



CHAPTER xxiii

An Act to confirm a Provisional Order made by the Minister of Agriculture and Fisheries under the Surrey County Council Act 1936 for the execution of works for the improvement of the Rive Ditch in the county of Surrey and for other purposes. [14th July 1953.]

WHEREAS under the provisions of the Surrey County Council Act 1936 the Minister of Agriculture and Fisheries has made an Order which needs confirmation by Parliament:

Be it therefore 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:—

1. The Order of the Minister of Agriculture and Fisheries which 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 shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section thirteen and subsection (1) of section one hundred and eighteen of that Act. Saving for town and country planning.

3. This Act may be cited as the Land Drainage (Surrey County Council (Rive Ditch Improvement)) Provisional Order Confirmation Act 1953. Short title.

SCHEDULE

SURREY COUNTY COUNCIL (RIVE DITCH IMPROVEMENT)

Provisional Order under the Surrey County Council Act 1936 empowering the Surrey County Council to execute works for the improvement of the Rive Ditch in the county of Surrey and for other purposes.

The Minister of Agriculture and Fisheries in pursuance of the powers given to him by section 27 of the Surrey County Council Act 1936 and of all other powers enabling him in that behalf hereby makes the following Order:—

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Order may be cited as the Surrey County Council (Rive Ditch Improvement) Order 1953.

(2) The Surrey County Council Acts and Orders 1925 to 1950 and this Order may be cited together as the Surrey County Council Acts and Orders 1925 to 1953.

Commencement of Order.

2. This Order shall come into operation upon the date of the passing of the Act of Parliament confirming it.

Incorporation of Acts.

3. The following Acts and parts of Acts (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Order) are hereby incorporated with and form part of this Order:—

(1) The Lands Clauses Acts with the following exceptions and modification:—

(a) Section 92 and sections 127 to 132 of the Lands Clauses Consolidation Act 1845 are not incorporated with this Order;

(b) The bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be under the common seal of the Council and shall be sufficient without the addition of the sureties mentioned in that section;

(2) The provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and with respect to works for the accommodation of lands adjoining the railway:

Provided that for the purposes of this Order in the said incorporated provisions of the Railways Clauses Consolidation Act 1845 the expression “the company” means the Council and the expressions “the railway” and “the centre of the railway” mean respectively the several works authorised by section 5 (Power to Council to execute works) of this Order and the centre line of those works.

4. In this Order unless the context otherwise requires and except as otherwise expressly provided—

PART I
—cont.

words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings ;

Definitions.

“ the Act of 1919 ” means the Acquisition of Land (Assessment of Compensation) Act 1919 ;

“ the Act of 1925 ” means the Surrey County Council Act 1925 ;

“ the Act of 1931 ” means the Surrey County Council Act 1931 ;

“ the Act of 1933 ” means the Local Government Act 1933 ;

“ the Act of 1936 ” means the Surrey County Council Act 1936 ;

“ the clerk ” means the clerk of the Council ;

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

“ the Council ” means the county council of the county ;

“ the county ” means the administrative county of Surrey ;

“ the deposited plans ” “ the deposited sections ” and “ the deposited book of reference ” mean respectively the plans sections and book of reference deposited in connection with this Order in pursuance of sub-paragraph (i) of paragraph (a) of subsection (2) of section 27 of the Act of 1936 ;

“ the Lands Clauses Acts ” means the Lands Clauses Acts as modified by the Act of 1919 Part V of the Town and Country Planning Act 1947 the Lands Tribunal Act 1949 and this Order ;

“ the Minister ” means the Minister of Agriculture and Fisheries ;

“ street ” includes any highway including a highway over any bridge and any road lane footway square court alley or passage whether a thoroughfare or not ;

“ the tribunal ” means the Lands Tribunal.

PART II

WORKS AND POWERS

5. The Council may for the purpose of improving and diverting the Rive Ditch in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections make and maintain the works in the county hereinafter described together with all necessary works and conveniences connected therewith :—

Power to Council to execute works.

WORK NO. 1—

In the urban district of Walton and Weybridge and the urban district of Chertsey the widening straightening regrading and deepening of an unnamed tributary of the river Wey which joins that river at a point 585 feet or thereabouts

PART II
—cont.

downstream of Nine Arches Bridge carrying the railway of the British Transport Commission over that river commencing at the junction of that tributary with the river Wey and terminating at a point 10 feet north-east of the north-eastern side of the road from Byfleet to Addlestone near West Weybridge Station:

WORK NO. 2—

In the urban district of Chertsey and the urban district of Woking the construction of a channel commencing at the termination of Work No. 1 and continuing thence through a culvert under the River Wey Navigation Canal and through a culvert under the Basingstoke Canal and terminating at Scotland Bridge Road at a point 50 feet or thereabouts north of the existing culvert taking the Rive Ditch under Scotland Bridge Road:

WORK NO. 3—

In the urban district of Chertsey and the urban district of Woking the construction of a channel commencing at the termination of Work No. 2 and joining the Rive Ditch at a point 120 feet or thereabouts south-west of Scotland Bridge Road and thence the widening deepening and regrading of the Rive Ditch terminating at a point 340 feet west of the centre of the public footpath leading from Woodlands Avenue to Woodham Lock:

WORK NO. 4—

The construction of a channel in the urban district of Chertsey and the urban district of Woking commencing at the termination of Work No. 3 and terminating at the south-western side of Sheerwater Road at a point 90 feet or thereabouts south of the Rive Ditch.

Power to deviate
in construction
of works.

6. The Council in executing the works authorised by this Order may deviate laterally from the lines or situations of those works as shown on the deposited plans to any extent not exceeding the limits of deviation shown on those plans and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding six feet either upwards or downwards.

Subsidiary
powers.

7.—(1) Within the limits of deviation shown on the deposited plans the Council in connection with the works authorised by this Order and for the purposes thereof may—

- (a) make provide and maintain all necessary and convenient walls embankments outfalls chambers piling fences culverts drains weirs sluices cofferdams accommodation bridges and footpaths and all such machinery works and appliances as may be required and deposit materials excavated or dredged in the making and maintenance of the works authorised by this Order ;

1. & 2 ELIZ. 2 *Land Drainage (Surrey County
Council (Rive Ditch Improvement))
Provisional Order Confirmation Act, 1953*

Ch. xxiii

PART II
—cont.

- (b) raise widen lengthen alter and reconstruct the bridges over any ditch or stream widened or altered under the powers of this Order and the approaches to such bridges and strengthen underpin and deepen the piers arches and other supports and the foundations thereof ;
- (c) raise lower widen deepen enlarge lengthen alter and reconstruct the culverts through which any ditch or stream widened or altered under the powers of this Order flows ;
- (d) stop up and discontinue such portions of any ditch or stream widened or altered under the powers of this Order as will be rendered unnecessary by reason of the diversion thereof under the powers of this Order and fill in the channels of the said portions thereof as the Council may deem necessary ;
- (e) execute any works for the protection of any adjoining lands or buildings ;
- (f) underpin or otherwise strengthen the artificial embankments of the Basingstoke Canal and of the River Wey Navigation Canal ;
- (g) remove alter divert or stop up any drain sewer channel or watercourse the Council providing a proper substitute before interrupting the flow of sewage in any drain or sewer or water in any channel or watercourse ; and
- (h) alter mains pipes wires and other works and apparatus for conveying or transmitting water gas or electricity.

(2) (a) In the exercise of the powers conferred by this section the Council shall cause as little damage and inconvenience to any person as circumstances admit and shall make reasonable compensation for any damage caused to any person by the exercise of such powers.

(b) Any question as to the amount of any such compensation shall in default of agreement be determined under and in accordance with the Act of 1919 as amended by the Lands Tribunal Act 1949.

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

(4) The Council shall not under the powers conferred by this section alter any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General except under and subject to the provisions of the said Act.

8. The Council may discharge the waters of the Rive Ditch as diverted under the powers of this Order into the river Wey at the point where the tributary referred to in the description of Work No. 1 authorised by this Order joins that river.

Power to
discharge water
into river Wey.

Ch. xxiii *Land Drainage (Surrey County 1 & 2 ELIZ. 2
Council (Rive Ditch Improvement))
Provisional Order Confirmation Act, 1953*

PART II
—cont.

Temporary closing of portions of Basingstoke Canal and River Wey Navigation Canal.

9.—(1) The proprietors of the Basingstoke Canal and of the River Wey Navigation Canal shall if so required by the Council upon the expiration of twenty-eight days' notice in writing addressed by the Council to the said proprietors at their respective registered offices so operate the lock gates on their respective canals as to drain the water from the portions of the said canals hereafter in this subsection referred to and to keep the beds thereof so far as reasonably practicable empty for such period not exceeding twenty-one days from the expiration of any such notice as aforesaid as may be necessary to enable the Council to construct and maintain the culverts referred to in the description of Work No. 2 authorised by this Order. The portions of the said canals to which this subsection relates are—

- (a) the Basingstoke Canal between Bottom Lock and the point where the said canal joins the River Wey Navigation Canal ; and
- (b) the River Wey Navigation Canal between Pyrford Lock and Newhaw Lock.

(2) The proprietors of the Basingstoke Canal and the River Wey Navigation Canal shall not incur any liability by reason of the temporary closing of portions of their respective canals under the provisions of subsection (1) of this section.

(3) The Council shall make compensation to any person who has sustained damage in consequence of the temporary closing of portions of the Basingstoke Canal and the River Wey Navigation Canal under the provisions of subsection (1) of this section and any dispute as to the fact of damage or as to the amount of compensation shall be determined in the manner provided by subsection (2) of section 278 of the Public Health Act 1936.

(4) Upon giving notice to the proprietors of the Basingstoke Canal and the River Wey Navigation Canal under the provisions of subsection (1) of this section the Council shall deliver to the proprietors concerned a plan section and particulars of the works necessitating the closing of the said canals or either of them together with a description of the proposed manner of executing the said works.

Power to vary width of widenings.

10. Notwithstanding anything contained in this Order or shown upon the deposited plans or sections the Council may within the limits of deviation shown on the deposited plans make the widenings of the ditches and streams and the channels authorised by this Order of such greater or less width than those shown on the deposited plans or sections with reference to those widenings and channels as they may think fit.

Underpinning of houses near works.

11. If in order to avoid in the execution and maintenance of the works authorised by this Order injury to the houses and buildings within one hundred feet of those works it shall be necessary to underpin or otherwise strengthen the same the Council at their own costs and charges may and if required by the owners or lessees of any such house or building shall subject as hereinafter provided

Ch. xxiii *Land Drainage (Surrey County* 1 & 2 ELIZ. 2
Council (Rive Ditch Improvement))
Provisional Order Confirmation Act, 1953

PART II
—*cont.*

for compensation in respect thereof be made by such owners within twelve months and by such lessees or occupiers within six months from the discovery thereof:

(7) Nothing in this section contained nor any dealing with any property in pursuance of this section shall relieve the Council from the liability to compensate under section 68 of the Lands Clauses Consolidation Act 1845 or under any other Act:

(8) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Lands Clauses Acts.

Temporary
stoppage of
streets.

12.—(1) The Council may for the purposes of and during the execution and maintenance of the works authorised by this Order break up and for any reasonable time stop up divert and interfere with any street or part of a street within the limits of deviation shown on the deposited plans and divert the traffic therefrom and prevent persons using it:

Provided that the Council shall not exercise the powers of this section so as to deprive foot-passengers bona fide going to or from any building or land in the street of reasonable access to the building or land.

(2) Where the Council under the powers of this section stop up temporarily any street or part of a street in which any apparatus of any persons authorised by any Act or Order having the force of an Act to supply gas water or electricity or any public sewer (as defined by the Public Health Act 1936) is situate they shall provide reasonable access for the officers and servants of such persons and of the local authority in whom the sewer is vested for the purpose of enabling them to inspect repair and renew any of such apparatus or any such sewer.

Maintenance
of works by
Council.

13. The works authorised by this Order shall be maintained by and (subject to the provisions of section 30 (Contributions by certain authorities) of this Order) at the expense of the Council.

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

14. The Council may enter into and carry into effect agreements or arrangements with the owners of or other persons interested in any land in or through which any of the works authorised by this Order are to be constructed or abutting on such works or the site thereof for or with respect to the execution of works by such owners or persons and the payment of the cost of so doing.

Period for
completion of
works.

15. If the works authorised by this Order are not completed within five years from the commencement of this Order then on the expiration of that period the powers of the Council under this Order for the execution of such works shall cease except so far as the same are respectively then completed.

Power to
acquire lands.

16.—(1) Subject to the provisions of this Order the Council may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purpose of the works authorised by this Order.

(2) The powers of the Council for the compulsory purchase of land under this section shall cease after the expiration of three years from the commencement of this Order.

PART II
—cont.

17. The Council may for the purposes of the works authorised by this Order enter upon and use so much of the bed and banks of the ditches and streams referred to in section 5 (Power to Council to execute works) of this Order as is within the limits of deviation of any of the said works shown on the deposited plans and as may be required for those purposes and they may also for the purposes of executing and placing temporary works and conveniences in connection with such works occupy and use temporarily so much of such bed and banks within the said limits as may be required for those purposes or any of them.

Power to use
bed and banks
of ditches and
streams.

18.—(1) For the purposes of this Order the following provisions of this section shall have effect in substitution for section 92 of the Lands Clauses Consolidation Act 1845.

Acquisition of
part only of
certain
properties.

(2) No person shall be required to sell a part only of any house building or factory or of a park or garden belonging to a house if he is willing and able to sell the whole of the house building factory park or garden unless the tribunal determines—

(a) in the case of a house building or factory that such part as is proposed to be taken can be taken without material detriment to the house building or factory ; or

(b) in the case of a park or garden that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house to which it belongs.

(3) If the tribunal determines as aforesaid compensation shall be awarded in respect of any loss due to the severance of the part proposed to be taken in addition to the value of that part and thereupon the person interested shall be required to sell to the Council that part of the house building factory park or garden.

19.—(1) In lieu of acquiring any land that may be acquired under this Order the Council may for the purpose of constructing using and maintaining so much of the works authorised by this Order as will be laid underground and doing anything necessary in connection therewith acquire such easements and rights in that land as they may require for that purpose.

Power to
acquire
easements only.

(2) Accordingly the Council may give notice to treat in respect of any such easement or right describing the nature thereof and the provisions of the Lands Clauses Acts shall apply in relation to the acquisition of such easements and rights as if they were lands within the meaning of those Acts.

(3) Where the Council have acquired an easement or right only 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 ;

(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 and cultivate the land as if this Order had not been made.

Ch. xxiii *Land Drainage (Surrey County 1 & 2 ELIZ. 2
Council (Rive Ditch Improvement))
Provisional Order Confirmation Act, 1953*

PART II
—cont.

(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 Council to acquire the land the Council 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:

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

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

Power to
acquire lands
by agreement.

20. The powers of the Council under section 157 of the Act of 1933 shall extend to the purposes of this Order.

Power to enter
for survey and
valuation.

21. Any person acting on behalf of the Council and duly authorised by the clerk may at all reasonable times enter on any land that may be acquired compulsorily under this Order for the purpose of surveying or valuing the land:

Provided that no land shall be entered under this section unless the Council not less than twenty-four hours before the first entry and not less than twelve hours before any subsequent entry have given notice to the owner and occupier of the land in manner provided by section 285 of the Public Health Act 1936.

Power to
expedite entry.

22. At any time after serving a notice to treat in respect of any land that may be acquired compulsorily under this Order but not less than one month after giving the owner and occupier of the land notice of their intention to exercise the powers of this section the Council may enter on and take possession of the land or such part thereof as is specified in the last-mentioned notice without previous consent and without compliance with sections 84 to 90 of the Lands Clauses Consolidation Act 1845:

Provided that the Council shall pay the like compensation for land of which possession is taken under this section and the like interest on the compensation awarded as would have been payable if the provisions of those sections had been complied with.

Correction of
errors in
deposited plans
and book of
reference.

23.—(1) If any omission misstatement or wrong description of any land or of the owner lessee or occupier of any land is found to have been made on the deposited plans or in the deposited book of reference the Council after giving ten days' notice to the owner lessee and occupier of the land in question may apply to two justices having jurisdiction in the county for the correction thereof.

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

(3) Any such certificate shall be deposited with the clerk and a copy thereof shall be deposited with every clerk of a local authority with whom a copy of the deposited plans (or of 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 corrected according to the certificate and it shall be lawful for the Council to take the land and execute the works in accordance with the certificate.

(4) Any certificate or copy deposited under this section with any person shall be kept by him with the other documents to which it relates.

24.—(1) Any private right of way over any land that may be acquired compulsorily under this Order shall if the Council so resolve and give notice in writing of their resolution to the owner of the right be extinguished as from the acquisition of the land whether compulsorily or by agreement or as from the expiration of one month from the service of the notice whichever is the later.

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 Council compensation to be determined in case of dispute under and in accordance with the Act of 1919 as amended by the Lands Tribunal Act 1949.

25.—(1) Any person empowered by the Lands Clauses Acts to sell and convey or release lands may if he thinks fit subject to the provisions of those Acts grant to the Council any easement or right required for the purposes of this Order in or over or affecting any such lands (not being an easement or right of water in which some person other than the grantor has an interest).

Grant of easements by persons under disability.

(2) The provisions of the said Acts with respect to lands and rent-charges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

26. In determining any question of disputed compensation or purchase money in respect of land acquired under this Order the tribunal shall not take into account—

Disregard of recent improvements and interests.

(a) any improvement or alteration made or building erected after the second day of January nineteen hundred and fifty-three ; or

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

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

27.—(1) The Council may—

(a) retain and hold and use for such time as they think fit any land or interest in land acquired by them under this Order ;

Retention and disposal of land.

Ch. xxiii *Land Drainage (Surrey County* 1 & 2 ELIZ. 2
Council (Rive Ditch Improvement))
Provisional Order Confirmation Act, 1953

PART II
—cont.

- (b) sell lease exchange or otherwise dispose of any such land or interest in such manner and for such consideration and on such terms and conditions as they think fit (whether in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of payment in any other form);
- (c) appropriate any such land for any purpose for which they are authorised to acquire land;
- (d) sell exchange or dispose of any rents reserved on the sale lease exchange or other disposition of any such land or interest;
- (e) make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition;
- (f) on any such exchange pay or receive money for equality of exchange:

Provided that the Council shall not without the consent of the Minister of Housing and Local Government sell lease exchange or otherwise dispose of any such land or any interest therein at a price or rent or for a consideration of a value less than the current market value of the land or interest but a purchaser or lessee shall not be concerned to inquire whether the consent of the Minister of Housing and Local Government is necessary or has been obtained.

(2) Nothing in this section shall release the Council or any person purchasing or acquiring any land or interest in land from them under this section from any rents covenants restrictions reservations terms or conditions made payable by or contained in any conveyance lease or other deed or instrument by which the land or interest has been conveyed or leased to or otherwise acquired by the Council or any persons from or through whom the Council have derived title to it.

**Proceeds of
disposal of
surplus land.**

28.—(1) Any capital money received by the Council on the resale or exchange of or by leasing any land acquired under this Order may (so far as they consider necessary and subject to the approval of the Minister of Housing and Local Government) be applied by them in the purchase of other land for the purposes of this Order.

(2) (a) The Council shall pay to the London County Council an amount equal to thirty-three/sixty-thirds and to the Woking Urban District Council an amount equal to twenty/sixty-thirds of any capital money so received by them and not so applied.

(b) The London County Council and the Woking Urban District Council shall apply any sums so paid to them and the Council shall apply the portion of any such capital money retained by them in or towards the extinguishing of any loan raised by them respectively under any enactment.

(3) Any application of money under paragraph (b) of the last foregoing subsection shall unless the Minister of Housing and Local Government on the application of the council concerned otherwise

1 & 2 ELIZ. 2 *Land Drainage (Surrey County
Council (Rive Ditch Improvement))
Provisional Order Confirmation Act, 1953*

Ch. xxxiii

directs and subject in that event to such conditions as he may impose be in addition to and not in substitution for such method of extinguishing the loan as may have been adopted by that council under any enactment.

PART II
—cont.

29.—(1) Every undertaking given by or to the Council to or by the owner of any legal estate in land and every agreement made between the Council and any such owner being an undertaking or agreement—

Undertakings
and agreements
binding
successive
owners.

(a) given or made under seal on the passing of plans or otherwise in connection with the land ; and

(b) expressed to be given or made in pursuance of this section ; shall be binding not only upon the Council and any owner joining in the undertaking or agreement but also upon the successors in title of any owner so joining and any person claiming through or under them.

(2) Any such undertaking or agreement shall be treated as a local land charge for the purposes of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926.

(3) Any person upon whom any such undertaking or agreement is binding shall be entitled to require from the Council a copy thereof.

30.—(1) The London County Council and the Woking Urban District Council (in this section referred to as “the contributing authorities”) may and shall contribute towards the expenses incurred by the Council in the execution of the works authorised by this Order and in the purchase of lands therefor (in this section referred to as “the said expenses”) in the following proportions:—

Contributions
by certain
authorities.

London County Council thirty-three/sixty-thirds of the said expenses ;

Woking Urban District Council twenty/sixty-thirds of the said expenses.

(2) Each of the contributing authorities shall on demand make to the Council—

(i) by way of interim payments on account of their liability under subsection (1) of this section the appropriate proportion of the said expenses incurred by the Council at the date of demand ; and

(ii) such final payment as may be necessary after taking into account any sums previously paid under the last preceding sub-paragraph to discharge their liabilities under subsection (1) of this section.

(3) (a) The Woking Urban District Council may and shall on demand pay to the Council an amount equal to two-thirds of the expenses incurred by the Council in any year in maintaining the works authorised by this Order.

(b) In this subsection the expression “year” means a period of twelve months ending on the thirty-first day of March.

PART II
—*cont.*

For protection
of statutory
undertakers.

31.—(1) For the protection of statutory undertakers the following provisions shall unless otherwise agreed in writing between the Council and the undertakers concerned apply and have effect:—

Not less than twenty-eight days before commencing any of the works authorised by this Order in or affecting any street or road in or under which any apparatus of the undertakers is situate the Council shall deliver to the undertakers a plan section and particulars of such works describing the proposed manner of executing the same and showing the whole of the works proposed to be executed in connection therewith.

(2) In this section—

“statutory undertakers” means any persons authorised by any public general or local Act or Order having the force of an Act to carry on any gas electricity or water undertaking;

“apparatus” means and includes electric lines street boxes lamp-posts mains pipes valves or other works or apparatus.

For protection
of South
Eastern
Electricity
Board.

32. For the protection of the South Eastern Electricity Board (hereafter in this section referred to as “the board”) the following provisions shall unless otherwise agreed in writing between the Council and the board apply and have effect:—

(1) In this section—

“apparatus” means wires poles stays underground cables and appliances;

“the protected lands” means the land coloured pink on the plan which has been signed in duplicate by William Willis Ruff on behalf of the Council and Arthur Leonard Burnell on behalf of the board one copy of which has been deposited with the Council and the other with the board:

(2) Notwithstanding anything in this Order or shown on the deposited plans the Council shall not—

(a) acquire any apparatus under the powers of this Order otherwise than by agreement;

(b) acquire any interest in any lands in which the board possess an easement or right of constructing or maintaining any apparatus except subject to that easement or right:

(3) The Council shall not carry out any work authorised by this Order near to which any apparatus has been lawfully placed except in accordance with and subject to the provisions of section 18 of the schedule to the Electric Lighting (Clauses) Act 1899:

Provided that for the purposes of this subsection the said section 18 shall have effect as if the Council were a gas or water company and as if the words “fourteen days” were substituted for the words “three days” in subsection (1) thereof:

- (4) Where the Council require to alter the position of or interfere with any apparatus the provisions of section 15 of the Electric Lighting Act 1882 and of section 17 of the schedule to the Electric Lighting (Clauses) Act 1899 shall (mutatis mutandis and subject to the provisions of subsection (7) of this section) apply in relation to such alteration or interference whether or not such apparatus is under a street or place authorised to be broken up by the Council and shall be deemed to extend to any apparatus laid down erected or constructed upon or above the level of the ground and the Council shall not alter the position of or interfere with any apparatus except in accordance with and subject to the said provisions as applied and extended as aforesaid:
- (5) For the purpose of affording to the board the means of access to the protected lands for such vehicular traffic as may be necessary or expedient for the placing maintenance working repair renewal inspection retention and removal of apparatus the Council shall at their own expense and to the reasonable satisfaction of the board provide adequate support for the surface of the land shown between the points marked C and D on the plan referred to in paragraph (1) of this section and shall at all times during the construction and after the completion of Work No. 2 authorised by this Order permit the board and its servants with such vehicular traffic as aforesaid to approach the protected lands over the land shown between the points marked C and D on the said plan:
- (6) The Council shall not exercise upon the protected lands the powers conferred upon them by the provisions of the Railways Clauses Consolidation Act 1845 which are incorporated with this Order:
- (7) Any difference which may arise between the Council and the board under this section or under section 15 of the Electric Lighting Act 1882 or section 17 or section 18 of the schedule to the Electric Lighting (Clauses) Act 1899 as respectively applied or extended by this section shall be referred to and determined by arbitration.

33. For the protection of the South Eastern Gas Board (in this section referred to as "the board") the following provisions shall unless otherwise agreed in writing between the Council and the board apply and have effect (that is to say):—

For protection
of South
Eastern Gas
Board.

- (1) The expense of all repairs or renewals of any mains pipes valves or other works or apparatus (in this section referred to as "apparatus") of the board which may at any time be rendered necessary by or in consequence of any act omission or default of the Council or their contractors or agents or the workmen or servants or any person in the employ of them or any of them or by or in consequence of any failure of a work executed by the Council under this Order or any subsidence resulting from such work within the period of twelve months after the completion

PART II
—cont.

thereof shall be borne by the Council and paid by them on demand to the board :

- (2) If any difference shall arise between the Council and the board under this section (other than a difference as to the construction or meaning of this section) such difference shall be referred to and determined by arbitration.

For protection
of West Surrey
Water
Company.

34. For the protection of the West Surrey Water Company (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the Council and the company apply and have effect:—

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

(a) "apparatus" means any mains pipes, valves or other works or apparatus belonging to the company or for the maintenance of which they are responsible;

(b) "authorised work" means any work carried out in the exercise by the Council of the powers of this Order within a distance of twenty feet of any apparatus;

(c) "plans" means plans, sections and particulars:

- (2) Not less than twenty-eight days before commencing to construct any authorised work the Council shall deliver to the company plans of the authorised work:

- (3) (a) At any time within twenty-eight days from the receipt of any such plans the company by notice in writing to the Council (i) may intimate their disapproval of the proposed manner of executing the authorised work so far as it will or may involve interference with or endanger any apparatus or (ii) may make reasonable requirements with respect to such plans for the protection of the apparatus and in particular they may require the Council to provide and lay down such works and apparatus as may be reasonably specified by the company and to remove, divert, raise, sink or otherwise alter the position of and to support any apparatus and to substitute temporarily or otherwise other apparatus in such manner as may be specified by the company (all of which works and operations are in this section referred to as "protective works");

(b) If the company shall not within the said period of twenty-eight days give any such notice to the Council they shall be deemed to have approved the plans as submitted to them:

- (4) The Council shall not execute any authorised work except in accordance with the plans approved by the company or settled by arbitration:

- (5) Subject to the provisions of this section any authorised work and all protective works shall be executed or provided by and at the expense of the Council to the reasonable satisfaction and under the superintendence (if after reasonable notice in writing from the Council such superintendence be given) of the company:

1 & 2 ELIZ. 2 *Land Drainage (Surrey County
Council (Rive Ditch Improvement))
Provisional Order Confirmation Act, 1953*

Ch. xxiii

PART II
—cont.

- (6) Not less than twenty-one days before commencing the construction of any authorised work the Council shall give to the company notice in writing of their intention to commence such construction and if within fourteen days after the receipt of such notice the company shall give notice to the Council of their intention so to do they may themselves make or execute any protective works which have been agreed between the company and the Council or settled by arbitration and in any such case the company shall subject to the provisions of this section commence such protective works on a date to be agreed between the Council and the company and execute and complete the same with all reasonable dispatch. The Council shall on the completion thereof pay to the company the reasonable expenses incurred by them in the execution of such protective works:
- (7) If in the exercise by the Council of any of the powers of this Order any damage to any apparatus or any property of the company or without the written authority of the company any interruption in the supply of water by the company shall be caused the Council shall bear and pay to the company the cost reasonably incurred in making good such damage and shall make full compensation to the company for any loss sustained by them by reason of any damage to or interference with any such apparatus or property or any such interruption of supply and shall indemnify the company against all penalties claims demands proceedings costs damages and expenses which may be made or taken against the company or recovered from or incurred by the company by reason or in consequence of any such damage interference or interruption:
- (8) The reasonable expenses of all repairs or renewals of any apparatus which may at any time be rendered necessary by reason or in consequence of any act omission or default of the Council in relation to any authorised work or of any subsidence resulting from such work whether during the construction or at any time within twelve months after the completion thereof shall be borne by the Council and paid by them to the company:
- (9) The company may where reasonably necessary employ watchmen and inspectors to watch and inspect the execution of any authorised work or any other works under the powers of this Order so far as the same will or may interfere with or affect any apparatus and the reasonable cost of the employment of such watchmen and inspectors shall be borne by the Council and be paid by them to the company:
- (10) If any difference should arise between the Council and the company under this section (other than a difference as to the construction or meaning of this section) such difference shall be referred to and determined by arbitration.

PART III

FINANCE AND MISCELLANEOUS

Power to borrow.

35.—(1) The Council shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column thereof and they shall repay any sums so borrowed within such periods as they may determine not exceeding those respectively mentioned in the third column of the said table:—

1	2	3
Purpose	Amount	Period for repayment
(a) The execution of the works authorised by Part II (Works and powers) of this Order.	£ 10,238	Thirty years from the date or dates of borrowing.
(b) The purchase of lands under the powers of this Order.	1,111	Thirty years from the date or dates of borrowing.
(c) The payment of the costs charges and expenses referred to in section 43 (Costs of Order) of this Order.	The sum requisite	Five years from the commencement of this Order.

(2) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Part of this Order or the Act of 1931 or any scheme made under section 133 (Consolidated loans fund) of the Act of 1931 or section 116 (Amendment and revocation of schemes under section 133 of Act of 1931) of the Act of 1936 and for the time being in force shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of the Act of 1933 and the period fixed for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

Power to Woking Urban District Council to borrow.

36.—(1) The Woking Urban District Council shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority for the purpose of making any payment under subsection (1) of section 30 (Contributions by certain authorities) of this Order the sum of twenty-three thousand one hundred and seventy-five pounds and they shall repay any sum so borrowed within such periods as they may determine not exceeding thirty years from the date or dates of borrowing.

(2) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Part of this Order shall extend and apply to money borrowed under this section as if it were borrowed

1 & 2 ELIZ. 2 *Land Drainage (Surrey County
Council (Rive Ditch Improvement))
Provisional Order Confirmation Act, 1953*

Ch. xxiii

under Part IX of that Act and the period fixed for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

PART III
—cont.

37. In the application of sections 195 and 198 of the Act of 1933 to the borrowing for the purposes of this Order by the Council or by the Woking Urban District Council of any further money the Minister shall be the sanctioning authority.

Borrowing of
further money.

38. The making by the London County Council of any payment under section 30 (1) of this Order shall be deemed to be a purpose for which the London County Council may borrow.

Powers to
London County
Council to
borrow.

39. It shall not be lawful to exercise the powers of borrowing conferred by this Order (other than the power of borrowing to pay the costs charges and expenses of this Order) otherwise than in compliance with the provisions of the Local Authorities Loans Act 1945 or of any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Saving for
powers of
Treasury.

40.—(1) The following sections of the Act of 1925 and of the Act of 1931 shall extend and apply to and for the purposes of this Order as if they were re-enacted in this Order with any necessary modifications:—

Application of
general
provisions of
Acts of 1925
and 1931.

The Act of 1925—

Section 97 (Power to enter into agreements);

Section 101 (Authentication and service of notices &c.):

The Act of 1931—

Section 168 (Powers of Act cumulative).

(2) The said section 101 of the Act of 1925 shall for the purposes of such extension and application as aforesaid have effect as if the word "lessee" were inserted after the word "owner" wherever the last-mentioned word occurs.

41. The Minister and the Minister of Housing and Local Government may hold such inquiries as they may consider necessary in regard to the exercise of any powers conferred upon them or the giving of consents under this Order and section 290 of the Act of 1933 shall apply accordingly.

Inquiries by
Ministers.

42. Where under this Order any difference (other than a difference to which the provisions of the Lands Clauses Acts apply) is to be referred to or settled by arbitration then unless otherwise provided such difference shall be referred to and settled by a single arbitrator to be agreed 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 and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to such arbitration.

Arbitration.

43. All costs charges and expenses of and incidental to the preparing applying for obtaining and confirming of this Order or otherwise incurred in relation thereto as taxed by the taxing officer

Costs of Order.

PART III
—cont.

of one of the Houses of Parliament shall be paid by the Council out of the county fund or out of moneys to be borrowed under this Order and shall for the purposes of section 30 (Contributions by certain authorities) of this Order be deemed to form part of the expenses incurred by the Council in the execution of the works authorised by Part II (Works and powers) of this Order.

IN WITNESS whereof the official seal of the Minister of Agriculture and Fisheries is hereunto affixed this eighth day of May nineteen hundred and fifty-three.

(Sd.) HUGH GARDNER,
Assistant Secretary.

Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation Act 1845 ...	8 & 9 Vict. c. 18.
Railways Clauses Consolidation Act 1845 ...	8 & 9 Vict. c. 20.
Telegraph Act 1878	41 & 42 Vict. c. 76.
Electric Lighting Act 1882	45 & 46 Vict. c. 56.
Electric Lighting (Clauses) Act 1899	62 & 63 Vict. c. 19.
Acquisition of Land (Assessment of Compensation) Act 1919	9 & 10 Geo. 5. c. 57.
Land Charges Act 1925	15 & 16 Geo. 5. c. 22.
Surrey County Council Act 1925	15 & 16 Geo. 5. c. cxv.
Law of Property (Amendment) Act 1926	16 & 17 Geo. 5. c. 11.
Surrey County Council Act 1931	21 & 22 Geo. 5. c. ci.
Local Government Act 1933	23 & 24 Geo. 5. c. 51.
Public Health Act 1936	26 Geo. 5 & 1 Edw. 8. c. 49.
Surrey County Council Act 1936	26 Geo. 5 & 1 Edw. 8. c. cxxx.
Local Authorities Loans Act 1945	8 & 9 Geo. 6. c. 18.
Borrowing (Control and Guarantees) Act 1946	9 & 10 Geo. 6. c. 58.
Town and Country Planning Act 1947	10 & 11 Geo. 6. c. 51.
Lands Tribunal Act 1949	12 & 13 Geo. 6. c. 42.
Arbitration Act 1950	14 Geo. 6. c. 27.

PRINTED BY HENRY GEORGE GORDON WELCH, C.B.E.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

Ch. xxiii

Land Drainage (Surrey County Council (Rive Ditch Improvement) Provisional Order Confirmation Act, 1953 1 & 2 ELIZ. 2

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 1s. 0d. net

PRINTED IN GREAT BRITAIN

(78745)

Land Drainage (Surrey County Council (Rive Ditch Improvement)) Provisional Order Confirmation Act, 1953

1 & 2 ELIZ. 2 Ch. xxiii

ARRANGEMENT OF SECTIONS

Section

1. Order in schedule confirmed.
2. Saving for town and country planning.
3. Short title.

SCHEDULE

SURREY COUNTY COUNCIL (RIVE DITCH IMPROVEMENT)

PART I

PRELIMINARY

1. Short and collective titles.
2. Commencement of Order.
3. Incorporation of Acts.
4. Definitions.

PART II

WORKS AND POWERS

5. Power to Council to execute works.
6. Power to deviate in construction of works.
7. Subsidiary powers.
8. Power to discharge water into river Wey.
9. Temporary closing of portions of Basingstoke Canal and River Wey Navigation Canal.
10. Power to vary width of widenings.
11. Underpinning of houses near works.
12. Temporary stoppage of streets.
13. Maintenance of works by Council.
14. Agreements with owners of land and others for execution of works.
15. Period for completion of works.
16. Power to acquire lands.
17. Power to use bed and banks of ditches and streams.
18. Acquisition of part only of certain properties.

Section

19. Power to acquire easements only.
20. Power to acquire lands by agreement.
21. Power to enter for survey and valuation.
22. Power to expedite entry.
23. Correction of errors in deposited plans and book of reference.
24. Extinction of private rights of way.
25. Grant of easements by persons under disability.
26. Disregard of recent improvements and interests.
27. Retention and disposal of land.
28. Proceeds of disposal of surplus land.
29. Undertakings and agreements binding successive owners.
30. Contributions by certain authorities.
31. For protection of statutory undertakers.
32. For protection of South Eastern Electricity Board.
33. For protection of South Eastern Gas Board.
34. For protection of West Surrey Water Company.

PART III

FINANCE AND MISCELLANEOUS

35. Power to borrow.
36. Power to Woking Urban District Council to borrow.
37. Borrowing of further money.
38. Powers to London County Council to borrow.
39. Saving for powers of Treasury.
40. Application of general provisions of Acts of 1925 and 1931.
41. Inquiries by Ministers.
42. Arbitration.
43. Costs of Order.