

[26 GEO. 5. &
1 EDW. 8.]

South Essex
Waterworks Act, 1936.

[Ch. xix.]



CHAPTER xix.

An Act to make better provision with respect to the laying and maintenance of pipes for the supply of water within the limits of supply of the South Essex Waterworks Company and for purposes connected therewith. A.D. 1936.

[9th April 1936.]

WHEREAS the South Essex Waterworks Company (hereinafter called "the Company") are by the South Essex Waterworks Acts 1861 to 1935 authorised to construct and maintain waterworks and to supply water within the limits in the county of Essex thereby prescribed :

And whereas under the Acts relating to the Company persons requiring from the Company a supply of water for domestic purposes (other than the owners or occupiers in certain events of dwelling-houses the annual value of which does not exceed ten pounds) or a supply for any other purpose except as hereinafter mentioned are required to provide lay and maintain communication pipes for the purpose of such supply :

And whereas under section 23 of the South Essex Waterworks Act 1921 the Company in the events and subject to the conditions and limitations therein mentioned are under obligation at the request of the owner or occupier of any premises who requires a supply of water by measure for other than domestic purposes to afford such supply by means of communication pipes

11 & 12
Geo. 5.
c. lxxxvi.

A.D. 1936. — and other necessary apparatus to be provided laid and maintained by the Company at the cost of such owner or occupier :

And whereas it is expedient that communication pipes and apparatus laid prior to the commencement of this Act for obtaining a supply of water from the service mains of the Company shall to the extent mentioned in this Act be transferred to the Company and that the Company shall be exclusively entitled to provide and lay to the extent mentioned in this Act any further communication pipes and apparatus for the purposes of supplies of water from their service mains :

And whereas it is expedient to provide that the communication pipes and apparatus for the purposes of such supplies of water shall to the extent mentioned in this Act be maintained repaired and renewed by the Company exclusively and at their own cost :

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

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

May it therefore please Your Majesty that it may be enacted and be it 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 :—

Short and
collective
titles.

1.—(1) This Act may be cited as the South Essex Waterworks Act 1936.

(2) The South Essex Waterworks Acts 1861 to 1935 and this Act may together be cited as the South Essex Waterworks Acts 1861 to 1936.

Commence-
ment of
Act.

2. This Act shall come into force on the twenty-ninth day of September nineteen hundred and thirty-six which date is herein referred to as "the commencement of this Act."

Interpre-
tation.

3. In this Act unless the subject or context otherwise requires—

"the Company" means the South Essex Waterworks Company;

“ the existing Acts ” means the South Essex Water-works Acts 1861 to 1935; A.D. 1936.

“ the Act of 1921 ” “ the Act of 1928 ” and “ the Act of 1935 ” respectively mean the South Essex Waterworks Acts of those respective years; 11 & 12 Geo. 5. c. lxxxvi. 18 & 19 Geo. 5.

“ the limits of supply ” means the limits within which the Company are for the time being authorised to supply water; c. lxxix. 25 & 26 Geo. 5.

“ street ” means— c. xlviii.

(a) any road square court alley highway lane cul de sac thoroughfare or passage within the limits of supply; or

(b) any place within the limits of supply laid out for any such purpose;

(whether the same be or be not dedicated to public use) Provided that the word “ street ” where used in this section and in section 4 of this Act shall mean only a street (as hereinbefore defined) in which a service main is for the time being laid;

“ service main ” means a service main of the Company but does not include any main or pipe forming part of any of the aqueducts specifically authorised by any of the existing Acts and shown on the deposited plans relating to any of the existing Acts;

“ service pipe ” means so much of any pipe for supplying water from a service main to any house building or premises as is subject to water pressure from such main;

“ stopcock ” means a stopcock which is fitted on a service pipe and of which every part is situate in a street;

“ communication pipe ” means so much of any service pipe as extends from a service main to—

(a) the stopcock or stopcocks (if any) fitted on such pipe; or

(b) where a stopcock is not fitted on such pipe the point at which such pipe passes the boundary of the street or the point in or

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under the street at which such pipe enters any house building or premises whichever of those points is the nearer to the service main; and includes the ferrule at the junction of such pipe with such service main and where there is a stopcock fitted on such pipe includes also the stopcock and the box (if any) containing the stopcock and any cover to such box;

“supply pipe” means so much of any service pipe as is not a communication pipe;

“consumer” means in relation to any supply of water which the Company are required to furnish the person entitled to require and requiring the supply but does not include any authority body or person entitled to require and requiring a supply of water for distribution by such authority body or person;

“water rate” has the same meaning as in the Waterworks Clauses Act 1847.

10 & 11
Vict. c. 17.Existing
communi-
cation
pipes trans-
ferred to
Company.

4. On the commencement of this Act so much of every service pipe as constitutes a communication pipe not then the property of the Company shall by virtue of this Act become transferred to the Company without payment therefor and as from the commencement of this Act all communication pipes so transferred to the Company shall belong to the Company and the rights and obligations of the Company with reference to the maintenance repair renewal and removal of pipes laid by them shall extend and apply to all such communication pipes as if they had been laid by the Company under the provisions of this Act:

Provided that if at any time after the commencement of this Act a stopcock is fitted on a communication pipe so transferred to the Company on which a stopcock was not fitted immediately before the commencement of this Act the foregoing provisions of this section shall as from the date of such fitting cease to apply to so much of such communication pipe as lies between the stopcock and—

- (a) the boundary of the street; or
- (b) the point in or under the street at which the service pipe enters any house building or premises;

whichever is the nearer to the service main with which such communication pipe is connected and on and from the last-mentioned date that portion of such communication pipe shall by virtue of this Act be transferred from the Company to and belong to the person in whom the supply pipe connected with such communication pipe was immediately before that date vested and shall for all purposes (including the maintenance repair renewal and removal thereof) become part of such supply pipe as if the said stopcock had been fitted at the commencement of this Act.

A.D. 1936.

5.—(1) After the commencement of this Act the Company shall notwithstanding anything in any Act relating to them have the exclusive right of—

New communication pipes to be laid by Company.

- (a) providing and laying any communication pipe which is to be connected with any service main; and
- (b) executing any works for connecting such communication pipe with the service main.

(2) Where any consumer being the owner or occupier of any dwelling-house or part of a dwelling-house within the limits of supply shall have—

- (a) required the Company to provide a supply of water to such premises for domestic purposes; and
- (b) laid the supply pipe; and
- (c) paid or tendered the portion of the water rate in respect of such premises which shall be payable in advance;

the Company shall provide and lay with all reasonable dispatch the communication pipe requisite for furnishing such supply and any other necessary and proper apparatus including a stopcock with a suitable box and cover :

Provided that if the Company so require the consumer shall deposit with the Company before they commence to lay such communication pipe and other apparatus such a sum as the Company may deem reasonably necessary to meet the expense of providing and laying the same.

If the Company refuse or neglect to provide and lay any communication pipe pursuant to the provisions of this subsection they shall be liable to forfeit to the

A.D. 1936,
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consumer a sum of five pounds and a further sum of forty shillings for every day during which such refusal or neglect shall continue and such penalties shall be recoverable in a summary manner.

(3) The cost incurred by the Company in providing laying and connecting any communication pipe and other apparatus shall be borne by the consumer and the amount of such cost or so much (if any) thereof as shall not be covered by any sum deposited with the Company as aforesaid (as the case may be) shall on the completion of the laying and connecting of such communication pipe and other apparatus be repaid to the Company by the consumer and shall be recoverable in the like manner as the water rate payable in respect of the premises supplied or to be supplied is recoverable.

(4) All communication pipes and other apparatus as aforesaid provided and laid by the Company pursuant to the provisions of this section and so much of any pipe and other apparatus provided and laid by the Company pursuant to section 23 (Supply by meter for other than domestic purposes) of the Act of 1921 as constitutes a communication pipe (as defined in this Act) shall belong to the Company and the rights and obligations of the Company with reference to the maintenance repair renewal and removal of pipes laid by them shall extend and apply to all such communication pipes and apparatus.

(5) Sections 44 to 47 of the Waterworks Clauses Act 1847 so far as they relate to any pipe which constitutes or forms part of a communication pipe shall cease to apply within the limits of supply.

Separate
service
pipes may
be required.

6.—(1) The Company shall not be bound to supply with water more than one house or building or part of a house or building occupied as a separate tenement by means of the same service pipe or the same part of a service pipe and they may if they think fit require that a separate service pipe be laid into each house or building or part of a house or building occupied as a separate tenement and supplied or intended to be supplied by them with water and that such service pipe shall be laid from a service main of the Company or from such point between the service main and the house or building or part of a house or building as the Company may determine.

A.D. 1936.

(2) If the Company require a separate service pipe to be laid as aforesaid they shall provide and lay with all reasonable dispatch so much of such separate service pipe as constitutes a communication pipe and may recover the cost of so doing from the owner of the house or building or part of a house or building to which the service pipe is required to be laid.

If the Company fail to comply with the provisions of this subsection they shall be liable to forfeit to the consumer a sum of five pounds and a further sum of forty shillings for every day during which such failure shall continue and such penalties shall be recoverable in a summary manner.

(3) If the owner of any house or building or part of a house or building occupied as a separate tenement which is supplied with water by the Company and to which the Company shall have required a separate service pipe to be laid pursuant to subsection (1) of this section shall for a period of one month after the receipt of notice from the Company requiring him so to do fail to provide and lay so much of the separate service pipe as constitutes a supply pipe the Company may themselves do the work necessary in that behalf and recover the cost of so doing from such owner.

(4) Any cost recoverable by the Company from any owner under the provisions of this section shall be recoverable summarily as a civil debt.

7. Notwithstanding anything in any other Act—

(a) any person other than the Company who immediately before the commencement of this Act was responsible for the maintenance repair and renewal of or entitled to remove any service pipe shall on the commencement of this Act cease to be responsible for the maintenance repair or renewal of or to be entitled to remove so much of such pipe as constitutes a communication pipe transferred to the Company by virtue of this Act; and

(b) after the commencement of this Act no person other than the Company shall be responsible for the maintenance repair renewal or removal

Mainten-
ance of
communi-
cation
pipes.

A.D. 1936.
—

of so much of any service pipe as constitutes a communication pipe transferred to the Company as aforesaid or laid by the Company pursuant to this Act or to section 23 (Supply by meter for other than domestic purposes) of the Act of 1921.

Extension of
Company's
powers to
break up
streets.

8. The powers and obligations of the Company with reference to the opening and breaking up and reinstatement of streets whether within or beyond the limits of supply for the purpose of laying pipes shall extend and apply to the laying maintaining repairing renewing and removing by them of communication pipes and other apparatus under the provisions of this Act.

Restriction
on powers
of other
persons to
break up
streets.

9. After the commencement of this Act no person other than the Company shall be entitled to open or break up any street within the limits of supply for laying any communication pipe or any apparatus fitted thereon or for maintaining repairing renewing or removing any communication pipe transferred by this Act to or laid by the Company or any apparatus fitted on any such communication pipe Provided that nothing in this section shall affect the provisions of section 153 of the Public Health Act 1875 or section 30 of the Tramways Act 1870.

38 & 39
Vict. c. 55.
33 & 34
Vict. c. 78.

As to
laying and
mainten-
ance of
supply
pipes.

10.—(1) The powers of laying pipes conferred by sections 48 to 52 of the Waterworks Clauses Act 1847 and the provisions of those sections with reference to such pipes shall within the limits of supply apply to the supply pipe for any supply of water which the Company shall be required after the commencement of this Act to furnish for any purpose and shall not apply to a communication pipe as defined in this Act.

26 & 27
Vict. c. 93.

(2) For the purpose of complying with any obligation under this Act or the Waterworks Clauses Act 1847 or the Waterworks Clauses Act 1863 to maintain repair renew or remove any supply pipe within the limits of supply or any apparatus fitted thereon the person for the time being liable to repair the same shall after the commencement of this Act have the like power to open the ground and to open or break up the pavement of any street as is conferred upon him by sections 48 to 52 of

the Waterworks Clauses Act 1847 in relation to the laying of such pipes as are referred to in those sections. A.D. 1936.

(3) Except as in this Act otherwise expressly provided nothing in this Act shall alter or affect any right or obligation of any person—

(a) to provide lay maintain repair renew or remove any supply pipe; or

(b) to open the ground or open or break up the pavement of any street for any such purpose;

which would have existed if this Act had not been passed.

(4) The Company may by agreement with any owner or occupier entitled or required to lay down maintain repair renew or remove any supply pipe and for that purpose to open or break up any street within the limits of supply execute such works on behalf of such owner or occupier and the cost incurred by the Company in so doing shall be repaid by the owner or occupier with whom the agreement is made and be recoverable summarily as a civil debt.

11.—(1) Notwithstanding anything in any Act relating to the Company the Company shall have the exclusive right of executing any works on any communication pipe for connecting therewith any supply pipe laid after the commencement of this Act and on the request of the consumer the Company shall (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) execute on any such communication pipe any work which shall be necessary to connect therewith the supply pipe of such consumer. Company to connect supply pipes with communication pipes.

(2) The cost incurred by the Company in executing any work under this section shall be borne by the consumer and the amount of such cost shall on the completion of the work be repaid to the Company by the consumer and shall be recoverable summarily as a civil debt.

12. In the application to the Company of subsections (3) and (4) of section 4 (Closing of streets for works) of the London Traffic Act 1924 the words "making altering repairing or disconnecting service connections" As to London traffic area. 14 & 15 Geo. 5. c. 34.

A.D. 1936. — in that subsection (4) shall be construed as including laying connecting maintaining repairing altering renewing or disconnecting and removing communication pipes and supply pipes.

As to
stopcocks.

13.—(1) Any stopcock fitted on a communication pipe at any time after the commencement of this Act shall be placed as near as reasonably practicable to the point at which such pipe passes the boundary of the street or the point in or under the street at which such pipe enters any house building or premises whichever of those points is the nearer to the service main.

(2) The box containing any such stopcock shall not be larger than is reasonably necessary.

Amend-
ment and
repeal.

14.—(1) After the commencement of this Act section 34 (Maintenance of common pipe) of the Act of 1921 and subsection (2) of section 64 (As to streets forming boundary of limits of supply) of the Act of 1935 shall respectively have effect as if the expression "common pipe" in that section 34 and the expression "communication pipe" in that subsection (2) meant a supply pipe as defined in this Act.

(2) After the commencement of this Act the words "consumers' service or communication pipes" in section 49 (For protection of Commissioner of Police of Metropolis) of the Act of 1928 shall be deemed to mean service pipes as defined in this Act.

(3) The following sections of the existing Acts are hereby repealed:—

Act of 1921—

Section 38 (As to communication pipes);

Section 39 (Power to Company to repair communication pipes).

Act of 1928—

Section 66 (Company to connect communication pipes with mains).

Act of 1935—

Section 68 (Separate communication pipes may be required).

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1 EDW. 8.]

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15. Nothing in this Act shall apply to any main or pipe laid by the Company pursuant to the following sections of the existing Acts:—

A.D. 1936.

—
Savings for
certain
pipes.

South Essex Waterworks Act 1861—

Section 35 (Company to supply water to Secretary of State in Council at a given price);

24 & 25
Vict.
c. cxxxvi.

Section 36 (Pipe to be laid down as compensation to Sir T. B. Lennard for power to use his lands):

Act of 1921—

Section 24 (Supply to Tilbury Docks):
or affect the operation of any of those sections.

16. Nothing in this Act shall—

(i) extend to or authorise any interference with any works of any undertakers within the meaning of the Electricity (Supply) Acts 1882 to 1935 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; or

For pro-
tection of
electricity
under-
takers.

45 & 46
Vict. c. 56.
62 & 63
Vict. c. 19.

(ii) prevent or affect the exercise by any such undertakers or by the Company of any rights or powers under those provisions.

17. Nothing in this Act shall apply to—

(i) any service pipe communication pipe supply pipe stopcock or apparatus laid placed or fixed or intended to be laid placed or fixed by the Port of London Authority; or

For pro-
tection of
Port of
London
Authority.

(ii) any pipe connected or intended to be connected with any service pipe coming within the preceding paragraph (i) and being a pipe used or intended to be used for the supply of water by the said Authority to any of their lessees or tenants; or

(iii) any stopcock or apparatus fitted on any pipe coming within the preceding paragraph (ii).

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—
Crown
rights.

18. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown.

Costs of
Act.

19. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company and may in whole or in part be charged against revenue.

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