ maintained ” shall be construed accordingly;
- “ the Minister ” means—
- (a) for the purposes of Part III (Works) of this Act the Minister of Transport; and
- (b) in all other cases the Minister of Housing and Local Government;
- “ the reservoir ” means the Bewl Bridge Reservoir (Work No. 1);
- “ the river authority ” means the Kent River Authority;
- “ the Teston Weir ” means the river gauging station comprised in the Teston Weir of the river authority in the parishes of Teston and West Farleigh in the rural district of Maidstone in the county of Kent;
- 1945 c. 42. “ the Third Schedule ” means the Third Schedule to the Water Act, 1945;
- “ the tribunal ” means the Lands Tribunal; and
- “ the undertaking ” means the undertaking of the Board as for the time being authorised.

(2) Unless the context otherwise requires any reference in this Act to—

- (a) any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment including this Act;
- (b) a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Act.

(3) All distances and lengths stated in any description of works, powers or lands shall be construed as if the words “ or thereabouts ” were inserted after each such distance or length.

4.—(1) For the purposes of this Act the provisions of the Third Schedule which are specified in column (1) of Schedule 1 to this Act shall apply to the undertaking and are hereby incorporated with this Act subject to the modifications specified in column (2) thereof. Application and incorporation of enactments.

(2) (a) The provisions of the Railways Clauses Consolidation Act, 1845, with respect to the temporary occupation of lands near the railway during the construction thereof are hereby incorporated with this Act subject to the provisions of paragraph (c) of this subsection and to the modification that for the words “ the period by the special Act limited for the completion of the railway ” there shall be substituted the words “ the period of three years from the commencement of the construction of any of the works authorised by the special Act ”. 1845 c. 20.

(b) For the purposes of section 30 of the Railways Clauses Consolidation Act, 1845, as so incorporated with this Act, the prescribed limits shall be 750 yards distant from the centre of the railway.

(c) In the construction of the provisions of the Railways Clauses Consolidation Act, 1845, incorporated with this Act—

“ the company ” shall mean the Board;

“ the railway ” shall mean the works authorised by section 13 (Power to construct works) of this Act; and

“ the centre of the railway ” shall mean the centre of any such works respectively, or, in the case of the reservoir, the boundaries of the reservoir.

(3) Part I of the Compulsory Purchase Act 1965 (except section 4, subsection (5) of section 24, section 27 and paragraph 3 of Schedule 3 thereof) in 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 1965 c. 56.

PART I
—cont.
1946 c. 49. 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.

1965 c. 56. (4) In subsection (1) of section 11 of the Compulsory Purchase Act 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than fourteen days' notice) as so applied for the words "fourteen days" there shall be substituted the word "three months".

1845 c. 18. (5) The Lands Clauses Consolidation Act, 1845, shall not apply to the acquisition of land under this Act.

PART II LANDS

Power to
acquire lands.

5.—(1) Subject to the provisions of this Act, the Board may enter upon, take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as they may require for the purpose of the works authorised by this Act or other purposes connected therewith including, without prejudice to the generality of the foregoing words, for the purposes of obtaining access thereto and of obtaining materials for the construction thereof.

(2) The powers of the Board for the compulsory acquisition of lands under this section shall not be exercised after the 31st December, 1971.

Correction of
errors in
deposited plans
and book of
reference.

6.—(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 Board, after giving not less than ten 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.

(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, House of Commons, and with the clerk of the Kent County Council or the East Sussex County Council (as the case may require) and 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 such copy so deposited, and thereupon the deposited plans and the deposited book of reference shall be deemed to be directed according to the certificate, and it shall be lawful for the Board to take the land and execute the works in accordance with the certificate.

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

7. In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Act, the tribunal shall not take into account any interest in land, or any enhancement of the value of any interest in land, by reason of any building erected, works executed or improvement or alteration made, whether on the land acquired or on any other land with which the claimant is, or was at the time of the erection, executing or making of the building, works, improvement or alteration, directly or indirectly concerned, if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works, or the making of the improvement or alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

Disregard
of recent
improvements
and interests.

8.—(1) All private rights of way over any land which may be acquired compulsorily under this Act shall, as from the acquisition of the land, whether compulsorily or by agreement, be extinguished.

Extinction
of private
rights of way.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid by the Board compensation, to be determined, in case of dispute, under, and in accordance with, the Land Compensation Act, 1961.

1961 c. 33.

9.—(1) The Board 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 the works or for the purpose of doing any other thing necessary in connection with the works.

Power to
acquire
easements
only.

(2) Accordingly the Board may give notice to treat in respect of any such easement or right describing the nature thereof; and "land" in the Compulsory Purchase Act 1965 as applied by this Act includes such easements and rights as aforesaid.

1965 c. 56.

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

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

PART II
—cont.

(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 Board to acquire the land, the Board 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 Board may acquire the land compulsorily notwithstanding that the three years mentioned in subsection (2) of section 5 (Power to acquire lands) of this Act has expired, but not later than one year after the determination of the tribunal.

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

Provision of substituted sites.

10. The power of the Board 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 that may be acquired under this Act.

Power to reinstate owners or occupiers of property.

11.—(1) The Board may enter into and carry into effect an agreement or arrangement with the owner, lessee or occupier of any land acquired or to be acquired under this Act with respect to his reinstatement.

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

Agreements with adjoining owners.

12.—(1) The Board may enter into and carry into effect agreements with any person being the owner of, or interested in, any land abutting on any portion either of the works authorised by this Act or of land that may be acquired under this Act with respect to the sale by the Board to him of any land, including any part of a street or highway, appropriated by the Board under this Act and not required for those works.

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

PART III

WORKS

13.—(1) Subject to the provisions of this Act, the Board may Power to
instruct and maintain in the lines and situations shown on the construct
deposited plans and according to the levels shown on the deposited works.
actions and upon the lands delineated on those plans the following
works in the counties of East Sussex and Kent:—

In the rural districts of Tonbridge, Uckfield, Cranbrook and
Battle—

Work No. 1 An impounding reservoir (in this Act called
“the Bewl Bridge Reservoir”) in the parish of
Lamberhurst in the rural district of Tonbridge, in the
parish of Wadhurst in the rural district of Uckfield,
in the parish of Ticehurst in the rural district of Battle
and in the parish of Goudhurst in the rural district of
Cranbrook to be formed by means of an embankment
or dam across the river Bewl commencing in the parish
of Ticehurst in the enclosure numbered 1037 on the
1/2500 ordnance map of Sussex (East) sheet XIX.1
(Edition of 1909) and terminating in the parish of
Goudhurst in the enclosure numbered 1500 on the
1/2500 ordnance map of Kent sheet LXIX.12 (Revised
edition 1936):

In the rural district of Battle—

Work No. 2 An access road (including an improvement
of an existing access road) in the parish of Ticehurst
commencing at a point on Ward’s Lane 707 yards
south-west of the junction between Ward’s Lane and
Hook Hill and terminating at Bryant’s Farm;

Work No. 3 An access road in the parish of Ticehurst
commencing at a point on Birchett’s Green Lane
200 yards west of Lower Tolhurst and terminating
at Tilehouse Bungalow in Claphatch Lane 135 yards
south-east of Claphatch Bridge;

Work No. 4 An access road in the parish of Ticehurst
commencing at a point on Huntley Mill Road at
Threeleg Cross 210 yards north-east of the Bull Inn
including an improvement of the footpath leading
from that road to Upper Hazelhurst and terminating
at Upper Hazelhurst Farm by a junction with the
bridleway leading from Lower Hazelhurst to Upper
Hazelhurst:

In the rural district of Cranbrook—

Work No. 5 An access road in the parish of Goudhurst
commencing at a point on Rosemary Lane 200 yards
north of the bridge over the river Bewl and terminating
at Rosemary Farm:

PART III
—cont.

In the rural districts of Battle and Cranbrook—

Work No. 6 A road diversion in the parish of Ticehurst in the rural district of Battle and in the parish of Goudhurst in the rural district of Cranbrook being a raising on to an embankment of Rosemary Lane commencing in the said parish of Ticehurst at a point 195 yards south of the bridge over the river Bewl and terminating in the said parish of Goudhurst at a point 250 yards north of the said bridge:

In the rural districts of Tonbridge and Cranbrook—

Work No. 7 An intake from the river Teise and a pumping station (in this Act called “the Smallbridge Intake and Pumping Station”) in the parish of Horsmonden in the rural district of Tonbridge and in the parish of Goudhurst in the rural district of Cranbrook the said intake being situated in the left bank of the river Teise at a point 30 yards north of the bridge over the said river at Smallbridge on the road from Goudhurst to Horsmonden;

Work No. 7A A weir across the river Teise in the parish of Horsmonden in the rural district of Tonbridge and in the parish of Goudhurst in the rural district of Cranbrook at a point 78 yards north of the said bridge over the said river at Smallbridge:

In the borough of Maidstone—

Work No. 8 An intake from the river Medway and a pumping station (in this Act called “the Springfield Intake and Pumping Station”) the said intake being situated in the right bank of the river Medway at a point 70 yards upstream of Monckton’s Lane:

In the rural district of Malling—

Work No. 9 Treatment works and pumping stations (in this Act called “the Burham Treatment Works”) in the parish of Burham situated in the enclosures numbered 6300, 6105, 6229, 7035, 7433, 6441, 7360 and 6255 on the 1/2500 ordnance maps TQ.7160 and TQ.7161;

Work No. 9A An intake and line or lines of pipes or conduit in the parishes of Aylesford and Burham commencing in the parish of Aylesford in Eccles Lake and terminating in the parish of Burham in the Burham Treatment Works (Work No. 9);

Work No. 10 A new road in the parish of Burham in substitution for the highway between Burham Court and the former Burham Cement Works commencing at a point 640 yards north of Rose Cottage and terminating 320 yards north of the said cottage.

(2) In addition to or as part of the foregoing works the Board may—

- (a) make and maintain on any land for the time being belonging to them and adjacent to the reservoir bridleways and footpaths for the use or convenience of persons visiting the reservoir;
- (b) carry out such improvements to Eccles Lake as may be necessary or convenient.

14.—(1) The Board may stop up the roads, bridleways and footpaths in the rural districts of Battle and Uckfield in the county of East Sussex and in the rural districts of Cranbrook and Malling in the county of Kent referred to in the next following table, so far as the same are shown on the deposited plans as intended to be stopped up, and thereupon all rights of way over the said roads, bridleways and footpaths shall be extinguished and the Board may appropriate and use for the purposes of the undertaking the site of any road, bridleway or footpath so stopped up:—

Letters on deposited plans denoting road, bridleway or footpath to be stopped up	Road, bridleway or footpath	Parish	Numbers on deposited plans of lands traversed by road, bridleway or footpath
a—b—c—a ₁	Bridleway	Wadhurst Ticehurst	80, 76. 341, 333, 324, 87, 85, 98, 101, 79, 102, 343.
b—b ₁	Footpath	Goudhurst	53, 51, 44, 46.
c—c ₁	Bridleway	Goudhurst Ticehurst	44. 116.
d—d ₁	Road	Wadhurst Ticehurst	79. 346.
e ₁ —e ₂	Footpath	Wadhurst Ticehurst	22, 23, 34, 35. 29.
e ₁ —e ₃	Footpath	Ticehurst	3, 5, 6, 27, 29.
h—h ₁	Footpath	Ticehurst	2.
m—m ₁	Road	Ticehurst	345.
n—a ₁ —n ₁	Road	Ticehurst	343, 344.
o—o ₁	Bridleway	Ticehurst	107.
q—q ₁	Footpath	Ticehurst	251.
q—o ₁ —r ₁ —q ₂	Road	Ticehurst	348.
x ₁ —x ₂	Footpath	Burham	2.
y—y ₁	Footpath	Burham	2.

(2) The Board may also stop up so much of any other roads, bridleways and footpaths in the parishes of Ticehurst, Goudhurst, Burham, Lamberhurst and Wadhurst in the rural districts of Battle, Cranbrook, Malling, Tonbridge and Uckfield respectively, as may be situate on any lands acquired by the Board under the powers of this Act and thereupon all public rights of way over any such roads, bridleways and footpaths shall be extinguished and the Board may appropriate and use for the purposes of the undertaking the site of any road, bridleway or footpath so stopped up.

(3) No road, bridleway or footpath shall be stopped up under the powers of subsection (2) of this section without the consent of the East Sussex County Council or the Kent County Council (as the case may be):

PART III
—cont.

Provided that such consent shall not be unreasonably withheld, and any question whether it is unreasonably withheld shall be determined by the Minister.

(4) No road, bridleway or footpath shall be stopped up under the powers of this section until the Board are owners in possession of all lands abutting on both sides of such road, bridleway or footpath along the complete length to be stopped up except so far as the owners, lessees and occupiers of those lands may otherwise agree.

Diversion of
highways.

15.—(1) The Board may divert the road, bridleway and footpaths in the rural districts of Battle and Uckfield in the county of East Sussex and in the rural district of Cranbrook in the county of Kent referred to in the next following table in the manner shown upon the deposited plans and subject to the provisions of this Act may stop up so much of the said road, bridleway and of each of the said footpaths as will be rendered unnecessary by the diversion of such road, bridleway or footpath under the powers of this Act and thereupon all rights of way over the said road, bridleway and footpaths shall be extinguished and the Board may appropriate and use for the purposes of the undertaking the site of any road, bridleway or footpath so stopped up:—

Letters on deposited plans denoting road, bridleway or footpath to be diverted	Road, bridleway or footpath	Parish	Numbers on deposited plans of lands traversed by road, bridleway or footpath
f—f ₁	Footpath	Wadhurst	3, 9, 21.
j—j ₁	Footpath	Wadhurst	69, 39.
k—k ₁	Footpath	{ Wadhurst	39.
l—l ₁	Footpath	{ Ticehurst	16.
p—w—p ₁	Bridleway	{ Ticehurst	1, 17, 18.
q ₂ —q ₁ —q ₃	Footpath	{ Ticehurst	349, 264.
t—t ₁	Road	{ Goudhurst	1, 10, 16, 18, 19, 21.
		{ Ticehurst	251, 249, 252.
		{ Goudhurst	70.
		{ Ticehurst	347.

(2) (a) Notwithstanding anything in subsection (1) of this section where a road, bridleway or footpath is to be diverted the existing road, bridleway or footpath shall not be stopped up under the powers of this section until the highway authority concerned are satisfied that the new road, bridleway or footpath to be substituted therefor has been completed in accordance with their reasonable requirements and is open for public use or, in case of any difference between the Board 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 and he has certified that the new road, bridleway or footpath has been completed in accordance with his determination:

provided that the Board shall not be required under this section to construct or complete any new road, bridleway or footpath to a greater width or better standard than the road, bridleway or footpath for which such new road, bridleway or footpath is substituted.

b) Before applying to the Minister for his determination, the Board shall give to the highway authority seven days' notice in writing of their intention so to do.

(3) As from the date of completion to the satisfaction of the highway authority of any such diverted road, bridleway or footpath as from the date of the certificate of the Minister (as the case may be) all rights of way over or along the road, bridleway or footpath so stopped up shall be extinguished and the Board may appropriate and use, for the purposes of the undertaking, the site and soil thereof so far as they are owners of the land on both sides thereof.

(4) Except as otherwise provided in section 21 (Vesting and maintenance of Work No. 6) of this Act, any road, bridleway or footpath diverted under the powers of this Act shall be repairable by the authority or person by whom it was repairable before its diversion and be subject to the same public rights of way as were exercisable over it before its diversion.

16.—(1) Subject to the provisions of this section, the Board may stop up the roads and footpaths in the rural districts of Battle and Uckfield in the county of East Sussex and in the rural districts of Cranbrook and Malling in the county of Kent referred to in columns (1) to (4) of the following table, so far as the same are shown on the deposited plans as intended to be stopped up, and thereupon all rights of way over the said roads and footpaths shall be extinguished and the Board may appropriate and use for the purposes of the undertaking the site of any road or footpath so stopped up:—

Further powers to stop up highways.

(1) Letters on plans denoting road or footpath to be stopped up	(2) Road or footpath	(3) Parish	(4) Numbers on plans of lands traversed by road or footpath to be stopped up
e—e ₁	Footpath	Ticehurst	12, 11, 39.
g—e ₃ —h—k—g ₁	Footpath	Wadhurst Ticehurst	41, 36, 37, 39. 2, 25.
r—r ₁	Footpath	Ticehurst	286, 288.
s—s ₁	Footpath	Goudhurst	37, 32, 25.
u—u ₁	Footpath	Ticehurst	307, 282, 284.
v—v ₁	Footpath	Ticehurst	299, 293, 300, 305, 291, 290, 317, 289, 288.
w—w ₁	Footpath	Ticehurst	303, 302, 301, 300, 274, 275, 277.
x—y—x ₁	Road	Burham	10.

(2) (a) Notwithstanding anything in subsection (1) of this section, no part of a road or footpath referred to in columns (1) to

PART III
—cont.

(4) of the table set out in subsection (1) of this section shall be stopped up under the powers of this section until the highway authority concerned are satisfied that the substituted road, bridleway or footpath respectively described in columns (1) to (4) of the following table has been completed in accordance with their reasonable requirements and is open for public use or, in case of any difference between the Board 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 and he has certified that the substituted road, bridleway or footpath has been completed in accordance with his determination:

(1) Letters on plans denoting substituted road, bridleway or footpath	(2) Road, bridleway or footpath	(3) Parish	(4) Numbers on plans of lands traversed by substituted road, bridleway or footpath
c ₁ —d ₁	Footpath	Ticehurst	39, 40, 41, 10, 11, 12, 346
g—j ₁	Bridleway	Wadhurst	69, 38, 37, 12, 11, 10, 41
r—q ₆	Bridleway	Ticehurst	288, 310, 348.
s—s ₂	Bridleway	Goudhurst	25, 26, 27, 31, 32, 41, 40
u ₁ —u ₂	Footpath	Ticehurst	284, 283, 282.
v—p	Bridleway	Ticehurst	288, 310, 309, 317, 306 305, 300, 301, 302, 303 349.
w ₁ —p ₁	Bridleway	Ticehurst	264, 263, 271, 272, 268 280, 279, 281, 278, 277
x—y ₁ —x ₂	Road	Burham	10, 9, 2.

Provided that the Board shall not be required under this section to construct or complete any substituted road, bridleway or footpath to a greater width or better standard than the road or footpath for which it is substituted.

(b) Before applying to the Minister for his determination, the Board shall give to the highway authority seven days' notice in writing of their intention so to do.

(3) As from the date of completion to the satisfaction of the highway authority of any such substituted road, bridleway or footpath or as from the date of the certificate of the Minister (as the case may be) all rights of way over or along the road, bridleway or footpath so stopped up shall be extinguished and the Board may appropriate and use for the purposes of the undertaking the site and soil thereof so far as they are owners of the land on both sides thereof.

(4) Except as otherwise provided by section 22 (Vesting and maintenance of Work No. 10) of this Act, any substituted road, bridleway or footpath provided under the powers of this section shall be repairable by the authority or person by whom the road, bridleway or footpath stopped up and in respect of which it was substituted was repairable before it was stopped up and be subject to the same public rights of way as were exercisable over it before it was stopped up.

PART III
—cont.

7.—(1) The Board, during, and for the purposes of, the execution of any of the works authorised by this Act, may temporarily stop up, alter, divert or otherwise interfere with, any highway or drain or any private right of way, and, in the case of any highway or right of way, may for any reasonable time divert the traffic therefrom and prevent all persons other than bona fide going to or from any land, house or building adjoining the highway or right of way from passing along and using the same.

Temporary stoppage of highways, etc.

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

(3) (a) The powers of subsection (1) of this section shall not be exercised by the Board in relation to a highway—

(i) in the case of any trunk road, without the consent of the Minister;

(ii) in the case of any other highway, without the consent of the highway authority, which consent shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority may require, and any question whether such consent is unreasonably withheld or any conditions so imposed are unreasonable shall be determined by the Minister;

(iii) with respect to any highway upon which public service vehicles are authorised by a road service licence to operate unless the Board give not less than forty-eight hours' previous notice to the Traffic Commissioners and to the operators of public service vehicles so licensed.

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

18.—(1) It shall be lawful for the Board to divert and alter the course of any river, stream, watercourse or ditch over any lands acquired by them for the purposes of the works authorised by this Act and the existing bed, banks and channel of the diverted portion of any such river, stream, watercourse and ditch, together with all riparian rights, shall, by virtue of this Act, vest in the Board and may be appropriated and used by the Board for the purposes of, or in connection with, those works.

Power to divert rivers, streams, etc.

(2) In the exercise of the powers conferred by this section the Board shall do as little damage as may be, and shall pay compensation to all persons for damage sustained by them, or any liability

PART III
—cont.

to which they may become subject, by reason of the exercise of those powers, and any difference as to the amount of the compensation to be paid shall be determined by arbitration.

(3) The provisions of this section shall be in addition to, and not in substitution for, or in derogation of, any other provision of any other enactment relating to the diversion of rivers, streams, watercourses or ditches or the acquisition of lands.

Application of section 145 of Local Government Act, 1933. 1933 c. 51. 1930 c. 44.

19. 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 section 18 (Power to divert rivers, streams, etc.) of this Act as if the alteration were done in the exercise of powers conferred by the Land Drainage Act, 1930.

Accommodation for workmen employed on construction of works.

20. The Board shall provide and maintain, or cause to be provided and maintained, for the workmen employed in and about the construction of the works authorised by this Act such accommodation and such arrangements for meals as shall be reasonably necessary having regard to the accommodation available in the neighbourhood of, or conveniently accessible from, the said works, and shall provide and maintain proper and sufficient sanitary accommodation for such workmen.

Vesting and maintenance of Work No. 6.

21. The road diversion (Work No. 6) shall when completed be maintained by and at the expense of the Board for a period of one year from the completion and opening thereof for public use and at the expiration of that period the surface of so much of the said road diversion as is in the county of East Sussex shall vest in and be maintained at the public expense by the East Sussex County Council and the surface of so much of the said road diversion as is in the county of Kent shall vest in and be maintained at the public expense by the Kent County Council, and the county councils shall have such rights in relation to the subsoil or undersurface as may be necessary for the control, protection, improvement, repair and maintenance of the said road diversion as a highway for public use:

Provided that no work shall be carried out by the county councils on the embankment constructed to carry the said road diversion over the reservoir to a greater depth than 2 feet except in accordance with plans submitted to the Board for their reasonable approval or in the event of difference settled by arbitration.

Vesting and maintenance of Work No. 10.

22. So much of the new road (Work No. 10) as is in substitution for a highway maintainable at the public expense shall when completed be maintained by and at the expense of the Board for a period of one year from the completion and opening thereof for public use and at the expiration of that period the surface thereof shall vest in and be maintained at the public expense by the Kent County Council, and the Kent County Council shall have

such rights in relation to the subsoil or undersurface as may be necessary for the control, protection, improvement, repair and maintenance of the said new road as a highway for public use.

PART III
—cont.

3.—(1) If the Board do not require any of the access roads Nos. 2, 3, 4 and 5 for the purpose of obtaining access to the works authorised by this Act, such access road shall be transferred to the owner of the land to which the road gives access on such terms and conditions as may be agreed between the Board and the owner or, failing agreement, determined by the tribunal.

Transfer of
access roads.

(2) On the transfer of any access road under this section that road shall vest in and be maintained by and at the expense of the person to whom it is transferred.

4. The works authorised by this Act shall for all purposes form part of the undertaking:

Works to
form part of
undertaking.

Provided that—

- (1) the surface of the road diversion (Work No. 6) shall cease to form part of the undertaking as from the date on which it vests in the county councils;
- (2) the surface of so much of the new road (Work No. 10) as is in substitution for a highway maintainable at the public expense shall cease to form part of the undertaking as from the date on which it vests in the Kent County Council;
- (3) so much of the new road (Work No. 10) as is in substitution for that part of the highway between Burham Court and the former Burham Cement Works which is not a highway maintainable at the public expense shall not form part of the undertaking;
- (4) any access road transferred under section 23 (Transfer of access roads) of this Act shall cease to form part of the undertaking as from the date on which it is transferred.

25.—(1) The construction, management and maintenance of the joint works shall be and remain in the hands of the Board, but the Company shall be at liberty at all times to make representations to and to confer with the Board or their engineer on matters affecting such construction, management and maintenance and to inspect—

Management
of joint
works.

- (a) the joint works; and
- (b) any records kept by the Board in relation thereto in pursuance of section 3 of the Reservoirs (Safety Provisions) Act, 1930, or otherwise.

1930 c. 51.

(2) Before the Board commence to construct the joint works the Company and the Board shall, in pursuance of section 51 (Agreements between Company and Board and settlement of disputes) of this Act, enter into agreements with reference to the construction, management and maintenance thereof.

PART III
—cont.

(3) The Board shall provide and maintain on the joint works at or near the respective points at which water is delivered to the Company and taken by the Board under this Act such automatic recording gauges or meters as may be approved by the Company for measuring the water delivered by the Board to the Company and taken by the Board under this Act, and the Company shall be at liberty to inspect and test the gauges or meters so provided.

PART IV

ABSTRACTION AND DISCHARGE OF WATER

Power to
take water
from river
Bewl and
other streams.

26. Subject to the provisions of this Part of this Act, the Board may divert, impound, take and use for the purposes of this Act the waters of the river Bewl and all such other rivers, streams, springs, tributaries and feeders flowing into the river Bewl and all such other waters as may be taken and intercepted by means of the reservoir and works connected therewith, and may raise or lower or regulate the water, or the level or the flow of water, in the said rivers, streams, springs, tributaries and feeders, or any of them, to such extent as may be necessary for the purpose of the construction or operation of the works authorised by this Act, or other the purposes of this Act or of the undertaking.

Power to
take water
for construc-
tion of works.

27.—(1) Subject to the provisions of this section, during the construction of the works authorised by this Act and the works connected therewith the Board may take from the river Bewl and other rivers, streams, springs, tributaries and feeders flowing into the river Bewl such water as they may require for processes carried on in connection with the construction of the said works:

Provided that the Board shall not take under the powers of this section a quantity of water exceeding—

- (a) 12,000,000 gallons in any one year;
- (b) 100,000 gallons in any one day;
- (c) 10,000 gallons in any one hour.

(2) Before taking any water under the powers of this section the Board shall construct for the purpose of measuring the quantity of water taken such automatically recording measuring gauge or gauges on such site or sites as shall be agreed between the Board and the river authority or, failing agreement, determined by the Water Resources Board.

Discharge of
water from
reservoir.

28.—(1) During the first filling of the reservoir until the appointed day the Board shall discharge from the reservoir into the river Bewl at a point therein situated a quantity of water in a uniform and continuous flow not being less than 750,000 gallons per day measured by the gauge constructed and maintained by the Board in pursuance of section 29 (Gauging discharge of water) of this Act:

Provided that if at any time during the first filling of the reservoir and before the appointed day there is not sufficient water in

the reservoir to enable the Board to comply with the foregoing provisions of this subsection, the Board shall discharge from the reservoir into the river Bewl at such point as aforesaid only such water as shall at that time flow naturally into the reservoir.

(2) (a) On and after the appointed day—

(i) the Board shall discharge from the reservoir into the river Bewl at a point therein situated above the said gauge a quantity of water in a uniform and continuous flow not being less than 750,000 gallons per day measured by the said gauge; and

(ii) the Board may discharge from the reservoir into the river Bewl at the said point such additional quantity of water (if any) as the Board may from time to time think fit:

provided that the Board shall not discharge any water from the reservoir under sub-paragraph (ii) of this paragraph on any day on which the flow of the river Medway as measured at the Teston Weir is more than 150,000,000 gallons without the consent of the river authority, which consent shall not be unreasonably withheld.

(b) Any dispute between the Board and the river authority under this subsection shall be determined by the Water Resources Board.

(3) On and after the appointed day the Board may discharge from the reservoir into a main to be laid by the Board between the reservoir and a point to be agreed between the Company and the Board and near to the Company's Goudhurst Pumping Station a quantity of water not exceeding—

(a) 365,000,000 gallons in any one year;

(b) 1,000,000 gallons in any one day;

(c) 60,000 gallons in any one hour.

(4) Any water discharged under subsection (3) of this section shall be in substitution for and not in addition to any part of the annual quantity of water authorised to be taken from the river Medway in pursuance of section 31 (Power to take water from river Medway) of this Act.

(5) Before discharging any water from the reservoir under subsection (3) of this section the Board shall construct an automatically recording measuring gauge at the point referred to in paragraph (2) of section 50 (Apportionment of water) of this Act.

29.—(1) Not later than the commencement of the first filling of the reservoir the Board shall provide and thereafter maintain to the reasonable satisfaction of the river authority at such point below the point or points of discharge referred to in section 28 (Discharge of water from reservoir) of this Act as is as near as is reasonably practicable to the foot of the embankment or dam of the reservoir such automatically recording measuring gauge as shall be agreed between the Board and the river authority for the purpose of measuring the rate of flow of any water from time to time discharged from or overflowing the dam of the reservoir.

Gauging
discharge of
water.

PART IV
—cont.

(2) In the event of the Board and the river authority failing to agree with respect to the apparatus to be provided or anything to be done under subsection (1) of this section the matter in dispute shall be determined by the Water Resources Board.

Power to
take water
from river
Teise.

30.—(1) Subject to the provisions of this Part of this Act, the Board may take by means of the intake forming part of Work No. 7 and divert and appropriate and use for the purposes of the undertaking or other the purposes of this Act water from the river Teise impounded by the weir (Work No. 7A).

(2) The Board shall not take water from the river Teise under subsection (1) of this section—

- (a) at any time so as to reduce the flow of water in the river Teise as measured at the weir (Work No. 7A) to less than 5,000,000 gallons per day;
- (b) if and so long as the rate of flow of water in the river Medway (excluding any water discharged from the reservoir on the preceding day) as measured at the Teston Weir is less than 90,000,000 gallons per day;
- (c) exceeding in quantity—
 - (i) 12,500,000,000 gallons in any period of five years reckoned from 1st October in any year;
 - (ii) 24,000,000 gallons in any one day;
 - (iii) 1,200,000 gallons in any one hour.

(3) (a) Before taking any water from the river Teise under this section the Board shall for the purpose of measuring the rate of flow of water in the said river construct as part of the weir (Work No. 7A) such automatically recording measuring gauge as shall be agreed between the Board and the river authority or failing agreement determined by the Water Resources Board, and for the purpose of measuring the quantity of water taken by means of the intake forming part of Work No. 7 construct such automatically recording measuring gauge on such a site as shall be so agreed or determined.

(b) The Board shall maintain in good order the automatically recording measuring gauges constructed by them under this section.

Power to take
water from
river Medway.

31.—(1) Subject to the provisions of this Part of this Act, the Board may take by means of the intake forming part of Work No. 8 and divert and appropriate and use for the purposes of the undertaking or other the purposes of this Act water from the river Medway.

(2) Until the appointed day the Board shall not take from the river Medway under subsection (1) of this section a quantity of water exceeding—

- (a) 1,100,000,000 gallons in any one year;

- (b) 3,000,000 gallons in any one day;
- (c) 200,000 gallons in any one hour:

Provided that—

- (i) the Board shall not take from the river Medway any water if and so long as the rate of flow of water in that river as measured at the Teston Weir is less than 30,000,000 gallons in any day;
- (ii) the quantity of water which may be so taken in any day shall be ascertained by reference to the daily flow of water in the river Medway as measured by the Teston Weir and so long as the daily flow of water in that river as so measured is not less than any amount shown in column (1) of the following table the quantity authorised to be taken in any day shall not exceed the quantity shown in column (2) of that table opposite to such amount:—

(1) Daily flow of water at the Teston Weir	(2) Quantity of water authorised to be taken
30,000,000 gallons	1,000,000 gallons
40,000,000 gallons	2,000,000 gallons
50,000,000 gallons or more	3,000,000 gallons

(3) On and after the appointed day the Board shall not take from the river Medway under subsection (1) of this section a quantity of water exceeding—

- (a) 5,200,000,000 gallons in any one year reduced by an amount equal to the quantity of water discharged by the Board from the reservoir in pursuance of subsection (3) of section 28 (Discharge of water from reservoir) of this Act;
- (b) 17,000,000 gallons in any one day;
- (c) 1,000,000 gallons in any one hour:

Provided that the quantity of water taken in any one day shall not exceed—

- (i) the quantity of water discharged by the Board from the reservoir on the day last before the preceding day; or
- (ii) the quantity by which the total flow of the river Medway at the Teston Weir on the preceding day exceeded 90,000,000 gallons;

whichever is the greater.

32. For the purpose of measuring the quantity of water abstracted from the river Medway by means of the intake forming part of Work No. 8 the Board shall construct and maintain at such point as may be agreed between the Board and the river Gauge at Springfield

PART IV
—cont.

authority or in default of agreement determined by the Water Resources Board such automatically recording measuring gauge as may be agreed or, in default of agreement, determined, over or through which the said quantity of water shall flow.

Provisions
applicable to
foregoing
sections.

33.—(1) If the Board—

(a) take any water in contravention of—

(i) the proviso to section 27 (Power to take water for construction of works) of this Act;

(ii) subsection (2) of section 30 (Power to take water from river Teise) of this Act;

(iii) subsection (2) or subsection (3) of section 31 (Power to take water from river Medway) of this Act; or

(b) fail to comply with the requirements of section 28 (Discharge of water from reservoir) of this Act; or

(c) fail to construct or maintain in good order the gauges which they are required to construct or maintain under subsection (2) of section 27 (Power to take water for construction of works), subsection (5) of section 28 (Discharge of water from reservoir), section 29 (Gauging discharge of water), subsection (3) of section 30 (Power to take water from river Teise) or section 32 (Gauge at Springfield) of this Act; or

(d) refuse to allow any person interested to inspect and examine the said gauges or any records made thereby or kept in connection therewith or to take copies of any such records;

they shall, without prejudice to their civil liability (if any) to a person aggrieved, be liable—

(i) on summary conviction to a fine not exceeding fifty pounds in respect of each day on which the offence has been committed or continued; and

(ii) on conviction on indictment to a fine not exceeding five hundred pounds in respect of each such day:

Provided that the Board shall not be under any liability under the foregoing provisions of this section in respect of any such failure as is therein referred to, if such failure is due to unavoidable accident or other unavoidable cause.

(2) The provisions of section 28 (Discharge of water from reservoir) of this Act and the foregoing provisions of this section shall be accepted and taken by all persons interested as full satisfaction for all waters taken under the powers of this Act.

(3) For the purposes of this section the river authority shall be deemed to be interested in the flow of water in the river Bewl, the river Medway and the river Teise and shall be deemed to be aggrieved by the commission of an offence under this section.

1. The Board at their own expense and to the satisfaction of the engineer to the river authority shall provide and maintain or secure the provision and maintenance of equipment whereby rates of flow of the river Medway derived from measurements made by means of the Teston Weir are continuously and automatically transmitted to and recorded at the Burham Treatment Works.

PART IV
—cont.

Transmission to Burham Treatment Works of flow rates of river Medway at Teston Weir. Application of Act of 1963.

5.—(1) For the purposes of sections 36 and 48 of the Act of 1963, this Act shall be deemed to be an alternative statutory provision within the meaning of subsection (3) of the said section 36.

(2) Section 56 of the Act of 1963 shall apply for the purposes of this Act as if this Act were a statutory provision coming into operation in pursuance of an application made before the end of the initial period referred to in that section.

PART V

FINANCE

36.—(1) In addition and without prejudice to their powers of borrowing under the Local Government Act, 1933, as applied to the Board by section 108 of and Schedule 3 to the Kent Water Act, 1955, or under any other enactment, the Board may borrow—

Power to Board to borrow. 1933 c. 51. 1955 c. xi.

- (a) such sums as may be necessary for any of the purposes of this Act;
- (b) without the consent of any sanctioning authority, for any of the purposes specified in column (1) of the following table, the sum specified in relation thereto in column (2) of that table:—

(1) Purpose	(2) Amount	(3) Maximum period for repayment of loan
(i) The purchase of lands and easements (hereafter in this Act referred to as "Purpose No. 1")	£ The sum requisite	Sixty years.
(ii) The construction of Works Nos. 1, 2, 3, 4, 5, 6 and 10 and improvements to Eccles Lake (hereafter in this Act referred to as "Purpose No. 2")	2,101,000	Sixty years.
(iii) The construction of Works Nos. 7, 7A, 8, 9 and 9A (except pipes and machinery) (hereafter in this Act referred to as "Purpose No. 3")	1,081,000	Fifty years.

PART V
—cont.

(1) Purpose	(2) Amount	(3) Maximum period for repayment of loan
(iv) The construction of Work No. 9A (except the intake) and mains 36 inches in diameter or greater (hereafter in this Act referred to as "Purpose No. 4")	£ 640,000	Forty years.
(v) The construction of mains less than 36 inches in diameter (hereafter in this Act referred to as "Purpose No. 5")	227,000	Thirty-five years.
(vi) The construction of machinery including treatment plant (hereafter in this Act referred to as "Purpose No. 6")	865,000	Twenty years.
(vii) The payment out of capital of interest on moneys borrowed for and in connection with the construction of works and machinery and the purchase of lands in accordance with the provisions of section 5 (Power to acquire lands) of this Act (hereafter in this Act referred to as "Purpose No. 7")	The sum requisite	In relation to Purpose No. 1, sixty years; in relation to Purpose No. 2, sixty years; in relation to Purpose No. 3, fifty years; in relation to Purpose No. 4, forty years; in relation to Purpose No. 5, thirty-five years; in relation to Purpose No. 6, twenty years.
(viii) The payment of the costs, charges and expenses of this Act and of the application made by the Board to the Minister in 1967 for an order under the Water Acts, 1945 and 1948	The sum requisite	Five years.

Provided that notwithstanding anything in this Act, it shall not be obligatory upon the Board to commence the repayment (by sinking fund or otherwise) of any moneys borrowed under this Act for Purpose No. 1, Purpose No. 2, Purpose No. 3, Purpose No. 4, Purpose No. 5, Purpose No. 6 or Purpose No. 7 until the works for or in respect of which such moneys are borrowed are respectively brought into use or until the expiration of five years from the commencement of the financial year next after that in which the expenditure commences to be incurred whichever shall first occur.

(2) Every sum borrowed under paragraph (a) of the foregoing subsection shall be repaid within such period from the date of borrowing as the Board, with the consent of the sanctioning authority, may determine, not exceeding sixty years.

(3) Every sum borrowed under paragraph (b) of subsection (1) of this section shall be repaid within such period from the date of borrowing as the Board, without the consent of any sanctioning authority, may determine, not exceeding the period specified in relation thereto in column (3) of the foregoing table.

(4) Subject to the provisions of this section, Part IX of the Local Government Act, 1933, shall have effect as if money borrowed under this section were borrowed under that Part. 1933 c. 51.

(5) It shall not be lawful to exercise the powers of borrowing conferred by this section, other than the power of borrowing to pay the costs, charges and expenses of this Act and of the application made by the Board to the Minister in 1967 for an order under the Water Acts, 1945 and 1948, except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act, 1946. 1946 c. 58.

37. Notwithstanding anything in this Act, the Board may pay interest on any moneys borrowed under this Act for Purpose No. 1, Purpose No. 2, Purpose No. 3, Purpose No. 4, Purpose No. 5 and Purpose No. 6 out of moneys borrowed for Purpose No. 7, but only until the works for or in respect of which such moneys are borrowed are respectively brought into use or until the expiration of five years from the date or dates of borrowing (or such longer period as the Minister may allow) whichever shall first occur. Payment of interest on moneys borrowed until completion of works.

38. The capital cost of construction of the joint works and of the acquisition of lands and easements therefor, including all costs, charges and expenses incidental thereto and all such other expenditure incurred by the Board in carrying into execution the provisions of this Act relating to the joint works as is properly chargeable to capital account and the costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto and of the application made by the Board to the Minister in 1967 for an order under the Water Acts, 1945 and 1948 (all of which are in this Act included within the expression and referred to as "the capital cost of construction") shall be borne by the Board: Capital cost of construction of joint works.

Provided that if the Company so elect (such election being made, unless otherwise agreed between the Company and the Board, within three months after the passing of this Act) the Company shall pay to the Board capital contributions in cash in respect of such proportions of the items comprising the capital cost of construction as may be agreed between the Company and the Board.

PART V
—cont.
Provision as
to payments
for supply of
water.

39.—(1) If the Company do not elect to make capital contributions under the last foregoing section, the Company shall pay to the Board for the supply of water annual sums in respect of the annual expenditure of the Board (calculated in accordance with such provisions as may be agreed between the Company and the Board) in respect of—

- (a) interest and sinking fund contributions on the moneys raised by the Board for the capital cost of construction;
- (b) the management, operation, maintenance and renewal of the joint works; and
- (c) rates and other outgoings attributable to the joint works.

(2) Any annual sum due from the Company to the Board under the provisions of this section shall be part of the working expenses of the Company for the year in respect of which such sum of money is due, as payment for water supplied to the Company.

Further
provisions as
to payment
for supply of
water.

40. If the Company elect to pay capital contributions in respect of the capital cost of construction they shall pay to the Board for the supply of water a proportion of the expenditure of the Board (calculated in accordance with such provisions as may be agreed between the Company and the Board) in respect of—

- (1) the management, operation, maintenance and renewal of the joint works; and
- (2) rates and other outgoings attributable to the joint works.

PART VI

PROTECTIVE PROVISIONS

For protection
of
Postmaster
General.

41.—(1) Where in pursuance of the powers conferred by section 13 (Power to construct works), section 14 (Stopping up of highways), section 15 (Diversion of highways) or section 16 (Further powers to stop up highways) of this Act the Board stop up or divert the whole or any portion of a highway the following provisions of this subsection shall, unless otherwise agreed in writing between the Board 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 or diversion ceases to be a highway (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 the stopping up or diversion of the highway or part of the highway, 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 the next following subsection unless before the expiration of that period the Postmaster General has given notice to the Board of his intention to remove the affected line or that part thereof as the case may be;

- (b) The Postmaster General may by notice in that behalf to the Board 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 Board 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 Board 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.

(2) As soon as practicable after the whole or any part of a highway has been stopped up or diverted in pursuance of the powers referred to in subsection (1) of this section the Board shall send by post to the Postmaster General a notice informing him of such stopping up or diversion.

(3) The exercise by the Board of the powers conferred by section 17 (Temporary stoppage of highways, etc.) of this Act in relation to any highway shall not prejudice or affect the right of the Postmaster General at all times—

- (a) to maintain, inspect, renew or remove any telegraphic line belonging to or used by him under, in, upon, over, along or across that highway; or
- (b) for the purpose of such maintenance, inspection, renewal or removal to enter upon or break open that highway.

(4) Any means of electrical communication constructed, laid or erected under the provisions of section 4 of the Third Schedule as modified by Schedule I to this Act shall not be used in contravention of the exclusive privilege conferred upon the Postmaster General by the Telegraph Act, 1869, or be installed or worked in 1869 c. 73. Contravention of the provisions of the Wireless Telegraphy Acts,

PART VI
—cont.

1949 to 1967, and shall be so constructed, laid or erected and so maintained and used as to prevent interference with any telegraphic line belonging to, or used by, the Postmaster General, or with telegraphic communication by means of any such line.

1878 c. 76.

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

For protection
of Kent
County
Council and
East Sussex
County
Council.

42. Notwithstanding anything contained in this Act or shown on the deposited plans, the following provisions shall, unless in any case it shall be otherwise agreed in writing between the Board and the county councils, apply and have effect for the protection and benefit of the county councils:—

(1) (a) As part of the road diversion (Work No. 6) the Board shall construct an embankment to carry Rosemary Lane;

(b) The top width of the said embankment shall be not less than 44 feet so as to provide for the eventual construction of a carriageway 24 feet in width with a footway 6 feet in width and a verge 4 feet in width on the west side thereof and a verge 10 feet in width on the east side thereof;

(c) The Board shall construct the said road diversion with a carriageway of a width not less than the width of the existing road, and shall erect on each side of the said road for the full length of the embankment guard fences of such a pattern and in such positions as the county councils may reasonably require;

(d) The said embankment shall be of such strength as shall conform with the appropriate loading recommended at the time of construction by the Minister of Transport for highway bridges:

(2) (a) Notwithstanding anything in section 21 (Vesting and maintenance of Work No. 6) of this Act, the said embankment, but not the road carried thereby, shall be maintained in perpetuity by and at the expense of the Board to the reasonable satisfaction of the county councils;

(b) The said embankment carrying the road shall be so constructed that the top surface thereof shall be not less than 6 feet above the level of the sill of the overflow of the reservoir. If at any time the level of the said sill is raised, the Board shall alter the level of the top of the said embankment and of the carriageway so that the top of the top surface of the said embankment and the surface of the carriageway shall be at least 6 feet above the level of the said sill as raised, and the

said carriageway as so altered shall be maintained to the reasonable satisfaction of the county councils for twelve months after the alterations have been made:

PART VI
—cont.

- (3) (a) Before commencing to construct the said road diversion or to alter the carriageway as provided in paragraph (2) (b) of this section, the Board shall submit to the county councils for their reasonable approval such plans, sections and particulars (including details of construction) of the proposed works as they may reasonably require;
 - (b) If the county councils, or either of them, do not within twenty-eight days after receipt of such plans, sections and particulars give notice in writing to the Board signifying their disapproval thereof, they, or such one of them (as the case may be), shall be deemed to have approved thereof;
 - (c) Such works shall be constructed in accordance with such plans, sections and particulars as may be approved (or are deemed to have been approved), or if one or other of the county councils have signified their disapproval thereof, as may be settled by arbitration;
 - (d) The Board shall give reasonable notice to the county councils of the time at which such works are intended to be constructed;
 - (e) Such works, when commenced, shall be carried out with all reasonable dispatch and to the reasonable satisfaction of the surveyors to the county councils, and the Board shall at all reasonable times afford to the said surveyors access to such works for the purpose of inspection:
- (4) Nothing in this Act shall authorise the Board to interfere with or restrain any right exercised by the county councils to dispose of surface drainage water from any county road (including the said road), and the county councils may continue to exercise any such right to the same extent and in the same manner as prior to the coming into operation of this Act they lawfully exercised such right:

Provided that, if the Board prefer, the Board may at their own expense and to the reasonable satisfaction of the county councils or county council concerned (as the case may be) provide other means for disposing of the said surface drainage water:

- (5) The county councils may dispose of surface drainage water from the said road in such manner as may be

PART VI
—cont.

agreed between the county councils and the Board or as failing agreement, may be determined by the Minister of Transport:

Provided that if at any time the Board desire to make any change in the means of disposing of the said surface drainage water the Board may at their own expense and to the reasonable satisfaction of the county councils make such alterations:

- (6) The Board shall save harmless and indemnify the county councils as highway authorities in the reasonable exercise of any rights of drainage referred to in the last two foregoing paragraphs from and against all claims in respect of damage or injury arising out of the pollution of waters impounded by the Board under the powers of this Act:

Provided that the county councils or county council concerned shall give to the Board reasonable notice of any claim as aforesaid and no settlement or compromise thereof shall be made without prior consultation with the Board:

- (7) If at any time in consequence of—

(a) the bursting of or leakage from the reservoir:

(b) the natural consolidation, subsidence or other failure of the embankment referred to in this section or

(c) any act or default on the part of the Board;

damage, injury or interference shall be caused to the said carriageway (or any space adjacent thereto used for highway purposes) as diverted or altered in pursuance of this Act, the Board shall give notice thereof to the county councils or county council concerned as appropriate and all such damage or injury shall forthwith be made good and any such interference shall be removed by the Board at their own expense and under the superintendence (if given) and to the reasonable satisfaction of the county councils or county council concerned and the Board shall be responsible for and save harmless and indemnify the county councils from and against all claims in respect of any such damage, injury or interference and shall make compensation to the county councils for and in respect thereof:

Provided that the county councils shall give to the Board reasonable notice of any claim as aforesaid and no settlement or compromise thereof shall be made without prior consultation with the Board:

(8) If the county councils or the county council concerned shall themselves desire to carry out the works necessary to make good any such damage or injury or to remove any such interference as aforesaid, they may on giving not less than seven days' previous notice to that effect to the Board forthwith carry out any such works and the Board shall reimburse the county councils or the county council concerned (as the case may be) in respect of any expense which they may reasonably incur in executing such works:

(9) If any difference shall arise between the Board and either the county councils or one or other of the county councils under any of the foregoing provisions of this section (except paragraph (5) thereof) the difference shall be referred to a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers.

43. The following provisions for the protection of the Kent County Council (in this section referred to as "the county council") shall, except as otherwise agreed in writing between the Board and the county council, apply and have effect:—

For further protection of Kent County Council.

(1) In this section "the highway works" means—

(a) the improvement, realignment, widening and strengthening of Bewl Bridge Lane from the point where it meets the access road to Old Forge Farm northwards to its junction with the classified road A.21 (subject to the making of any diversion mentioned in sub-paragraph (c) of this paragraph) so as to provide a carriageway 18 feet in width with a verge of a minimum width of 5 feet on each side thereof;

(b) the construction of a new junction of Bewl Bridge Lane with the classified road A.21 so as to make adequate provision for sight lines and turning traffic; and

(c) such diversion of the northernmost portion of Bewl Bridge Lane as the county council may deem necessary for the purpose of the said new junction described in sub-paragraph (b) of this paragraph:

(2) The county council shall as soon as practicable after the passing of this Act construct the highway works:

PART VI
—cont.

- (3) The Board shall repay to the county council the cost reasonably incurred by the county council in constructing the highway works, including the cost of the acquisition of any land required for that purpose and taking into account any betterment resulting from the highway works which may be agreed between the Board and the county council:

Provided that, if the county council deem it practicable to undertake the construction of the new junction described in paragraph (b) of subsection (1) of this section as part of a larger overall scheme for the improvement of the classified road A.21, the Board's repayment in respect of the said new junction shall take the form of a contribution to the cost of the said overall scheme of a sum equal to the estimated cost of the said new junction including the cost of the acquisition of any land required therefor:

- (4) The Board shall not without the consent of the county council make any excavation for the purpose of or in connection with the reservoir on any land within 50 feet of the boundary of any county road, such consent not to be unreasonably withheld:
- (5) Nothing in section 2 of the Third Schedule as incorporated with this Act shall authorise the Board to construct any building forming part of the intake and pumping station, Work No. 8, to a greater height than that shown on the deposited sections and in constructing any such building the Board shall make provision for such acoustic precautions as are necessary for the protection from noise or vibration of any adjacent buildings of the county council to the reasonable satisfaction of the county council:
- (6) Any difference which may arise between the Board and the county council under this section (other than a difference as to the meaning or construction of this section) shall be determined by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of either party (after notice in writing to the other party) by the President of the Institution of Civil Engineers.

For protection
of river
authority
and Medway
Lower
Navigation
Company.

44. For the protection of the river authority and the Medway Lower Navigation Company (in this section referred to as "the

navigation company") the following provisions shall, unless otherwise agreed in writing between the Board and the protected authority, apply and have effect:—

PART VI
—cont.

(1) In this section—

“ the protected authority ” means the river authority or the navigation company, as the case may be;

“ the specified works ” means—

(a) in relation to the river authority the intake forming part of Work No. 7, the weir (Work No. 7A) and the intake forming part of Work No. 8;

(b) in relation to the navigation company, the intake forming part of Work No. 8;

and any subsidiary works connected therewith whether permanent or temporary:

- (2) Before commencing the construction of the specified works, plans, sections and particulars thereof shall be delivered by the Board to the protected authority for their approval (such approval not to be unreasonably withheld) and the specified works shall not be constructed otherwise than in accordance with such plans, sections and particulars as may be approved (or as may be deemed to be approved) by the protected authority or settled by arbitration and to their reasonable satisfaction:
- (3) If within two months after the receipt by the protected authority of any plans, sections or particulars they have not signified in writing their disapproval thereof, and the reasons for their disapproval, they shall be deemed to have approved thereof:
- (4) After the purpose for which any temporary structure placed in the river Teise or the river Medway, as the case may be, in connection with the construction of the specified works has been accomplished the Board shall, with all reasonable dispatch, and in any case after reasonable notice from the protected authority requiring them to do so, remove any such temporary structure or any materials for the same placed in either of the said rivers by the Board and, on their failing to do so within thirty days after receipt of such notice, the protected authority may remove the same at the expense of the Board; and the amount of any expense reasonably so incurred shall be a debt due from the Board to the protected authority:

PART VI
—cont.

- (5) The Board shall at all reasonable times afford to the protected authority and their officers and servants access to the specified works during the construction thereof for the purpose of inspection:
- (6) Any question or difference which may arise between the Board and the protected authority under this section (other than a difference as to the construction thereof) shall be determined by arbitration.

For protection
of Battle
Rural District
Council.

45. For the protection of the rural district council of Battle (in this section referred to as "the council") the following provisions shall, unless otherwise agreed in writing between the Board and the council, apply and have effect:—

- (1) The agreement dated the 14th day of March, 1968, and made between the council and the Board and set out in Schedule 2 to this Act is hereby confirmed and made binding upon the parties thereto;
- (2) Notwithstanding anything in this Act, the Board shall not acquire or interfere in any way with the sewage works or any part thereof otherwise than in accordance with the provisions of the agreement referred to in paragraph (1) of this section;
- (3) In this section "the sewage works" means the existing sewage treatment works of the council in the parish of Ticehurst situate in the enclosure numbered 135 in that parish on the 1/2500 ordnance map of Sussex (East) sheet XIX.9 (revision of 1939) and all sewers, plants, equipment and apparatus forming part of the council's existing sewerage system in connection with the said treatment works.

For pro-
tection of
electricity
undertakers.

1950 c. 39.

46. For the protection of the undertakers the following provisions shall except as may otherwise be agreed in writing between the Board and the undertakers and except in any case in which the mutual obligation of the Board and the undertakers are determined by Part III of the Public Utilities Street Works Act, 1950, 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 any electric lines and works (as respectively defined in the Electric Lighting Act, 1882).

1882 c. 56.

belonging to or maintained by the undertakers and includes any works constructed for the lodging therein of apparatus;

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

“ position ” includes depth;

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

“ the undertakers ” means the Central Electricity Generating Board and the South Eastern Electricity Board, or either of them, as the case may be:

- (2) Notwithstanding anything in this Act or shown on the deposited plans, the Board shall not, under the powers of this Act, acquire any apparatus otherwise than by agreement:
- (3) If the Board in the exercise of the powers of this Act acquire any interest in or use any land in which any apparatus is placed, that apparatus shall not be removed nor shall any right of the undertakers to use, maintain, 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:
- (4) (a) If the Board 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 requirements with a plan, section and description of the proposed work;
- (b) If the Board 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 Board shall, if practicable, afford to the undertakers the necessary facilities and rights for the construction of adequate alternative apparatus in other lands of the Board and thereafter for the maintenance, 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 Board and the Board 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 Board, forthwith use their best endeavours to obtain the necessary facilities and rights:

PART VI
—cont.

- (5) (a) Any alternative apparatus to be constructed in lands of the Board in pursuance of paragraph (4) of this section shall be constructed in such manner and in such line or situation as may be agreed between the undertakers and the Board 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 (4) 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 Board to be removed under the provisions of this section and, in default, the Board may remove the apparatus:
- (6) Notwithstanding anything in paragraph (5) of this section, if the Board 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 situate in any lands of the Board such work, in lieu of being executed by the undertakers, shall be executed by the Board 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 Board 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:

- (7) Where in accordance with the provisions of this section the Board afford to the undertakers facilities and rights for the construction, maintenance, renewal and inspection in lands of the Board 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 Board 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 Board 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 Board for which the alternative apparatus is to be substituted;

(b) if the facilities and rights to be afforded by the Board 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, 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 provisions for the payment of compensation by the Board to the undertakers in respect thereof as shall appear to him to be reasonable having regard to all the circumstances of the particular case:

(8) (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 Board under paragraph (4) of this section, the Board shall submit to the undertakers a plan, section and description of the work to be executed;

(b) Such work shall be executed only in accordance with the plan, section and description 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, section and description shall in consequence of the work proposed by the Board reasonably require the removal of any apparatus and give written notice to the Board of such requirement the foregoing provisions of this section

PART VI
—cont.

shall apply and have effect as if the removal of such apparatus had been required by the Board under paragraph (4) thereof; and

- (ii) nothing in this sub-paragraph shall preclude the Board 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, section and description in lieu of the plan, section and description previously submitted and thereupon the provisions of this paragraph shall apply to and in respect of such new plan, section and description;
- (c) The Board 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 undertaker notice as soon as reasonably practicable and a plan, section and description 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:
- (9) Where any highway in which any apparatus is situated has been permanently stopped up or diverted by the Board under the powers of section 14 (Stopping up of highways), section 15 (Diversion of highways) or section 16 (Further powers to stop up highways) 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 highway (not being apparatus rendered derelict or unnecessary) as they would have if it had remained a highway and no such rights shall be extinguished by virtue of the said sections 14, 15 and 16 but nothing in this paragraph shall prejudice or affect any right of the Board or of the undertakers, to require removal of such apparatus under this section:
- (10) If in consequence of the exercise of the powers of this Act the access to any apparatus is materially obstructed the Board shall provide an alternative means of access to such apparatus:
- (11) The Board 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 Board of any of the powers of this Act;

less the value of any apparatus which is removed in pursuance of the provisions of this section (such value being calculated after removal):

Provided that if alternative apparatus is constructed of a better type or of a greater capacity than the apparatus to be removed for which such alternative apparatus is substituted, the specified board shall, unless the construction of apparatus of a better type or of a greater capacity is reasonably necessary for the purpose of any authorised work and to meet the requirements of the appropriate undertakers, bear such proportion of the cost of providing and constructing such alternative apparatus as represents the amount by which such cost exceeds the cost which would have been incurred if the type or capacity of the alternative apparatus so constructed had been the same as those of the apparatus to be removed for which it is substituted:

(12) 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 undertakers or any interruption in the supply of electricity by the undertakers shall be caused, the Board shall bear and pay the cost reasonably incurred by the undertakers in making good such damage, or restoring the supply, 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 damage or interruption:

Provided that—

(i) nothing in this paragraph shall impose any liability on the Board with respect to any damage

PART VI
—cont.

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 Board reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without the prior consent of the Board:

(13) The temporary stopping up or diversion of any highway under the powers of section 17 (Temporary stoppage of highways, etc.) of this Act shall not prevent the undertakers from obtaining access to any apparatus nor prejudice or affect any right of the undertakers—

(a) to lay, erect, maintain, inspect, renew or remove any apparatus in the highway; or

(b) for the purposes of such laying, erection, maintenance, inspection, renewal or removal to enter upon or break open that highway:

(14) Where by reason or in consequence of the exercise of the powers of this Act any apparatus is rendered derelict or unnecessary, the Board shall pay to the undertakers the then value of such apparatus (which shall thereupon become the property of the Board) and the reasonable cost of, and incidental to, the cutting off of the apparatus from any other apparatus and the execution or doing of any works or things rendered necessary or expedient by reason or in consequence of the apparatus being so rendered derelict or unnecessary:

Provided that the Board shall not under the provisions of this paragraph be required to pay to the undertakers the value of any apparatus rendered derelict or unnecessary if, under the provisions of paragraphs (4) to (6) of this section, alternative apparatus shall, at the expense of the Board have been constructed in substitution for the apparatus so rendered derelict or unnecessary:

(15) (a) Any difference which may arise between the Board and the undertakers under this section shall be determined by a single arbitrator to be agreed upon between the parties or failing agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers;

(b) In settling any difference under this section the arbitrator may, if he thinks fit, require the Board 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.

PART VI
—cont.

47.—(1) In this section—

“the house” means Dunsters Mill House in the parish of Ticehurst in the rural district of Battle in the county of East Sussex situated on the land numbered 254 on the deposited plans;

As to
Dunsters
Mill House.

“the owner” means Hubert Harry Wilson Beale or other the owner or owners for the time being of the house and the specified lands;

“the specified lands” means so much of the lands in the said parish of Ticehurst numbered 255 and 256 on the deposited plans as are shown coloured red on the plan signed by Donald Ensom on behalf of the owner and by William Graham Howard Tripp on behalf of the Board.

(2) Notwithstanding anything in this Act or shown on the deposited plans the Board shall not acquire the specified lands otherwise than by agreement.

(3) The Board shall at their own cost undertake the preservation of the house by the removal and reinstatement of the house to and on such site on the specified lands and in such manner as shall be agreed between the Board and the owner or in default of agreement determined by an arbitrator to be appointed, in default of agreement, on the application of either party (after notice in writing to the other) by the President of the Royal Institution of Chartered Surveyors.

48.—(1) Nothing in this Act shall authorise the Board to take, use or otherwise interfere with the stone in the parish of Burham in the rural district of Malling situated in the enclosure numbered 6229 on the 1/2500 ordnance map TQ.7161 and marked “God preserve the City of Rochester”.

Saving for
mayoralty
stone.

(2) The mayor, aldermen and citizens of the city of Rochester shall at all times have such rights of access to the stone referred to in subsection (1) of this section as they may reasonably require.

49. 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.

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

PART VII

MISCELLANEOUS

50. Except as may be otherwise agreed in writing between the Board and the Company, but subject to the provisions of

Apportion-
ment of
water.

PART VII
—cont.

any licence granted or deemed to be granted to the Board under any provision of the Act of 1963 and for the time being in force, the Board shall in consideration of the payments to be made by the Company to the Board in pursuance of the provisions of sections 38 (Capital cost of construction of joint works), 39 (Provision as to payments for supply of water) and 40 (Further provisions as to payment for supply of water) of this Act deliver to the Company—

- (1) at a point within the Burham Treatment Works (Work No. 9), such quantities of water in any day as the Company may from time to time require not exceeding in the aggregate, when added to the quantities of water delivered to the Company pursuant to the following paragraph, one-quarter of the water which can from time to time be taken into supply from or by means of the joint works; and
- (2) on and after the appointed day at a point to be agreed between the Company and the Board and near to the Company's Goudhurst Pumping Station such quantities of water as the Company may from time to time require not exceeding 1,000,000 gallons of water in any day.

Agreements
between
Company
and Board
and settle-
ment of
disputes.

51.—(1) The Company and the Board may enter into and carry into effect agreements with reference to—

- (a) the appropriate contributions, and the appropriate proportions of the items comprising the capital cost of construction, for the purposes of the proviso to section 38 (Capital cost of construction of joint works) of this Act;
- (b) the appropriate annual sums, and the method of calculating the annual expenditure of the Board, for the purposes of section 39 (Provision as to payments for supply of water) or section 40 (Further provisions as to payment for supply of water) of this Act;
- (c) the times and manner in which payments in respect of the matters referred to in the last two foregoing paragraphs shall be made by the Company to the Board;
- (d) the inspection by the secretary of the Company (or any other person duly authorised in that behalf) at all reasonable times of the accounts of the Board in so far as they relate to expenditure in which the Company have an interest by virtue of any agreement under this section;
- (e) the construction, management and maintenance of the joint works.

(2) Any difference which may arise between the Company and the Board as to any of the matters which, pursuant to the

foregoing subsection, may form the subject of an agreement between them (other than a difference as to the construction of the Act) shall be referred to a single arbitrator to be agreed between the parties or, in default of agreement, to be appointed on the application of either party, after notice in writing to the other by the Minister and the parties shall embody the decision of such an arbitrator in an agreement under the said subsection.

52.—(1) In the construction and maintenance of the works authorised by this Act the Board shall have regard to the preservation of amenities for the public of the natural beauty of the area in which the works are situate and the enjoyment of the area by the public.

(2) For the purpose of the foregoing provisions of this section, but without prejudice to the generality thereof, the Board shall appoint a landscape consultant to advise them in connection with their duties thereunder and shall send to the local planning authority copies of any recommendations of the said landscape consultant made to the Board in pursuance of his functions under this section.

(3) For the purpose of securing the foregoing provisions of subsection (1) of this section the Board shall—

(a) without prejudice to anything in the Town and Country Planning Act, 1962, consult with the local planning authority as to—

(i) the design and external appearance of any dam and the situation, design and external appearance of any aqueduct, building, bridge, wall, embankment, structure, erection, car park, road or fence to be constructed on any land acquired by the Board under this Act; and

(ii) the carrying out of quarrying operations or the manner and method of disposing of any spoil or waste material resulting from the carrying out of any operation in connection with any works under this Act except so far as such operations are carried out or such spoil or material is disposed of in the area of the reservoir below top water level shown on the deposited plans; and

(iii) the provision of recreational facilities at the reservoir;

(b) submit to the local planning authority plans, sections and particulars relating to the matters referred to in sub-paragraph (i) of paragraph (a) of this subsection and particulars of the matters referred to in sub-paragraphs (ii) and (iii) of that paragraph and comply with such reasonable requirements as the local planning

PART VII
—cont.

authority shall within forty days from the receipt of any such plans, sections and particulars make—

(i) for the purpose of rendering any such dam, aqueduct, building, bridge, wall, embankment, structure, erection, car park, road, fence, spoil or waste material as inconspicuous as possible; or

(ii) with regard to the carrying out of quarrying operations and to the disposal of any such spoil or waste material; or

(iii) with regard to the provision, siting, design and external appearance and access thereto of buildings, structures and erections, the provision and siting of car parks and access thereto, and the nature and intensity of any use of the reservoir for any form of recreation which the Board propose to permit other than fishing and sailing;

including as respects any purpose mentioned in the foregoing sub-paragraph (i) requirements as to the laying of turf, the sowing of grass seed and the planting of trees, bushes or plants.

(4) Within six months after the completion of any of the said works authorised by this Act or such longer period as the local planning authority may agree the Board shall remove or to the reasonable satisfaction of the local planning authority demolish or otherwise dispose of all temporary buildings and structures erected for the purposes of or in connection with the construction of such works which are not required for the purposes of or in connection with the construction of other such works and shall remove all surplus materials, plant, machinery and appliances provided or erected in connection therewith which are not so required and shall so far as is reasonably practicable to the like satisfaction restore and make good the surface of the ground on which any such temporary buildings and structures or any such surplus materials, plant, machinery and appliances as aforesaid have been placed.

(5) If any question shall arise as to the reasonableness of any requirements which the local planning authority may make under subsection (3) or subsection (4) of this section the question shall be referred to and determined by the Minister whose decision shall be final.

53.—(1) In this section—

“the arrangement” means the arrangement made the 9th November, 1935, between the former River Medway Catchment Board and the navigation company under section 40 of the Land Drainage Act, 1930;

“the corporation” means the mayor, aldermen and burgesses of the borough of Maidstone;

As to
Allington
Lock and
Allington
Sluices.

1930 c. 44.

“the lock” means the lock in the borough of Maidstone forming part of the navigation and known as Allington Lock;

“the navigation” means the Medway Lower Navigation;

“the navigation company” means the Medway Lower Navigation Company;

“the pen” means the part of the river Medway lying between the sluices and the sluices partly in the borough of Maidstone and partly in the parishes of Barming and East Farleigh in the rural district of Maidstone and known as East Farleigh Sluices;

“the prescribed level” means the height of 10 feet above Ordnance Datum (Newlyn) as measured immediately upstream of the sluices;

“the sluices” means the sluices partly in the borough of Maidstone and partly in the parish of Boxley in the rural district of Hollingbourn maintained by the river authority and the navigation company under the arrangement and known as Allington Sluices.

(2) Subject to the provisions of subsection (3) of this section, the navigation company, if so requested by the corporation for the purpose of enabling them to carry out any of their statutory functions, shall lower the level of water in the pen to such extent as may be reasonably necessary in the circumstances and at such time and for such a period as may be reasonable having regard to the interests of the river authority and the needs of persons using the navigation or abstracting water from the river Medway.

(3) The navigation company or the river authority shall not operate the sluices and the navigation company shall not operate the lock so as in either case to reduce the level of water in the pen below the prescribed level—

(a) until they shall have given to the Board not less than forty-eight hours' previous notice in writing of their intention to do so, except in cases of emergency when they shall give such notice as may be reasonably practicable; or

(b) for longer than is reasonably necessary to enable the river authority, the corporation or the navigation company (as the case may be) to carry out any of their statutory functions or to enable any other person at whose request the navigation company have reduced the level of water in the pen to effect the purpose for which the level has been reduced:

PART VII
—cont.

Provided that the river authority or the navigation company shall not reduce the level of water in the pen below the prescribed level for longer than seventy-two hours in any period of seven consecutive days except with the consent of the Board which shall not be unreasonably withheld.

(4) The navigation company and the river authority, in operating the sluices, and the navigation company, in operating the lock, shall take such steps as are reasonably practicable to prevent the contamination of water in the pen by saline or polluted water from the part of the river Medway lying downstream of the pen:

Provided that this subsection shall not apply in respect of such operations as are required for the purpose of restoring the normal level of water in the pen following a reduction of such level so long as reasonable notice has been given to the Board of the intended admission of water into the pen from the said part of the river Medway.

(5) (a) In the event of the lock or the sluices being out of repair at any time the Board may serve notice on the navigation company or the navigation company and the river authority (as the case may be) requiring them to carry out such works of repair, renewal or reconstruction in relation to the lock or the sluices as may be reasonably required for the purpose of maintaining the level of water in the pen at the prescribed level.

(b) If, within such time from the service of notice under paragraph (a) of this subsection as may in the circumstances be reasonably required for the purpose, the navigation company or the navigation company and the river authority (as the case may be) shall not have proceeded with the carrying out of such works or if, at any time, the navigation company or the navigation company and the river authority (as the case may be) do not proceed with reasonable dispatch in the carrying out of such works, the Board may themselves carry out such works or such part thereof as may remain to be carried out and may recover such proportion of the cost as is attributable to the navigation company or the navigation company and the river authority from the navigation company or the navigation company and the river authority (as the case may be).

(6) The Board shall at all times have such rights of access to the lock and sluices as they may reasonably require.

(7) (a) The cost of repairing, renewing or reconstructing the lock shall be borne as to one-third by the Board and as to two-thirds by the navigation company.

(b) The cost of operating, repairing, renewing or reconstructing the sluices shall be borne as to one-third by the Board and as to two-thirds by the navigation company and the river authority in accordance with the arrangement.

(c) In this subsection the cost of repairing, renewing or reconstructing the lock and the cost of operating, repairing, renewing or reconstructing the sluices shall include a proper proportion of the overhead charges of the navigation company or the navigation company and the river authority (as the case may be) in relation thereto.

(8) (a) Before commencing the renewal or reconstruction of the lock or the sluices the navigation company or the navigation company and the river authority (as the case may be) shall submit to the Board for their reasonable approval plans, sections, estimates of cost and particulars.

(b) If the Board do not within two months after the receipt of such plans, sections, estimates of cost and particulars give notice in writing to the navigation company or to the navigation company and the river authority (as the case may be) signifying their disapproval thereof, and the reasons for their disapproval, they shall be deemed to have approved thereof.

(c) Such renewal or reconstruction shall be carried out in accordance with such plans, sections, estimates of cost and particulars as may be approved (or as may be deemed to be approved) by the Board or settled by arbitration and to their reasonable satisfaction.

(9) The Clerk of the Board (or any other person authorised by the Board in that behalf) may inspect at all reasonable times the accounts of the navigation company or of the river authority in so far as they relate to expenditure in which the Board have an interest by virtue of this section.

(10) Section 17 (Locks at Allington and Maidstone to be only opened at request of Corporation) of the Maidstone Bridge Act, 1877, is hereby repealed.

1877 c. cxxxviii.

(11) Any question or difference which may arise between the Board and the river authority, the corporation or the navigation company or any of them under this section (other than a difference to the construction thereof) shall be determined by arbitration.

(14) The costs, charges and expenses preliminary to and of incidental to the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto and of the application made by the Board to the Minister in 1967 for an order under the Water Acts, 1945 and 1948 shall be paid by the Board. Costs of Act.

SCHEDULES

SCHEDULE 1

Section 4

PROVISIONS OF THE THIRD SCHEDULE APPLIED

(1) Provisions applied	(2) Modifications
Part II (Works and Lands) except section 9	<p>In section 2 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".</p> <p>In section 4 for the words "any land for the time being held by them in connection with their water undertaking" there shall be substituted the words "the lands delineated on the deposited plans", after the word "culverts" there shall be inserted the words "measuring gauges", after the word "buildings" there shall be inserted the words "roads, means of access, means of electrical communication, embankments, fences, piers, bridges" and after the words "supply of water" there shall be inserted the words "(including works for the disposal of sludge resulting from the operation of the authorised works)".</p>
Part IV (Minerals Underlying Waterworks)	<p>In section 12 for the words "after this section is incorporated with their enactments" there shall be substituted the words "under the special Act", for the words "all existing pipes or other conduits for the collection, passage, or distribution of water and underground works belonging to them" there shall be substituted the words "all such pipes or other conduits or underground works" and the words "for the time being belonging to them" shall be omitted.</p>
Section 83 (Penalty for obstructing execution of special Act)	
Section 85 (Summary proceedings for offences)	

(1) Provisions applied	(2) Modifications
Section 91 (Mode of reference to arbitration) Section 92 (Liability of undertakers to pay compensation) Section 93 (Protection for works of navigation authorities and for catchment boards and railways) Section 94 (Copies of special Act to be kept by undertakers in their office, and deposited with certain officers)	In subsection (1) after the words " under any enactment " there shall be inserted the words " (other than their new functions under the Act of 1963) ".

SCHEDULE 2

Section 45

AGREEMENT REFERRED TO IN SECTION 45 (FOR PROTECTION OF BATTLE
RURAL DISTRICT COUNCIL) OF THIS ACT

AN AGREEMENT made the 14th day of March 1968 Between the RURAL DISTRICT COUNCIL OF BATTLE (hereinafter referred to as "the Council") of the one part and the MEDWAY WATER BOARD (hereinafter referred to as "the Board") of the other part:

WHEREAS—

(1) The Council are the owners of sewage treatment works (hereinafter referred to as "the Council's sewage works") in the parish of Ticehurst situate in the enclosure numbered 135 in that parish on the 1/2500 ordnance map of Sussex (East) sheet XIX.9 (revision of 1939);

(2) The Board are promoting a Bill in Parliament (hereinafter referred to as "the Bill") to authorise the Board to construct certain works including a reservoir to be known as "the Bewl Bridge Reservoir" and for the purpose of the construction of the said works to acquire compulsorily certain lands, including the Council's sewage works;

(3) In consideration of the covenants and agreements on the part of the Board hereinafter contained the Council have agreed not to oppose the Bill in so far as it relates to the acquisition of the Council's sewage works:

Now it is hereby mutually covenanted and agreed by and between the Board and the Council as follows:—

1. Notwithstanding anything contained in the Bill, the Board shall not acquire or take or suffer or permit to be taken any action whatsoever which shall affect in any way the working of the Council's existing sewage works or any part thereof, or any sewer, plant, equipment or apparatus forming part of the Council's existing sewerage system until the Council shall have completed in accordance with the provisions of this agreement the construction of new sewage disposal works upon such site as may be agreed between the Council and the Board (which site is hereinafter referred to as "the new site") together with all such machinery, pumping plant, sewers and such other articles whatsoever as may be necessary to receive and treat sewage amounting at the point of discharge to the specified quantity and such new sewage disposal works, machinery, pumping plant, sewers and other articles are operating to the reasonable satisfaction of the Council.

2.—(1) The Board shall repay to the Council all costs and expenses including establishment charges reasonably incurred by the Council of and in connection with—

(a) the acquisition of the new site;

(b) the construction on the new site of sewage disposal works of a capacity sufficient to treat a discharge of sewage of the specified quantity and capable of producing an effluent of such standard as may be lawfully required by the Kent

River Authority or any other person or body immediately prior to the commencement of the construction thereof together with all necessary ancillary and appurtenant works (hereinafter referred to as "the new sewage disposal works");

- (c) the acquisition of such sites (hereinafter referred to as "the subsidiary sites") for pumping stations as may be necessary for the purpose of pumping sewage to the new sewage disposal works;
- (d) the construction on the subsidiary sites of pumping stations with such machinery, pumping plant, sewers and other plant, equipment and apparatus as may be necessary to pump sewage to the new sewage disposal works;
- (e) the construction of any necessary access road or roads to the new site and the subsidiary sites and the acquisition of land required therefor;
- (f) the construction of any sewer or sewers necessary for the purpose of connecting the Council's sewerage system including the pumping stations on the subsidiary sites with the new sewage disposal works;
- (g) the enlargement, extension or alteration of the line of any existing sewer or sewers of the Council necessary for the purpose of connecting the Council's sewerage system with the new sewage disposal works;
- (h) the acquisition of easements required for the purposes of this clause;
- (i) the execution of any other works and the provision of any other plant, equipment or apparatus and the taking of any other action, the execution or provision or taking of which is necessary at the time of the implementation of this agreement by reason or in consequence of the exercise by the Board of their powers under the Bill and without prejudice to the generality of the foregoing it is hereby declared that the effect of this paragraph shall not in any way be limited by any other provision in this agreement and in particular shall not be limited by express references in this sub-clause to specific operations as it is recognised that the circumstances obtaining at the time of the implementation of this agreement may have changed in such a way as to make such references no longer apt to describe the necessary operations.

(2) Before commencing the construction, execution or provision of any works, plant, equipment or apparatus under sub-clause (1) of this clause the Council shall submit to the Board plans, sections, particulars and specifications thereof for their reasonable approval together with an estimate of the costs and expenses which the Board will be liable to repay to the Council under the foregoing provisions of this clause.

SCH. 2
—cont.

(3) Any sum from time to time due from the Board to the Council under this clause shall be paid by the Board to the Council within two months after receipt by the Board from the Treasurer of the Council of a certificate that the costs and expenses in respect of which the sum is due have been incurred by the Council.

3.—(1) In addition to the payments to be made by the Board to the Council under clause 2 of this agreement, the Board shall pay to the Council such sum as may be agreed between the Board and the Council or in default of agreement as may be determined by arbitration, to represent the capitalised value of the amount by which the annual running costs incurred by the Council at the new sewage disposal works and in connection with their sewerage system as reconstructed or altered by reason of the construction of the new sewage disposal works (including the pumping stations to be constructed on the subsidiary sites) exceeds the annual running costs incurred by the Council at their existing sewage disposal works and in connection with their existing sewerage system. For the purpose of this clause "running costs" means all costs, charges and expenses incurred by the Council in the operation, maintenance and management of their sewage disposal works and sewerage system, including pumping charges, and the said excess amount shall be capitalised by multiplying such amount by the factor of 15.37245. Without prejudice to the generality of the foregoing it is hereby declared that the effect of this sub-clause shall not in any way be limited by any other provision in this agreement and in particular shall not be limited by express references in this sub-clause to specific works, pumping stations or operations as it is recognised that the circumstances obtaining at the time of the implementation of this agreement may have changed in such a way as to make such references no longer apt to describe the necessary works, pumping stations and operations.

(2) The sum to be paid by the Board to the Council under this clause shall be paid within two months after receipt by the Board from the Treasurer of the Council of a written request therefor which shall not be delivered earlier than three months after the expiration of twelve months from the date on which the new sewage disposal works are first brought into operation:

Provided that if at the said date any part of the new sewage disposal works or of the Council's sewerage system as so reconstructed or altered as aforesaid (including the pumping stations on the subsidiary sites) has not then been completed so much of the said sum as relates to such part shall be paid by the Board to the Council within two months after receipt by the Board from the Treasurer of the Council of a written request therefor which shall not be delivered earlier than three months after the expiration of twelve months from the date on which the said part is completed.

4. If any sum payable to the Council by the Board under Clause 2 or Clause 3 of this agreement is not paid to the Council by the Board within the period specified in those clauses respectively the Board shall

to the Council interest on the sum so due at the rate of one per centum over the bank rate for the time being or at the rate of five per centum (whichever shall be the greater) from the date on which the payment was due until the date of payment.

5. The Board shall permit the Council to discharge storm sewage flows in excess of six times dry weather flow into the Bowl Bridge Reservoir.

6. On and after the passing of the Bill into law, the Council shall with all reasonable dispatch proceed to establish the new sewage disposal works on the new site and to carry out all such works as may be necessary to bring the new sewage disposal works into operation in substitution for the Council's sewage works.

7. On the bringing into operation of the new sewage disposal works in substitution for the Council's sewage works, the Council shall convey the site of the Council's sewage works to the Board free of charge, subject to the payment by the Board of the Council's costs of the conveyance.

8. The Board shall pay to the Council all costs, including administrative costs, incurred by the Council preliminary to and of and incidental to the preparing and completion of this agreement.

9. The provisions of this agreement (other than Clause 8) are subject to the Bill passing into law and containing a provision prohibiting the Board from interfering with the Council's sewage works otherwise than in accordance with this agreement.

10. This agreement is subject to such alterations as may be made by Parliament therein and shall be scheduled to the Bill but in the event of Parliament making any material alteration in this agreement it shall be in the option of either party affected by such alteration to withdraw from the same by giving written notice to the other party to this agreement before the Bill is reported by the Committee in the second House and in that event any provision in the said Bill affecting the Council's sewage works or sewerage system shall not be implemented except to such extent as they shall agree.

11. In this agreement—

“existing” means existing immediately prior to the commencement of the construction of the new sewage disposal works; and

“specified quantity” means a quantity of 120,000 gallons (dry weather flow) a day or such other quantity as is equal to one hundred and twenty per centum of the quantity of sewage which the Council's existing sewage works are capable of receiving and treating, whichever is the greater.

CH. xxxiii *Medway Water (Bowl Bridge Reservoir)*
Act 1968

SCH. 2
—cont.
1945 c. 42.

12. Any dispute, difference or question which may arise under this agreement between the Board and the Council shall be determined in accordance with the provisions of section 91 of the Third Schedule to the Water Act, 1945.

In Witness whereof the parties hereto have caused their Common Seals to be hereunto affixed the day and year first above written.

The Common Seal of the Rural
District Council of Battle was
hereto affixed in the presence
of:—

(L.S.)

J. D. ROSS,
Chairman of the Council.

N. J. HEANEY,
Clerk of the Council.

The Common Seal of the Medway
Water Board was hereto affixed
in the presence of:—

(L.S.)

J. MANNERING,
Chairman.

P. COPPENHALL,
Clerk.