

[1 EDW. 8. & 1 GEO. 6.] *Ministry of Health* [Ch. lxxxvii.]
Provisional Order Confirmation
(Tonbridge Water) Act, 1937.



CHAPTER lxxxvii.

An Act to confirm a Provisional Order of the Minister of Health relating to the Tonbridge Water Works Company Limited. A.D. 1937.

[20th July 1937.]

WHEREAS under the provisions of the Gas and Water Works Facilities Act 1870 and the Gas and Water Works Facilities Act 1870 Amendment Act 1873 the Minister of Health has made a provisional order which needs confirmation by Parliament: 33 & 34 Vict. c. 70. 36 & 37 Vict. c. 89.

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. The order of the Minister of Health which as amended is set out in the schedule to this Act is hereby confirmed and shall have full validity and force. Order in schedule confirmed.

2. This Act may be cited as the Ministry of Health Provisional Order Confirmation (Tonbridge Water) Act 1937. Short title.

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SCHEDULE.

TONBRIDGE WATER.

Provisional order under the Gas and Water Works Facilities Act 1870 and the Gas and Water Works Facilities Act 1870 Amendment Act 1873 empowering the Tonbridge Water Works Company Limited to construct additional waterworks making further provision with regard to the supply of water authorising the company to raise additional capital and for other purposes.

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

PART I.

PRELIMINARY.

Short and collective titles.

1. This order may be cited as the Tonbridge Water Order 1937 and the Tonbridge Water Orders 1886 to 1919 and this order may be cited together as the Tonbridge Water Orders 1886 to 1937.

Commencement of order.

2. This order shall come into operation on the date of the Act of Parliament confirming it.

Interpretation.

3.—(1) In this order the several words terms and expressions to which by the Acts in whole or in part incorporated with this order or by the Gas and Water Works Facilities Act 1870 meanings are assigned shall unless the context otherwise requires have the same respective meanings.

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

“ the commencement of this order ” means the date upon which this order comes into operation;

“ the undertakers ” means the Tonbridge Water Works Company Limited;

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“ the deposited plans ” and “ the deposited sections ”
 mean respectively the plans and the sections deposited
 for the purposes of this order ;

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 PART I.

—cont.

“ the directors ” means the directors of the undertakers ;

“ employee ” includes any workman servant or officer of
 the undertakers other than a director ;

“ the undertaking ” means the undertaking of the under-
 takers as existing from time to time ;

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

“ the Minister ” means the Minister of Health ;

“ the order of 1886 ” and “ the order of 1919 ” mean
 respectively the Tonbridge Water Order 1886 and the
 Tonbridge Water Order 1919 ;

“ the county council ” means the county council of the
 administrative county of Kent.

4.—(1) So far as the same relate to the powers conferred by
 this order the provisions of—

Incorpora-
 tion of
 certain
 Acts.

(a) the Lands Clauses Acts (except with respect to the
 purchase and taking of lands otherwise than by agree-
 ment and with respect to the entry upon lands by the
 promoters of the undertaking) ;

(b) the Waterworks Clauses Acts 1847 and 1863 as amended
 by any enactment ;

10 & 11 Vict.
 c. 17.
 26 & 27 Vict.
 c. 93.

are (except where those provisions are inconsistent with or
 expressly varied by this order) incorporated with and form part
 of this order.

(2) The Waterworks Clauses Act 1847 as so incorporated
 shall in its application to the undertakers be read and have effect
 as if the words “ with the consent in writing of the owner or
 reputed owner of any such house or of the agent of such owner ”
 were omitted from section 44 thereof.

(3) In the construction of the enactments so incorporated
 with this order the expression “ special Act ” shall be read as a
 reference to this order and the expression “ company ” shall
 mean the undertakers.

PART II.

WORKS.

5. Subject to the provisions of this order the undertakers
 may in upon or under the lands delineated on the deposited plans
 so long as they are possessed of the same or any necessary rights or

Power to
 construct
 water-
 works.

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PART II.
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easements therein make and maintain in the lines and situations and according to the levels shown on the deposited plans and sections the following work and other works and conveniences connected therewith and may alter enlarge renew and improve the same The work authorised by this order will be wholly situate within the urban district of Tonbridge in the county of Kent and is—

Work No. 1 A service reservoir situate at Bloodshots on land belonging to the undertakers adjacent to the existing Bloodshots service reservoir of the undertakers in Baltic Road;

together with all such culverts drains sluices embankments dams buildings machinery filters mains pipes apparatus approaches works appliances and conveniences of whatever character as may be necessary or convenient in connection with or subsidiary to the said works or necessary or expedient for the purposes of collecting storing and distributing water.

Limits of deviation.

6. In constructing the works shown on the deposited plans the undertakers may deviate laterally to any extent within the limits of deviation shown on the deposited plans and vertically from the levels shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards:

Provided that the undertakers shall not raise any pipe above the surface of the ground unless so shown on the deposited sections and then only to the extent shown.

Completion of work.

7. The work shown on the deposited plans shall be commenced constructed and completed within the time and subject to the conditions prescribed by section 11 of the Gas and Water Works Facilities Act 1870:

Provided that subject to the restrictions and provisions of this order the undertakers may alter enlarge renew deepen improve and extend the reservoir authorised by this order and the machinery filters pipes mains connections and other works connected therewith in such manner as may be requisite or advisable for supplying water within the limits of supply.

Limiting powers of undertakers to abstract water.

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

Telephonic wires and apparatus in streets.

9. Subject to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes (which with all necessary modifications shall apply to the exercise of the powers conferred by this section) the undertakers may for the purpose of effecting telegraphic or telephonic

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communication between to or from the undertakers' works or offices construct lay down maintain alter repair and renew tubes telegraph telephone electric and other wires and apparatus underground in any trench in which any pipes are laid for the purposes of the undertaking in or under any street road highway or footpath within the limits of supply :

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 PART II.
 —cont.

Provided that the undertakers shall not lay down any such tubes telegraph telephone electric or other wires or apparatus in or under any road street bridge or approach belonging to the Southern Railway Company except with the consent in writing of such company (which consent shall not be unreasonably withheld) and under the superintendence if given and to the reasonable satisfaction of the principal engineer of such company and if any difference arises as to whether such consent is unreasonably withheld or whether the requirements of the said principal engineer are reasonable or otherwise such difference shall be referred to an arbitrator to be appointed on the application of either party by the president of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 and the Arbitration Act 1934 shall apply to any such reference.

52 & 53 Vict.
 c. 49.
 24 & 25 Geo. 5.
 c. 14.

10. Any tubes telegraph telephone electric or other wires or apparatus made maintained constructed or laid down under the provisions of this order shall not be used in contravention of the exclusive privilege conferred on the Postmaster General by the Telegraph Act 1869 and shall not be constructed maintained or used in such a manner as to interfere with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster General or with telegraphic communication by means of any such line.

For protec-
 tion of
 Postmaster
 General.

32 & 33 Vict.
 c. 73.

41 & 42 Vict.
 c. 76.

PART III.

WATER SUPPLY.

11. Notwithstanding anything in the Waterworks Clauses Act 1847 or in any Act or order from time to time relating to the undertakers the water rates rents and charges leviable by the undertakers shall if the undertakers so determine be paid half-yearly one quarter in arrear and one quarter in advance at Christmas Day and Midsummer Day or at Lady Day and Michaelmas Day :

Rates
 leviable
 half-yearly.

Provided that any person who shall occupy any premises during part only of any half-year in respect of which the rate is so required to be paid shall be liable for a part of the rate proportionate to that part of the half-year and if any such person shall have paid to the undertakers a greater part of such rate the balance shall be refunded to him by the undertakers.

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Rates
 payable
 by owners
 of small
 houses.

12.—(1) Where the net annual value of a house supplied with water does not exceed thirteen pounds or the house is let to monthly or weekly tenants or tenants holding for any other period less than a quarter of a year the owner instead of the occupier shall if the undertakers so determine pay the rate for the supply of water as from the usual quarter day next after the expiration of twenty-eight days from the date upon which notice in writing of such determination shall have been given by the undertakers to the owner (or if the undertakers exercise the powers of the section of this order of which the marginal note is "Rates leviable half-yearly" as from the next quarter day which the undertakers determine shall be the day of payment after the expiration of such period of notice) but the rate may be recovered by the undertakers from the occupier and may if so recovered and if the occupier be not himself liable for the water rate under any lease or agreement whether in writing or otherwise be deducted by the occupier from the rent from time to time due from him to the owner. Provided that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him or which shall have accrued due from him subsequent to the service upon him of a notice to pay the rate. Provided also that if the undertakers determine that the said rate shall be paid by the owner of any such house as aforesaid they shall require that the owner of every such house as aforesaid shall pay the said rate.

(2) The undertakers shall make to the owner of any such house who pays the water rate due in respect of such premises before the expiration of one-half of the period in respect of which the water rate is charged or such later date as may be prescribed by the undertakers an allowance equal to two and a half per centum of the amount of such water rate.

(3) The provisions of section 73 of the Waterworks Clauses Act 1847 shall mutatis mutandis extend and apply to any payments made under this section by the owner of any house and as if that section applied in the case of any lease or agreement whether made before or after the commencement of this order and whether in writing or otherwise.

(4) Section 33 (Water rates payable by owners of small houses) of the order of 1919 is hereby repealed.

As to net
 annual
 value of
 two or
 more
 houses in one
 occupation.

13. Where two or more houses or buildings connected by any means of communication not being a public highway are in the occupation of one and the same company body firm or person they shall be deemed for the purpose of determining the amount of water rate chargeable by the undertakers in respect of any supply of water for domestic purposes furnished by the undertakers to any one or more of such two or more houses or buildings to be one tenement having a net annual value equal to the aggregate of the net annual values of the separate houses or buildings so occupied.

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14.—(1) Where a person who takes a supply of water for domestic purposes from the undertakers desires to use the water for horses or washing carriages or motor-cars or for other purposes in stables garages or premises where horses carriages or motor-cars are kept the undertakers may if a hosepipe or other similar apparatus is used charge (except where the water so used is taken by meter) such sum not exceeding twenty shillings per annum as they may prescribe and (where more motor-cars than one are kept) a further sum not exceeding ten shillings per annum for each motor-car beyond the first.

(2) Any sums chargeable under this section shall be in addition to the rates authorised for the supply of water for domestic purposes and shall be recoverable in all respects with and in the same manner as the said rates.

(3) Where water supplied by the undertakers to a person who takes a supply both for domestic purposes and by meter for trade or other purposes is used by him by means of a hosepipe or other similar apparatus for horses or for washing carriages or motor-cars or for other purposes in stables garages or premises where horses carriages or motor-cars are kept the undertakers may if they think fit require that all water so used by means of any such hosepipe or other apparatus shall be taken by meter and paid for at the rates for the time being in force for the supply of water by meter.

(4) Section 27 (Supply of water by hosepipe to stables &c.) of the order of 1919 is hereby repealed.

15.—(1) Where a person who takes a supply of water for domestic purposes from the undertakers otherwise than by measure desires to use any of the water so supplied for—

- (a) a water-cooled refrigerating apparatus; or
- (b) any apparatus depending while in use upon a supply of continuously running water; or
- (c) any apparatus used for softening water which requires water for cleaning regenerating motive power or similar purposes;

the undertakers may if they think fit require that all water so used shall—

- (i) be taken by measure and paid for accordingly and in that event the minimum quarterly charge for the water shall be ten shillings; or
- (ii) be paid for at such rates as may be agreed between such person and the undertakers.

(2) No charge shall be made under this section in respect of an apparatus used within the premises for which the supply of water is taken for softening water if one such apparatus only

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—cont.

Charges for
horses and
washing
vehicles.

Charges for
supplies for
refrigerating
apparatus
&c.

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A.D. 1937. is used and the water softened thereby can be drawn off into a
 — receptacle at one point only and is used solely for purposes for
 PART III. which the water rate for domestic purposes is paid.
 —cont.

Supply to
 certain
 premises.

16.—(1) The undertakers shall not be bound to supply with
 water otherwise than by measure at the rates prescribed for a
 supply by measure—

- (a) any building used by an occupier as a dwelling-house
 whereof a part is used by the same occupier for any trade
 or manufacturing purpose for which water is required;
 or
- (b) any mental or other hospital (whether public or private)
 or any nursing home sanatorium school club hotel
 restaurant public-house or inn; or
- (c) any boarding house or lodging-house capable of accommo-
 dating twelve or more persons including the persons
 usually resident therein; or
- (d) any public institution which is habitually occupied by
 at least twenty persons including the persons usually
 resident therein.

(2) Where a supply of water to a farmhouse is used for
 farming purposes the undertakers may require that the supply
 for farming purposes shall be taken by measure and paid for at
 the rate for the time being in force for a supply by measure but
 nothing in this section shall authorise the undertakers to refuse
 a supply of water for domestic purposes to a farmhouse at the
 ordinary rate calculated on the rateable value thereof.

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

(4) Section 29 (Supply for farming purposes) of the order
 of 1919 is hereby repealed.

Supplies to
 swimming
 baths and
 bathing
 pools.

17. Where a person who takes a supply of water for domestic
 purposes desires to use water for a swimming bath or bathing
 pool the undertakers may require that all water required for such
 swimming bath or bathing pool shall be taken by measure and
 paid for at the rate for the time being in force for the supply of
 water by measure.

Special
 terms for
 supplies to
 caravans
 &c.

18.—(1) The undertakers before supplying water to any
 caravan shack hut tent or other like structure may require the
 owner or occupier thereof—

- (a) to agree with the undertakers to take a supply of water
 by measure and to pay to the undertakers such minimum

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annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing the supply or supplies required by him and will cover other standing charges incurred by the undertakers in order to meet the possible maximum demand for the caravan shack hut tent or structure and will yield a reasonable return on the cost of the water consumed or used by him ; and

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PART III.
—cont.

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

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

(3) Notwithstanding anything in this section or any other provisions of the Tonbridge Water Orders 1886 to 1919 or this order the undertakers shall not (unless so authorised by the Minister) supply water to any caravan shack hut tent or other like structure if the local authority for the district in which such caravan shack hut tent or other like structure is situated objects in writing to the supply being given.

(4) For the purpose of ascertaining whether the local authority objects to such supply being given the undertakers shall give to such authority fourteen days' notice in writing of their intention to afford such supply.

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

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

20. Notwithstanding anything contained in the order of 1886 in the event of any meter used by a consumer of water being proved to register erroneously such erroneous registration shall be deemed to have first arisen during the then last preceding quarter of the year unless it be proved to have first arisen during the then current quarter and the amount of the allowance to be made to or of the surcharge to be made upon the consumer by the undertakers shall be paid by or to the undertakers to or by the consumer as the case may be and in the case of a surcharge shall be recoverable in the like manner as water rates are recoverable by the undertakers.

Erroneous
registration
of meter.

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PART III.
—*cont.*
Cisterns to
be provided
for high-
level
supplies.

21. The undertakers may require that any premises the erection of which is commenced after the commencement of this order situate on land at a higher level than fifty feet below the top water level of the service reservoir or water tower from which a supply of water is furnished or to be furnished by them to such premises shall be provided with a cistern or cisterns capable of containing a total quantity of water sufficient to provide an adequate supply to such premises for a period of twenty-four hours and the undertakers shall not be required to supply any such premises until the same are provided with a cistern or cisterns in conformity with the requirements of this section.

Byelaws for
preventing
waste &c.
of water.

22.—(1) The undertakers may make byelaws for the purpose of preventing waste undue consumption misuse or contamination of water supplied by them and may by such byelaws prescribe the size nature materials workmanship and strength and the mode of arrangement connection disconnection alteration and repair of pipes meters cocks ferrules valves soil-pans waterclosets baths cisterns and other similar apparatus (in this section referred to as "water fittings") to be used and forbid any arrangements and the use of any water fittings which may allow or tend to waste undue consumption misuse erroneous measurement or contamination of water.

(2) Such byelaws shall apply only in the case of premises to which the undertakers are bound to afford and do afford or are prepared on demand to afford a constant supply.

(3) In addition to the powers hereinbefore conferred by this section the undertakers may make byelaws as to the testing and stamping of taps cocks ferrules valves flushing cisterns flushing apparatus and other similar fittings and apparatus and prescribing the charge to be made for such testing and stamping.

(4) In case of the failure of any person to observe such byelaws as are for the time being in force the undertakers may if they think fit after twenty-four hours' notice in writing enter and by and under the direction of their duly authorised officer repair replace or alter any water fittings belonging to or used by such person and not being in accordance with the requirements of such byelaws and the reasonable expense of every such repair replacement or alteration shall be recoverable by the undertakers from the person in default as the water rates in respect of the premises are recoverable.

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

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(6) Nothing in this section or in any byelaw made thereunder shall apply to any water fittings used on any premises (not being or being used as a hotel or dwelling-house) belonging to and forming part of the railway of a railway company so long as such fittings do not cause waste undue consumption misuse or contamination of water which is supplied by the undertakers.

(7) Any byelaw made under this section shall cease to have effect on the expiration of ten years from the date on which it was made Provided that the Minister may by order extend the period during which any such byelaw is to remain in force.

(8) Sections 19 to 22 of the order of 1886 are hereby repealed.

23. All byelaws made under the two last preceding sections of this order shall be subject to the provisions contained in subsections (2) (3) (4) (5) (6) (7) and (10) of section 250 and in sections 251 and 252 of the Local Government Act 1933 and in subsection (7) of section 132 of the Public Health Act 1936 and those provisions shall for the purposes of this section be construed as if the undertakers were a local authority within the meaning of those sections and the secretary of the undertakers were the clerk of the local authority The confirming authority for the purposes of the said section 250 shall be the Minister.

Provisions
 with regard
 to byelaws.
 23 & 24
 Geo. 5. c. 51.
 26 Geo. 5. &
 1 Edw. 8.
 c. 49.

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

As to streets
 forming
 boundary
 of limits
 of supply.

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

(3) Nothing in this section shall entitle or require the undertakers to supply water to the owner or occupier of any premises

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A.D. 1937. abutting upon any such street and being outside the limits of supply.

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

Power to
lay pipes
in private
streets.

25.—(1) The undertakers may on the application of the owner or occupier of any premises within the limits of supply abutting on or being erected in any street laid out but not dedicated to public use supply those premises with water and for that purpose the Waterworks Clauses Act 1847 shall apply as if section 29 (Undertakers not to enter on private land without consent) of that Act were excepted from incorporation with this order and as if the persons having the control or management of the street included where the street is situate in an urban district the council of the district and where the street is situate in a rural district the county council.

(2) The undertakers shall not without the previous consent of the Southern Railway Company exercise the powers conferred on them by this section in respect of any street belonging to and forming the approach to any station or depot of that company but such consent shall not be unreasonably withheld and any question as to whether or not any such consent has been unreasonably withheld shall be referred to and determined by an arbitrator to be appointed failing agreement by the president of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 and the Arbitration Act 1934 shall apply to any such reference and determination.

Stop-cocks
&c. to be
fitted in
communi-
cation
pipes.

26.—(1) In the case of all buildings the erection of which is commenced after the commencement of this order connected with the mains of the undertakers the undertakers may in cases where the communication pipes are laid by the person requiring the supply or by the undertakers at his request require such person at the time when the pipes are laid to insert or to have inserted and thereafter to maintain a stop-cock (which expression where used in this section shall include the necessary covers or boxes for giving access and protection thereto) in the communication or service pipe from the said premises in some position as near as is reasonably possible to the point at which such pipe passes the boundary of the street or to the point at which such pipe enters any premises in or under the street whichever of those points is the nearer to the main of the undertakers from which the supply is given to the said premises and if such person fails to comply with such requirement the undertakers may insert and maintain a stop-cock in such communication or service pipe and recover the reasonable expenses incurred by them in so doing from such person as a civil debt.

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

(3) The undertakers may by agreement with any person liable to insert or to maintain any stop-cock and for that purpose authorised to open or break up any street execute such works on behalf of such person and any expenses reasonably incurred by the undertakers in so doing shall be repaid by the person with whom the agreement is made and shall be recoverable summarily as a civil debt.

27. Notwithstanding anything contained in the Tonbridge Water Orders 1886 to 1919 or this order the undertakers shall have the exclusive right of executing any works on any of the water mains of the undertakers for connecting any communication or service pipe therewith and the undertakers shall on the request of any owner or occupier of any premises who is entitled to be supplied with water by the undertakers execute (subject to the provisions so far as applicable of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes) any work on any such main and supply all fittings and materials which shall be necessary to connect the communication or service pipe of such owner or occupier therewith and the reasonable expenses incurred by the undertakers in so doing shall be repaid by the owner or occupier so requesting and shall be recoverable as a civil debt.

Under-
 takers to
 connect
 communi-
 cation and
 service
 pipes with
 mains.

28.—(1) For the purpose of complying with any obligations under the Waterworks Clauses Act 1847 or under any other Act or any order relating to the undertakers to maintain or repair any pipe or apparatus used for the supply of water from the works of the undertakers the person liable to maintain such pipe or apparatus shall have the like power to open the ground as is conferred upon him by and subject to the conditions of sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes.

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

(2) The undertakers by agreement with any owner or occupier entitled or required to lay maintain repair or remove any communication pipe or apparatus and for that purpose to open or break up any street may subject to the like conditions execute such works on behalf of such owner or occupier and subject to the terms of the agreement any reasonable expenses incurred by the undertakers shall be repaid by the owner or occupier with whom

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(3) Section 24 (As to communication pipes) of the order of 1919 is hereby repealed.

Penalty for closing valves and apparatus.

29. Every person who without the consent of the undertakers shall wilfully or negligently close or shut off any valve cock or other work or apparatus belonging to the undertakers whereby the supply of water shall be interfered with shall (without prejudice to any other right or remedy of the undertakers) be liable on conviction to a penalty not exceeding five pounds and the undertakers may in addition thereto recover the amount of any damage sustained by them :

Provided that this section shall not apply to a consumer closing a valve fixed on his communication pipe.

Penalty for opening valves and apparatus.

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

Purchase of water in bulk.
24 & 25
Geo. 5. c. 15.

31. The undertakers may enter into and carry into effect agreements with any body or person supplying water not being statutory water undertakers within the meaning of the Supply of Water in Bulk Act 1934 for the purchase of a supply of water in bulk as if such body or person were a statutory water undertaker within the meaning of that Act and accordingly any such agreement shall be subject to the provisions of that Act.

Extension of power to inspect premises.

32. In addition to the powers conferred by section 57 (Power to surveyor employed by undertakers to enter houses to inspect &c.) of the Waterworks Clauses Act 1847 any duly authorised officer of the undertakers may at all reasonable times between the hours of seven and nine in the forenoon and also between the hour of four in the afternoon and one hour after sunset enter into any house or premises supplied with water by the undertakers in order to examine if there be any waste or misuse of such water and if any person hinder any such officer from entering under the said section 57 or under this section or from making such examination as aforesaid he shall for every such offence be liable to a penalty not exceeding five pounds :

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Provided that no person shall for the same offence have the water supplied to him turned off in pursuance of the said section 57 and also be liable to a penalty under this section.

A.D. 1937.

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 PART III.
 —cont.

33. Nothing in this order shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electricity (Supply) Acts 1882 to 1936 to which the provisions of section 15 of the Electric Lighting Act 1882 or of section 17 of the schedule to the Electric Lighting (Clauses) Act 1899 apply except in accordance with and subject to the provisions of those sections.

For protection of electricity undertakers.
 45 & 46 Vict. c. 56.
 62 & 63 Vict. c. 19.

PART IV.

FINANCIAL.

34. In addition to the capital authorised by the Tonbridge Water Orders 1886 to 1919 the undertakers may from time to time raise additional capital not exceeding in the whole forty-five thousand pounds by the creation and issue of new ordinary shares or new preference shares or wholly or partially by any one or more of those modes respectively :

Additional capital.

Provided that the undertakers shall not under the powers of this order—

- (a) create and issue any shares of less nominal value than five pounds; or
- (b) create and issue any greater nominal amount of capital than shall after taking into account the premiums and discounts (if any) which may be obtained or allowed respectively on the issue thereof be sufficient to produce the sum of forty-five thousand pounds.

35. The undertakers shall not in any year pay out of their profits any larger dividend on the additional capital than seven pounds in respect of every one hundred pounds actually paid up of so much of such capital as may be issued as ordinary capital unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said sum of seven pounds per centum per annum or than six pounds in respect of every one hundred pounds actually paid up of so much of such capital as may be issued as preference capital.

Limits of dividend on capital.

36.—(1) All ordinary or preference shares issued by the undertakers after the commencement of this order shall be issued in accordance with the provisions of this section.

New capital to be sold by auction or tender.

(2) All shares so to be issued shall be offered for sale by public auction or tender in such manner at such times and subject

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—
PART IV.
—cont.

Provided as follows :—

- (a) Notice of the intended sale shall be given in writing to the clerk to the local authority of every county district wholly or partly within the limits of supply and to the secretary of the London Stock Exchange at least seven days before the day of auction or the last day for the receipt of tenders as the case may be and shall also be duly advertised once in each of two consecutive weeks in one or more local newspapers circulating within the limits of supply ;
- (b) A reserve price shall be fixed and notice thereof shall be sent by the undertakers in a sealed letter to be received by the Minister not less than twenty-four hours before but not to be opened till after the day of auction or last day for the receipt of tenders as the case may be ;
- (c) In the case of a sale by auction no lot offered for sale shall comprise shares of greater nominal value than one hundred pounds and no bid shall be recognised unless it is in advance of the last preceding bid ;
- (d) In the case of a sale by tender no preference shall be given to one of two or more persons tendering the same sum except that the offer by tender of any holder of shares or stock of the undertakers may be accepted in preference to the offer of the same sum by any person not such a holder as aforesaid and preference may in like manner be given to the offer of any employee of the undertakers or of any consumer of water supplied by the undertakers ;
- (e) It shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the undertakers within three months after the date of the auction or of the acceptance of the tender as the case may be.

(3) Any shares which have been so offered for sale and are not sold may be offered in manner prescribed by a resolution of the directors at the reserve price to the holders of ordinary and preference shares or stock of the undertakers and to the employees of the undertakers and to the consumers of water supplied by the undertakers in such proportions as the directors may think fit or to one or more of those classes of persons only :

Provided that in the case of an offer to holders of shares or stock if the aggregate amount of shares applied for shall exceed the aggregate amount so offered the same shall be allotted to

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and distributed amongst the applicants as nearly as may be in proportion to the amounts applied for by them respectively.

A.D. 1937.

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PART IV.

—cont.

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

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

37.—(1) Notwithstanding anything in the section of this order of which the marginal note is "New capital to be sold by auction or tender" it shall be lawful for the undertakers with the consent of the Minister and subject to such conditions as the Minister may think fit to impose to offer for subscription by the public free from the provisions of the said section any ordinary shares or preference shares of the undertaking to be issued after the commencement of this order and on any such offer to pay a commission not exceeding two and a half per centum to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any such shares or procuring or agreeing to procure subscriptions whether absolute or conditional for such shares :

Provisions
as to
payment of
commission
on sale of
capital.

Provided that the payment of the commission and the amount or rate per centum of the commission paid or agreed to be paid shall be disclosed in every prospectus advertisement or other document of the undertakers inviting subscription for such shares.

(2) Nothing in this section shall affect any power of the undertakers to pay brokerage.

(3) Nothing in this order shall be deemed to authorise the issue of any shares at a discount except as provided by the Companies Act 1929.

19 & 20 Geo. 5.
c. 23.

38. If in any year or (if the undertakers declare a dividend half-yearly) in any half-year the net revenues of the undertakers applicable to dividend shall be insufficient to pay the full amount of the prescribed maximum rate of dividend on each class of ordinary shares or stock in the capital of the undertakers a proportionate reduction shall be made in the dividend of each class.

Dividends
on different
classes of
ordinary
capital.

39. The amount of all moneys borrowed by the undertakers and secured by mortgage of the undertaking shall not at any time exceed in the whole one-half of the amount of the capital of

Limit of
borrowing
powers.

[Ch. lxxxvii.] *Ministry of Health* [1 EDW. 8. &
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(Tonbridge Water) Act, 1937.

A.D. 1937. the undertakers at the time actually raised in respect of the
undertaking by the issue of shares or stock including any premium
that may be obtained on the sale of any such shares or stock and
no higher rate of interest than five per centum per annum shall be
paid by the undertakers without the consent of the Minister in
respect of any moneys borrowed by the undertakers after the
commencement of this order and secured as aforesaid.

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PART IV.
—cont.

Application
of moneys.

40. All moneys raised under this order including premiums shall be applied only to purposes of the undertaking to which capital is properly applicable and any sum of money which may arise by way of premium from the issue of share capital shall not be considered as part of the capital of the undertakers entitled to dividend.

Reserve
fund.

41.—(1) The directors may (subject to the provisions of the section of this order of which the marginal note is "Limit on reserve and contingency funds") if they think fit in any year set apart out of the clear profits of the undertaking such sums as they may determine and any sums so set apart may from time to time be invested in any securities in which trustees are authorised by law to invest money or in such other manner as shall be authorised by a resolution of the directors and the dividends and interest arising from such securities may also be invested in the same or like securities in order that the same may accumulate at compound interest. The fund so formed shall form a reserve fund to answer any deficiency which may at any time happen or have happened in the amount of divisible profits or to meet any extraordinary claim or demand which may at any time arise against the undertakers and if such fund be at any time reduced it may thereafter be again restored within the limit prescribed by this section and so from time to time as often as such reduction shall happen :

Provided that no sum of money shall be taken from the said fund for the purpose of meeting any extraordinary claim or demand unless it be first certified by two justices that the sum so proposed to be taken is required for the purpose of meeting an extraordinary claim or demand within the meaning of this section.

(2) Any money standing to the credit of the reserve fund of the undertakers at the commencement of this order shall forthwith be carried by the undertakers to the credit of the reserve fund authorised by this section.

(3) Save as in this section provided no sum shall in respect of the undertaking in any year be carried by the undertakers to any reserve or reserved fund.

Contingency
fund.

42. The directors may if they think fit in any year appropriate out of the revenue of the undertaking as part of the expenditure

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on revenue account such sum as they may determine (subject to the provisions of the section of this order of which the marginal note is "Limit on reserve and contingency funds") to a fund to be called "the contingency fund" which fund shall be applicable to meet contingencies or for renewing repairing or improving the works connected with the undertaking or any part thereof.

A.D. 1937.

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 PART IV.
 —cont.

43.—(1) The aggregate amount which may be carried in any year to any reserve fund formed in pursuance of the section of this order of which the marginal note is "Reserve fund" and to any contingency fund formed in pursuance of the section of this order of which the marginal note is "Contingency fund" shall not together exceed a sum equal to one per centum of the capital for the time being raised by the undertakers for the purposes of the undertaking.

Limit on
 reserve and
 contingency
 funds.

(2) The aggregate amount standing to the credit of any such reserve fund and contingency fund of the undertakers as aforesaid shall not together at any time exceed a sum equal to ten per centum of the capital for the time being expended by the undertakers for the purposes of the undertaking.

44. It shall be lawful for the undertakers in respect of the undertaking to carry forward at the end of any year at the credit of the profit and loss (net revenue) account any sum not exceeding the total of the following amounts (that is to say) :—

Limitation
 on carry
 forward.

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

PART V.

MISCELLANEOUS.

45. Unless and except so far as may be from time to time otherwise agreed in writing between the county council and the undertakers the following provisions shall have effect and apply to the exercise of the powers conferred on the undertakers by this order so far as any of such powers affect any street (as defined by the Waterworks Clauses Act 1847) for the time being vested in the county council or bridge (which expression shall in this section

For protec
 tion of Kent
 county
 council.

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A.D. 1937. include any bridge culvert or other similar structure the approaches thereto and the road over such structures and approaches) for the time being maintained by or at the expense of the county council :—

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PART V.
—cont.

- (1) All mains pipes and works (other than replacements of existing mains pipes or works in the same position as the mains pipes or works replaced) of the undertakers to be laid in under along or across the soil or pavement of any street or bridge shall be laid in such position and at such depth as the county council in writing under the hand of their surveyor (in this section referred to as "the county surveyor") may reasonably direct :
- (2) In the application of the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes the notice required by section 30 of that Act shall (except in cases of leakage bursting or other emergency when as long notice shall be given as is reasonably practicable) in the case of a bridge be fourteen clear days instead of three days and in all other cases seven clear days instead of three days :
- (3) The plan required by section 31 of the Waterworks Clauses Act 1847 shall be accompanied by a section of the proposed works and shall (except as aforesaid) be delivered to the county surveyor by the undertakers not less than in the case of any bridge fourteen clear days and in all other cases seven clear days before the undertakers commence to interfere with any such bridge or street for the purpose of executing the works and any difference as to any such plan or section or as to the temporary or other works referred to in the said section 31 shall be determined by arbitration under this section instead of in the manner prescribed by the said section 31 :
- (4) Nothing in this order or any former Act or order relating to the undertaking shall authorise the undertakers to interfere with the structural part of any bridge without the consent in writing of the county surveyor which may be given upon such conditions as the county council or the county surveyor may reasonably determine :
- (5) Nothing in this order shall limit prejudice or affect the right of the county council at any time to divert widen alter the levels of or otherwise alter and improve any street and to remove alter rebuild widen or repair any bridge in under along over across or attached to which any mains pipes or works of the undertakers are carried

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in the same manner as the county council might have diverted improved removed altered rebuilt widened or repaired any such street or bridge if this order had not been made and the undertakers shall with all reasonable speed after receiving notice in writing under the hand of the county surveyor alter the position of the said mains pipes and works in such manner and to such extent as the county surveyor may reasonably require :

A.D. 1937.

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PART V.
—cont.

Provided that—

(a) the cost of carrying out any works necessary for the purpose of complying with any requirement of the county surveyor pursuant to the provisions of this subsection—

(i) in the case of the diversion widening alteration of the levels of or other alteration or improvement of any street shall be repaid to the undertakers by the county council ;

(ii) in the case of the removal alteration rebuilding widening or reparation of any bridge shall be borne and paid by the undertakers ; and

(b) during any such diversion improvement removal alteration rebuilding widening or reparation of such street or bridge as aforesaid the county council shall afford to the undertakers all reasonable facilities for temporarily carrying such mains pipes and works along the street or across any stream or river so as not to interrupt the continuous supply of water or to diminish the pressure of such supply through such mains or pipes and the undertakers may carry such mains and pipes accordingly :

(6) All works shall be so executed by the undertakers as not unreasonably to impede or interfere with the traffic on any street or bridge and the undertakers shall not without the consent of the county surveyor (which consent shall not be unreasonably withheld) open or break up at any one time a greater length than one hundred and fifty yards of any street or leave an interval of less than one hundred yards between any two places at which they may open or break up such street :

(7) The county council shall not be liable for or in respect of any damage or injury done to any mains pipes or other works of the undertakers laid fixed and executed under the powers of this order in under or along any street or in the soil or pavement of any bridge by reason of such mains pipes or other works being laid or executed

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PART V.
—cont.

at a depth below the surface of the street or the roadway over a bridge insufficient for their protection from injury arising from the reasonable use by the county council of any steam or other roller not exceeding fifteen tons in weight for the repair of any street or bridge or of any traction engine not exceeding that weight :

- (8) All costs charges amounts and expenses payable by the undertakers to the county council or by the county council to the undertakers under the provisions of this section shall be recoverable as a debt due from the undertakers to the county council or from the county council to the undertakers as the case may require :
- (9) If any difference at any time arises between the county council and the undertakers touching this section or anything to be done or not to be done thereunder such difference shall be referred to and determined by an arbitrator to be agreed upon between them or failing such agreement to be appointed on the application of either party after notice in writing to the other of them by the president of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 and the Arbitration Act 1934 shall apply to any such reference to arbitration as aforesaid :
- (10) The provisions of this section shall be in addition to and not in substitution for the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes except so far as such last mentioned provisions are expressly varied by the provisions of this section.

Copy of
confirmation
Act to be
registered.

46.—(1) The undertakers shall deliver to the Registrar of Companies a printed copy of the Act passed for the confirmation of this order and he shall retain and register the same and if such copy is not so delivered within three months from the passing of that Act the undertakers shall incur a penalty not exceeding two pounds for every day after the expiration of those three months during which the default continues and any director or manager of the undertakers who knowingly and wilfully authorises such default shall incur a like penalty Every penalty under this section shall be recoverable summarily.

(2) There shall be paid to the Registrar by the undertakers on such copy being registered the like fee as is for the time being payable under the Companies Act 1929 on registration of any document other than a Memorandum of Association or the abstract required to be delivered to the Registrar by a receiver or manager or the statement required to be sent to the Registrar by the liquidator in a winding-up in England.

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

A.D. 1937.

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 PART V.
 —cont.

(2) Any such notice may be served either personally or by a prepaid letter sent by post and (a) in the case of a shareholder or stockholder addressed to him at his registered address and (b) in the case of any other person addressed to such person at his last known or usual place of abode or of business or by delivering the notice to some inmate of the premises supplied with water or if the premises are unoccupied and the place of the abode of the person to be served cannot be found after proper inquiry any notice not being a notice to pay any charge may be affixed to some conspicuous part of the premises.

Authenti-
 cation and
 service of
 notices by
 undertakers.

48.—(1) When the payment of more than one sum by any person is due under this order or any one or more of the Acts or orders from time to time relating to the undertakers any summons or warrant issued for the purposes of any one or more of such Acts or orders in respect of that person may contain in the body thereof or in a schedule thereto all the sums payable by him.

Several
 sums in one
 summons
 &c.

(2) Section 33 (Several names in one summons) of the order of 1886 is hereby repealed.

49.—(1) A judge of any court or a justice shall not be disqualified from acting in the execution of this order or of any Act or order from time to time relating to the undertaking by reason of his being liable to the payment of any rate.

Judges not
 disqualified.

(2) Section 35 (Liability to water rate not to disqualify justices &c. from acting) of the order of 1886 is hereby repealed.

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

Recovery
 of rates
 from persons
 removing.

51. Proceedings for the recovery of any demand made under the authority of any Act or order from time to time relating to the undertaking or any incorporated enactment whether provision is or is not made for the recovery in any specified court or manner

Recovery
 of demands.

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A.D. 1937. may be taken in any county court having otherwise jurisdiction
— in the matter provided that the demand does not exceed the
PART V. amount recoverable in that court in an action founded on contract
—cont. or tort.

Recovery
of penalties
&c.

52. Save as otherwise expressly provided by any Act or order from time to time relating to the undertaking or any incorporated enactment all offences against and all penalties forfeitures costs and expenses imposed or recoverable under any such Act or order or any byelaw made in pursuance of a power thereby conferred may be prosecuted and recovered in a summary manner :

Provided that costs or expenses except such as are recoverable along with a penalty shall not be recovered as penalties but may be recovered summarily as civil debts.

Inquiries
and
expenses.

53. The Minister may direct any inquiries to be held by his inspectors which he may deem necessary for the purposes of his powers under this order and section 290 of the Local Government Act 1933 shall apply as if the undertakers were a local authority and as if this order were an enactment relating to the functions of a local authority.

Costs of
order.

54. All costs charges and expenses of and incidental to the application for this order and the preparation making and confirmation of this order shall be paid by the undertakers and may in whole or in part be defrayed out of revenue.

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