

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

*Gravesend and Milton
Waterworks Act, 1936.*

[Ch. 1.]



CHAPTER 1.

An Act to confer further powers on the Gravesend and Milton Waterworks Company and for other purposes. A.D. 1936.
[14th July 1936.]

WHEREAS the Gravesend and Milton Waterworks Company (hereinafter called "the Company") were incorporated by the Gravesend and Milton Waterworks Act 1846 and authorised to supply water within the limits of that Act namely the parishes of Gravesend and Milton next Gravesend and Northfleet in the county of Kent as then constituted which limits now comprise the greater part of the borough of Gravesend the whole of the urban district of Northfleet and parts of the parish of Cobham in the rural district of Strood as such borough urban district and parish are now constituted : 9 Vict.
c. xxxiii.

And whereas by the Gravesend and Milton Waterworks Act 1897 and the Gravesend and Milton Water Order 1909 further powers were conferred on the Company and by the Gravesend and Milton Waterworks Company (Modification of Charges) Order 1923 (S.R. & O. 1923 No. 1077) the authorised charges for water supplied by the Company for domestic purposes were increased : 60 & 61 Vict.
c. ccxii.

And whereas the whole of the share capital which the Company were by the said Acts and Orders authorised to raise has been created and issued and is fully paid up and consists of—

2,000 ordinary shares of £20 each ;

1,490 6 per centum preference shares of £20 each ;

1,900 4½ per centum preference shares of £20 each :

[Price 2s. 0d. Net]

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— And whereas the Company were by the said Acts and Orders empowered to raise by borrowing on mortgage of their undertaking or by the creation and issue of debenture stock a total sum of thirty-two thousand pounds and in pursuance of this power the Company have raised twenty-six thousand six hundred and ten pounds four shillings and threepence by the creation and issue of twenty-five thousand pounds four per centum debenture stock :

And whereas the Company are supplying water in areas adjoining the limits of supply and the demands for water within the Company's limits of supply and these areas are increasing and it is expedient for the purpose of enabling the Company to meet these demands to extend the Company's limits of supply to include these areas and to increase the Company's authorised share and loan capital :

And whereas it is expedient that further powers be conferred on the Company as by this Act provided and that the other provisions of this Act be enacted.

And whereas the objects of this Act cannot be attained 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 :—

PART I.

PRELIMINARY.

Short and
collective
titles.

1.—(1) This Act may be cited as the Gravesend and Milton Waterworks Act 1936.

(2) The Gravesend and Milton Acts and Order 1846 to 1909 the Gravesend and Milton Waterworks Company (Modification of Charges) Order 1923 (S.R. & O. 1923 No. 1077) and this Act may be cited together as the Gravesend and Milton Waterworks Acts and Orders 1846 to 1936.

Incorporation
of Acts.

2.—(1) The following Acts and parts of Acts (so far as applicable for the purposes of this Act and not

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inconsistent with the provisions of the existing Acts and Orders and this Act) are hereby incorporated with this Act :—

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- The Lands Clauses Acts except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry on lands by the promoters of the undertaking and except sections 127 to 131 of the Lands Clauses Consolidation Act 1845; 8 & 9 Vict. c. 18.
- The Waterworks Clauses Act 1847 except sections 68 and 76 to 79; 10 & 11 Vict. c. 17.
- The Waterworks Clauses Act 1863 except section 12; 26 & 27 Vict. c. 93.
- The Companies Clauses Consolidation Act 1845 as amended by subsequent Acts except the provisions thereof with respect to conversion of borrowed money into capital; and 8 & 9 Vict. c. 16.
- The Companies Clauses Act 1863 as amended by subsequent Acts except Part IV. 26 & 27 Vict. c. 118.

(2) The Waterworks Clauses Act 1847 (as incorporated with any of the existing Acts and Orders and this Act) shall in its application to the Company have effect as though in section 44 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 and sections 76 to 79 of that Act shall cease to apply to the Company or to be incorporated with any of the existing Acts and Orders.

(3) The Companies Clauses Consolidation Act 1845 (as incorporated with any of the existing Acts and Orders and this Act) shall in its application to the Company have effect as though the words “preceding year” were substituted in section 116 of that Act for the words “preceding half-year.”

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

- Part I.—Preliminary.
Part II.—Lands and works.
Part III.—Supply of water &c.
Part IV.—Financial provisions.
Part V.—Administrative provisions.
Part VI.—Miscellaneous.

Act
divided
into Parts.

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Interpreta-
tion.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction And unless the context otherwise requires—

“The Company” means the Gravesend and Milton Waterworks Company;

“The Act of 1846” means the Gravesend and Milton Waterworks Act 1846;

“The Act of 1897” means the Gravesend and Milton Waterworks Act 1897;

“The Order of 1909” means the Gravesend and Milton Water Order 1909 confirmed by the Gas and Water Orders Confirmation Act 1909;

9 Edw. 7.
c. cxlii.

“The Order of 1923” means the Gravesend and Milton Waterworks Company (Modification of Charges) Order 1923 (S.R. & O. 1923 No. 1077);

“The existing Acts and Orders” means the Act of 1846 the Act of 1897 the Order of 1909 and the Order of 1923;

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

“The new limits” means the areas in the borough of Gravesend described in subsection (1) of section 14 (Extension of limits of supply) of this Act;

“The undertaking” means the undertaking of the Company as from time to time authorised;

“The county council” means the county council of the administrative county of Kent;

“The Minister” means the Minister of Health;

“The Northfleet Council” means the urban district council of Northfleet;

“Employees” includes all officers workmen and other persons employed by the Company.

PART II.

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LANDS AND WORKS.

5. In addition to any lands which the Company are by the existing Acts and Orders authorised to acquire the Company may by agreement purchase or take on lease or otherwise acquire and hold further lands for the purposes of the undertaking or any easement in over or under any lands Provided that the quantity of lands held by the Company in pursuance of this section shall not at any time exceed ten acres and the Company shall not create or permit any nuisance on any such lands nor erect any buildings thereon except such as are required for or are connected with or incident to the purposes of the undertaking.

Acquisition
of lands by
agreement.

6. Persons empowered by the Lands Clauses Acts to sell and convey or release lands may if they think fit subject to the provisions of those Acts and of this Act grant to the Company any easement right or privilege (not being an easement right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Act in over or affecting any such lands and the provisions of the said Acts with respect to lands and rentcharges so far as the same are applicable in this behalf shall extend and apply to such grants and to such easements rights and privileges as aforesaid respectively.

Persons
under
disability
may grant
easements
&c.

7. Where under the powers of any Act or Order relating to them the Company have acquired or shall acquire any easement or right in under or through any lands for the construction of any pipe or other similar work the Company may at any time thereafter if they see fit purchase by agreement from the owner thereof the lands lying over under and alongside such pipe or other similar work Provided that nothing in this section shall authorise the Company to purchase any lands forming the site of a highway or laid out for the formation of a highway.

Power to
purchase
lands
already
subject to
easements.

8.—(1) The Company may erect and maintain upon any lands for the time being belonging to or held on lease by them or as to which they may have acquired any right or permission so to do and may acquire and hold houses and dwellings for their employees.

Dwellings
and
recreation
grounds for
employees.

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(2) The Company may by agreement purchase or take on lease and maintain lands to be used by their employees for the purposes of recreation and may let or allow the use for those purposes of any lands for the time being belonging to or held on lease by them.

22 & 23
Geo. 5. c. 48.

(3) Section 41 of the Town and Country Planning Act 1932 shall not apply in relation to—

(a) any land upon which the Company propose to erect and maintain houses and dwellings for their employees or to any houses and dwellings erected and maintained or acquired and held by the Company under the powers of this section for their employees; or

(b) any land used pursuant to this section for the purposes of recreation by the employees of the Company.

Retention
and
disposal of
lands.

9. Notwithstanding anything in the existing Acts and Orders or this Act or any Act incorporated therewith respectively the Company may retain hold and use for such time as they may think fit or may sell lease exchange or otherwise dispose of to such persons in such manner for such consideration and on such terms and conditions as they may think fit and either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands acquired or held by them under the existing Acts and Orders and this Act or any interests in any such lands and may sell exchange or dispose of any rent reserved on the sale lease exchange or disposition of such lands or interests and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take money for equality of exchange.

Reservation
of water
rights &c.

10. The Company on selling any lands held by them for the purposes of the undertaking and not required for those purposes may reserve to themselves all or any part of the water rights or other easements belonging thereto and may make the sale subject to such reservations accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to the use of water exercise of noxious trades or discharge

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or deposit of manure sewage or other impure matter and otherwise as they may think fit. A.D. 1936.

11. The Company may on all or any of the lands for the time being held by them execute for the purpose of or in connection with the undertaking any of the works mentioned in section 12 of the Waterworks Clauses Act 1847 other than wells and works for the taking and intercepting of water Provided that the Company shall not under the powers of this section create or permit the creation or continuance of any nuisance on any such lands. Exercise of powers of section 12 of Waterworks Clauses Act 1847.

12. The provisions of the Waterworks Clauses Act 1847 with respect to the breaking-up of streets shall apply with the necessary modifications to the construction laying down and maintenance in any streets within the limits of supply of any pipes for the discharge of water which the Company may and which they are hereby authorised to lay down for the purposes of the undertaking : Application of Waterworks Clauses Act 1847 to discharge pipes.

Provided that the Company shall not without the previous consent of the Southern Railway Company exercise the powers of this section in respect of any street repairable by or at the expense of the said railway company but such consent shall not be unreasonably withheld.

13.—(1) For the purpose of executing constructing laying down enlarging extending repairing cleansing emptying or examining any reservoir well adit main pipe or other work of the Company the Company may cause the water in any such work to be discharged into any available stream ditch or watercourse Provided that any water so discharged shall so far as may be reasonably practicable be free from mud solid or offensive matter or other matter injurious to fish or spawn or spawning beds or food of fish. Discharge of water into streams.

(2) In the exercise of the power conferred by this section the Company shall do as little damage as may be and shall make full compensation to all persons for all damage sustained by them by reason or in consequence of the exercise of such power the amount of compensation to be settled in case of difference by arbitration under and pursuant to the provisions of the Arbitration Acts 1889 to 1934.

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(3) The Company shall not except in emergency or with the consent of the county council discharge water under the powers of this section into any stream ditch or watercourse which is adjacent to any highway or bridge vested in the county council or into which the surface water from any such highway or bridge is drained.

20 & 21

Geo. 5. c. 44.

(4) The Company shall not except in emergency discharge water under the powers of this section into any stream ditch or watercourse under the jurisdiction of any drainage authority as defined by the Land Drainage Act 1930 without the consent of such drainage authority.

(5) Any consent under the last two preceding subsections shall not be unreasonably withheld and may be given subject to reasonable terms and conditions and any dispute between the Company and the county council or the drainage authority (as the case may be) as to whether any such consent is unreasonably withheld or as to whether the terms and conditions attached to any such consent are unreasonable shall be determined by an arbitrator to be agreed between the parties in dispute or failing agreement to be appointed on the application of either party (after notice in writing to the other of them) by the Minister and the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such arbitration.

(6) The powers of this section shall not be exercised so as to damage or injuriously affect the railway or works of the Southern Railway Company.

(7) Nothing contained in this section shall prejudice or affect the powers of the Port of London Authority under sections 226 to 239 inclusive of the Port of London (Consolidation) Act 1920.

10 & 11

Geo. 5.

c. clxxiii.

PART III.

SUPPLY OF WATER &C.

Extension
of limits
of supply.

14.—(1) The limits within which the Company may supply water and exercise the powers conferred on them by the existing Acts and Orders and this Act shall extend to and include the following areas which were added to the borough of Gravesend by the County of

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Kent Review Order 1935 (namely) the areas which immediately before the coming into force of that Order comprised— A.D. 1936.
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- (a) the parish of Denton; and
- (b) the portion of the parish of Ifield which was bounded on the east by Singlewell Road on the south-west by Watling Street on the west by the then urban district of Northfleet and on the north by the then borough of Gravesend.

(2) The Company may continue maintain and use any mains pipes and other works belonging to or vested in them at the date of the passing of this Act within the new limits as if the same had been laid down or constructed under the powers of this Act and the provisions of the existing Acts and Orders and this Act shall apply to the said mains pipes and works in all respects as if the same had been laid down or constructed under the authority of this Act.

(3) Subject to the provisions of this Act the Company within the new limits shall have and may exercise all and the like powers privileges and authorities for and in relation to the supply of water and be subject to all and the like duties and obligations in respect thereof as they have and are subject to within the limits of the Act of 1846 as defined in section 4 of that Act.

15.—(1) The Minister if satisfied that the owner or occupier of any premises outside the limits of supply desires to obtain a supply of water from the Company may on the application of the Company subject to the provisions of this section by order authorise the Company to supply water to those premises on such conditions as may be specified in the order. Supply of water to premises outside limits of supply.

(2) An order under this section may contain such modifications of any enactment applying to the Company as in the opinion of the Minister are necessary in order to give full effect to the order.

(3) An order shall not (unless in the opinion of the Minister consent is unreasonably withheld) be made except with the consent of the local authority within whose area and of any undertakers for the supply of water within whose limits of supply the premises are situate.

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(4) (a) When the local authority within whose area or the undertakers for the supply of water within whose limits of supply any premises with respect to which an order shall have been made under this section are situate are able and willing to provide a supply of water to those premises and have given notice to the Company of their desire to supply water to those premises such order shall cease to have effect as from the expiration of three months from the giving of such notice.

(b) When such local authority or undertakers commence to supply water to any premises in pursuance of this subsection they shall pay to the Company such expenditure incurred by the Company in giving a supply to the premises as may be agreed or failing agreement determined by arbitration under and pursuant to the provisions of the Arbitration Acts 1889 to 1934.

(5) The charge made by the Company for any water supplied for any purpose in pursuance of this section shall not be less than the charge which would be made by the Company for water supplied for a similar purpose within the limits of supply.

Contracts
for
supplying
water in
bulk
outside
limits.

16. The Company may enter into and carry into effect agreements with any local authority company body or person for the supply of water beyond the limits of supply to any such authority company body or person respectively in bulk for any purpose and for such remuneration and on such terms and conditions and for such period as may be agreed upon Provided that such supply shall not be given except with the consent of any local authority company or person supplying water under parliamentary authority within the area to be supplied and of the local authority of the district comprising that area nor if and so long as such supply would interfere with the supply of water for domestic or other purposes within the limits of supply :

Provided also that nothing in this section shall authorise the Company to lay any mains or other pipes or to interfere with any street beyond the limits of supply.

Power to
lay pipes
in private
streets.

17. The Company 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

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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 of that Act were excepted from incorporation with the existing Acts and Orders and this Act and as if the persons having the control or management of the street included where the street is situate in a non-county borough or urban district the council of the borough or district and where the street is situate in a rural district the county council.

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18.—(1) Where the limits of supply are bounded by or abut on any street which is wholly or for part of its width outside those limits the Company may for the purpose of supplying water to the owner or occupier of any premises abutting on that street and being within the limits of supply exercise with respect to the whole width of the street the like powers of breaking up the street 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 and subject to the like conditions.

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 like power of opening the ground between any main or pipe of the Company 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 if where such street forms the boundary of or abuts on the limits of supply the whole width of the street were within the limits of supply.

(3) Nothing in this section shall entitle or require the Company to supply water to the owner or occupier of any premises abutting on any such street and being outside the limits of supply.

19. The Company may supply water for other than domestic purposes on such terms and conditions as the Company think fit and may supply water by measure either for domestic or other purposes and the moneys payable for the supply of water under this section shall be recoverable in the same manner as water rates Provided that no person shall be entitled to a supply of

Supply by measure.

A.D. 1936. — water for other than domestic purposes if such supply would interfere with the sufficiency of the supply of water for domestic purposes.

Price of
supply by
meter.

20. The price to be charged by the Company for a supply of water by meter shall not exceed three shillings per thousand gallons.

Special
terms for
supplies to
caravans
shacks &c.

21.—(1) Notwithstanding anything in this or any other Act or any Order relating to the Company a person shall not be entitled to demand or continue to receive from the Company a supply of water to any caravan shack hut tent or other like structure unless he has agreed with the Company to take a supply of water by meter and to pay to the Company such minimum charges 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 them in order to meet the possible maximum demand for his caravan shack hut tent or structure and will yield a reasonable return on the cost of the water consumed or used by him and unless he has secured to the reasonable satisfaction of the Company 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 his caravan shack hut tent or structure.

(2) The sum to be so paid and the security to be so 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 court shall be final and binding on all parties.

(3) Notwithstanding anything in this section or any other provisions of or incorporated with this Act the Company shall not (unless required so to do by the Minister) supply water to any caravan shack hut tent or structure if the local authority of the district in which such caravan shack hut tent or structure is situate objects to the supply being given.

(4) For the purpose of ascertaining whether or not the local authority of the district in which the caravan shack hut tent or structure is situate objects to such supply being given the Company shall before affording

such supply give to such local authority not less than twenty-eight days' notice in writing of their intention to do so.

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22.—(1) The Company shall not be bound to supply with water otherwise than by meter—

Supply to certain classes of premises.

(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 public institution; or

(c) any hospital sanatorium school club hostel assembly hall place of public entertainment restaurant hotel or licensed premises within the meaning of that expression as used in the Licensing (Consolidation) Act 1910; or

10 Edw. 7.
& 1 Geo. 5.
c. 24.

(d) any boarding-house capable of accommodating twelve or more persons including the persons usually resident therein.

(2) Where a supply of water to a farmhouse is used for farming purposes the Company may require that the supply for farming purposes shall be taken by meter but nothing in this section shall authorise the Company to refuse a supply of water for domestic purposes to a farmhouse at the authorised rates.

(3) The minimum quarterly charge (exclusive of meter rent) for a supply of water by meter 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 supply for domestic purposes to a dwelling-house of the same net annual value.

23. Notwithstanding anything in the existing Acts and Orders the Company shall not make any charge in respect of—

Rates in respect of baths.

(a) any fixed bath in any premises supplied by the Company with water for domestic purposes and capable of containing not more than seventy-five gallons; or

(b) any bath in any such premises which is not fixed and not capable of containing more than fifty gallons.

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Charges for
supplies for
refrigerating
apparatus.

24. Where a person who takes from the Company a supply of water for domestic purposes desires to use for or in connection with a refrigerating apparatus any of the water so supplied the Company may if they think fit require that all water used in connection with or for the said apparatus shall—

- (a) be taken by meter and paid for accordingly and in that event the minimum quarterly charge for the water shall be ten shillings; or
- (b) be paid for at such rates as may be agreed between the consumer and the Company.

Charges for
horses and
washing
vehicles.

25.—(1) Where a person who takes from the Company a supply of water for domestic purposes is the occupier of stables garages or other premises where horses or motor cars or other carriages are kept and the water supplied to that person for domestic purposes is used for horses or washing carriages or other purposes in or in connection with such premises the Company may—

- (a) if the water so used can be taken from a standpipe or tap (not being a standpipe or tap within any dwelling-house occupied with such premises) but no hosepipe or other similar apparatus be used in connection with such standpipe or tap charge in respect of the water so used such sum not exceeding ten shillings per annum as they may prescribe and where more carriages than one are kept a further sum not exceeding five shillings for each carriage beyond the first; and
- (b) if the water so used be used by means of a hosepipe or other similar apparatus charge in respect of the water so used such sum not exceeding twenty shillings per annum as they may prescribe and where more carriages than one are kept a further sum not exceeding ten shillings per annum for each carriage beyond the first.

(2) Any sums chargeable under subsection (1) of this section shall be in addition to the rates authorised for the supply of water for domestic purposes and shall be payable at the same dates and be recoverable in all respects with and in the same manner as those rates.

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(3) Where water supplied by the Company 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 motor cars or other carriages or for other purposes in or in connection with stables garages or premises where horses motor cars or other carriages are kept the Company may (if they think fit) require that all water so used by means of such hosepipe or other apparatus shall be taken by meter on the conditions and at the rates for the time being in force for the supply of water by the Company by meter.

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26.—(1) Where the net annual value of a house supplied with water by the Company 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 Company so determine pay the rate for the supply but the rate may be recovered by the Company from the occupier and may if so recovered and if the occupier be not himself liable therefor under any lease or agreement be deducted by him 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.

Rates payable by owners of small houses.

(2) 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 Act.

27. Where two or more houses or buildings or parts of a house or building or parts of two or more houses or buildings are connected by any means of communication not being a public highway and 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 the water rate chargeable by the Company in respect of any supply of water for domestic purposes furnished by the Company (otherwise than by meter) to any one or more of such two or more houses or buildings or parts of

Rates payable on connected premises in one occupation.

A.D. 1936. — a house or building or parts of 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 or parts of a house or building or of houses or buildings so occupied.

Revision of
rates.

28. For the removal of doubts it is hereby declared—

11 & 12
Geo. 5. c. 44.

(1) That on any application made to the Minister under subsection (2) of section 1 of the Water Undertakings (Modification of Charges) Act 1921 the Minister may make an order amending the Order of 1923 or any order made under the said subsection if it appears to him that the circumstances affecting the undertaking have been substantially altered consequent on the coming into force within the limits of supply of any new valuation list under the Rating and Valuation Act 1925;

15 & 16
Geo. 5. c. 90.

(2) That on any application made to the Minister under the said subsection the Minister shall be entitled to take into consideration any alterations in the net annual value of hereditaments in the limits of supply due to the coming into force of any new valuation list under the said Act of 1925.

Recovery of
rates from
persons
removing.

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

Notice of
discon-
tinuance
of supply.

30. A notice to the Company from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at or sent by post to the

office of the Company or be given personally at the office of the Company. A.D. 1936.

31.—(1) The Company may make byelaws for the purpose of preventing waste undue consumption misuse or contamination of water 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 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.

Byelaws for preventing waste &c. of water.

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

(3) In addition to the powers hereinbefore conferred by this section the Company may make byelaws as to the testing and stamping of taps cocks ferrules valves flushing cisterns flushing apparatus and other similar fittings and apparatus which are fixed or placed after the passing of this Act in any premises supplied by the Company with water and prescribing the charge to be made for such testing and stamping.

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

(5) All such byelaws 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 those provisions shall for the purposes of this section be construed as if the Company were a local authority within the meaning of those sections and the secretary of the Company were the clerk of the local authority. The confirming authority for the purposes of the said section 250 shall be the Minister.

23 & 24
Geo. 5. c. 51.

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(6) If any person fail to observe any of the byelaws made in pursuance of subsection (1) of this section and for the time being in force the Company 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 requirement of such byelaws and the reasonable expenses of every such repair replacement or alteration shall be recoverable by the Company from the person in default.

(7) Any person who shall forge or counterfeit any stamp or mark used by the Company or by the authority of the Company for any of the purposes of subsection (3) 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.

(8) Subject as hereinafter provided—

- (a) any byelaws made under this section shall cease to have effect on the expiration of ten years from the date on which they are made; and
- (b) until the expiration of three years from the passing of this Act or until any byelaws have been made under this section and confirmed pursuant to section 250 of the Local Government Act 1933 whichever shall be the earlier any regulations made by the Company for the like purposes under section 30 of the Act of 1897 and in force at the passing of this Act shall notwithstanding the repeal by this Act of that section continue in force and have full effect :

Provided that the Minister may by order extend the period during which any byelaws or regulations mentioned in this section are to remain in force.

Power to
sell meters.

32. The Company may sell meters and any fittings connected therewith upon and subject to such terms (pecuniary or otherwise) and conditions as they think fit.

Power to
supply
fittings.

33.—(1) The Company may if requested by any person supplied or about to be supplied by them with water furnish to him or repair or alter but shall not manufacture any such pipes valves cocks cisterns baths

meters soil-pans waterclosets or other fittings as are required or permitted by their byelaws or regulations and may provide all materials and do all work necessary or proper in that behalf and the reasonable charges of the Company in providing such materials and executing such work shall be paid by the person requiring the same.

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(2) Any fittings let for hire under the provisions of this section shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the person in whose possession the fittings may be provided that such fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Company as the actual owners thereof.

(3) Nothing in this section shall affect the amount of the valuation for rating of any rateable hereditament.

34.—(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 communication pipe and they may if they think fit require that a separate communication pipe be laid from the main of the Company into each house or building or part of a house or building occupied as a separate tenement supplied by them with water.

Separate communication pipes may be required.

(2) 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 into which the Company shall have required a separate communication pipe to be laid pursuant to the preceding subsection shall for a period of one month after the receipt of notice from the Company requiring him so to do fail to provide a separate communication pipe from the main of the Company into such house or building or part of a house or building the Company may themselves do the work necessary in that behalf and may recover from such owner the cost incurred by them in so doing.

35. Where several houses or parts of houses in the occupation of several persons are supplied with water by one common pipe belonging to the several owners or occupiers of such houses or parts of houses the said

Maintenance of common pipe.

A.D. 1936. several owners or occupiers shall be liable to contribute the amount of any expenses from time to time incurred by the Company in the maintenance and repair of such pipe and their respective proportions of contributions shall be settled by a duly authorised officer of the Company.

Company
to connect
communi-
cation and
service
pipes with
mains.

36. Notwithstanding anything in any Act or Order relating to the Company the Company shall have the exclusive right of executing any work on any of the mains of the Company for connecting any communication or service pipe therewith and the Company shall on the request of any owner or occupier of any premises who is entitled to be supplied with water by the Company execute on any such main (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 and supply all fittings and materials which shall be necessary to connect the communication or service pipe of such owner or occupier therewith and any expenses incurred by the Company in so doing shall be recoverable from the owner or occupier so requesting.

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

37.—(1) For the purpose of complying with any obligations under the Waterworks Clauses Acts 1847 and 1863 the person liable to maintain repair renew or remove any pipe or apparatus shall have the like power to open the ground as is conferred upon the owner or occupier of a dwelling-house 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.

(2) The Company may by agreement with any owner or occupier entitled or required to lay maintain repair or remove any communication pipe or any apparatus connected with a communication pipe and for that purpose to open or break up any street execute such works on behalf of such owner or occupier and subject to the terms of the agreement any reasonable expenses incurred by the Company shall be recoverable from the owner or occupier with whom the agreement is made.

Power to
Company
to repair
communi-
cation pipes.

38. If in the opinion of the Company any waste of water or injury or risk of injury to person or property is caused or likely to be caused by reason of any injury to or defect in any communication pipe or apparatus

connected with a communication pipe and being a pipe or apparatus which the Company are not under obligation to maintain it shall be lawful for the Company to execute such repairs to the communication pipe or apparatus as they may think necessary or expedient in the circumstances without being requested so to do and if any injury to or defect in the communication pipe or apparatus shall have been found the expenses incurred by the Company for the purpose of ascertaining the cause of injury or defect and executing the repairs (including the expenses of breaking up filling in reinstating and making good any road pavement or soil for those purposes) shall be recoverable by the Company from the owner of the premises supplied or if the communication pipe or apparatus is repairable by the occupier of such premises from the occupier. Provided that except in emergency the Company shall not under the powers of this section enter any house or private premises unless they shall have given to the occupier of such house or premises and (if the communication pipe or apparatus is repairable by the owner of the said house or premises) to such owner not less than twenty-four hours' previous notice of their intention so to enter.

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39. The Company by their agents or workmen after forty-eight hours' notice in writing to the occupier or if there is no occupier then to the owner or lessee of any house building or land in which any pipe meter or fitting belonging to the Company is laid or fixed and through or in which the supply of water is from any cause other than the default of the Company discontinued for the space of forty-eight hours may enter such house building or land between the hours of nine in the forenoon and four in the afternoon or at any other time with the authority in writing of a justice for the purpose of removing and may remove every such pipe meter and fitting repairing all damage caused by such entry or removal.

Power to
remove
meters and
fittings.

40. Before any person connects or disconnects any meter by means of which any of the water of the Company is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Company of his intention to do so and all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under due superintendence.

Notice of
connection
or discon-
nection of
meters.

A.D. 1936. — of any officer of or person authorised by the Company and any person offending against this enactment shall for every offence be liable to a penalty not exceeding forty shillings.

Injuring
meters and
fittings.

41.—(1) Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe or any meter or other instrument for measuring water or any fitting belonging to the Company or who fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Company shall (without prejudice to any other right or remedy for the protection of the Company) be liable to a penalty not exceeding five pounds and the Company may in addition thereto recover the amount of any damage by them sustained.

(2) In any case in which any person has wilfully fraudulently or by culpable negligence injured or suffered to be injured any pipe meter instrument or fitting belonging to the Company or has fraudulently altered the index to any meter or other instrument for measuring water or prevented the same from duly registering the quantity of water supplied or has fraudulently abstracted consumed or used water of the Company the Company may also enter the premises occupied by the offender and repair such injury and do all such works matters and things as may be necessary for ensuring the proper registering by such meter or other instrument of the quantity of water supplied by means thereof and the expense of such repair and of all such works matters and things shall be recoverable from the person so offending.

(3) The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Company when such pipe meter instrument or fitting is under the custody or control of the consumer shall be prima facie evidence that such injury alteration prevention abstraction consumption or use as the case may be has been fraudulently knowingly and wilfully caused by the consumer using such pipe meter instrument or fitting.

42. Subject to the provisions of the Waterworks A.D. 1936.
Clauses Act 1847 the Company may for the purpose of
measuring the quantity of water supplied or preventing Meters &c.
and detecting waste affix and maintain meters and other to measure
apparatus on the service pipes and mains of the Company water or
and stop-cocks in the pipes supplying houses with water detect
and may insert in the roads or footways the necessary waste.
covers or boxes for giving access and protection thereto
and may for that purpose break up and interfere with
public and private streets roads lanes footways courts
passages tramways sewers pipes wires and apparatus
Provided that—

- (a) the Company shall not interfere with any tele-
graphic line as defined in the Telegraph Act 41 & 42 Vict.
1878 belonging to or used by the Postmaster- c. 76.
General except in accordance with and subject
to the provisions of that Act;
- (b) in exercising the powers conferred by this section
the Company shall not interfere with the
carriageway or footway of any road vested in
the county council without the consent in
writing of the county council and the county
council may attach reasonable terms and con-
ditions to any such consent but such consent
shall not be unreasonably withheld and any
question as to whether any such consent is
unreasonably withheld or as to whether any such
terms or conditions are unreasonable shall be
referred to and determined by an arbitrator to
be agreed upon between the parties or failing
agreement to be appointed on the application
of either party (after notice in writing to the
other of them) by the President of the Institu-
tion of Civil Engineers and subject as aforesaid
the provisions of the Arbitration Acts 1889 to
1934 shall apply to any such reference;
- (c) the Company shall not alter or interfere with any
main pipe valve apparatus or work of the
Gravesend and Milton Gas Light Company
otherwise than subject to and in accordance
with section 88 (For mutual protection of the
Company and the Gravesend and Milton Gas
Light Company) of this Act;

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45 & 46 Vict.
c. 56.Entry on
premises for
authorised
cutting off.Extension
of power
to inspect
premises.Recovery of
costs and
expenses.

(d) nothing in this section shall extend to or authorise any interference with any works or apparatus of the Central Electricity Board or of the Gravesend Corporation or of the Kent Electric Power Company to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with the provisions of that section.

43. Where in any case the Company are authorised to cut off the pipe supplying water to any premises or to turn off water from any premises any officer workman or duly authorised agent of the Company may after giving not less than twenty-four hours' notice in writing to the occupier of the premises or if the premises are unoccupied to the owner thereof enter the premises between the hours of nine in the forenoon and four in the afternoon or at any other time with the authority in writing of a justice for the purpose of cutting off any pipe by which the water is supplied to the premises. If any person hinder any such officer workman or agent from entering any premises in pursuance of this section he shall for every such offence be liable to a penalty not exceeding five pounds.

44. In addition to the powers conferred by section 57 of the Waterworks Clauses Act 1847 any duly authorised officer of the Company 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 any house or premises supplied with water by the Company 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 :

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.

45. All costs and expenses which shall be recoverable by the Company under the undermentioned sections of this Act—

Section 31 (Byelaws for preventing waste &c. of water);

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

*Gravesend and Milton
Waterworks Act, 1936.*

[Ch. 1.]

- Section 34 (Separate communication pipes may be required); A.D. 1936.
Section 36 (Company to connect communication and service pipes with mains);
Section 37 (Opening of ground by persons liable to maintain pipes &c.);
Section 38 (Power to Company to repair communication pipes); and
Section 41 (Injuring meters and fittings);

shall be recoverable summarily as a civil debt from the owner or occupier of the premises supplied with water or other person from whom they are due.

PART IV.

FINANCIAL PROVISIONS.

46. The Company may from time to time raise additional capital not exceeding in the whole after taking into account premiums and discounts (if any) which may be obtained or allowed respectively on the issue thereof the sum of forty thousand pounds by the creation and issue of ordinary and preference shares and stock or by any one or more of those modes : Power to raise additional capital.

Provided that the Company shall not under the powers of this Act issue any share of less nominal value than one pound :

Provided also that the total nominal amount of any preference shares and stock for the time being issued under this section shall not exceed the total nominal amount of the ordinary shares and stock so issued.

47. The Company shall not in respect of any year make out of their profits any larger dividend on the additional capital authorised by this Act than at the rate of seven per centum on the amount actually paid up of so much of such capital as shall be issued as ordinary capital except so far as a larger dividend may at any time be necessary to make up the deficiency of any previous dividend which shall have been less than at the rate of seven per centum or than at such rate (not exceeding six per centum) on the amount actually paid up of so much of such capital as shall be issued as preference capital as the directors may determine at the time or times of the creation or issue thereof. Limits of dividend on additional capital.

A.D. 1936.

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Dividends
on different
classes of
ordinary
capital to be
paid propor-
tionately.

New shares
or stock to
be subject
to same
incidents as
other shares
or stock.

Sale of
shares or
stock by
auction or
tender.

48. If in any year the funds of the Company 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 Company a proportionate reduction shall be made in the dividend of each class.

49. Except as by this Act otherwise provided the capital in new shares or stock created by the Company under this Act and the new shares or stock therein and the holders thereof respectively shall be subject and entitled to the same powers provisions liabilities rights privileges and incidents whatsoever in all respects as if that capital were part of the now existing capital of the Company of the same class or description and the new shares or stock were shares or stock in that capital.

50.—(1) All ordinary or preference shares or stock issued by the Company after the passing of this Act shall subject to the provisions of this Act be issued in accordance with the provisions of this section.

(2) All shares or stock so to be issued shall be offered for sale by public auction or tender in such manner at such times and subject to such conditions of sale as the directors shall from time to time determine :

Provided as follows :—

(a) Notice of the intended sale shall be given in writing to the clerk to the local authority of every borough or 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 reception 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 Company 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 or stock of greater nominal value than one hundred pounds; A.D. 1936.
- (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 Company 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 Company or consumer of water supplied by the Company;
- (e) In the case of a sale by auction a bid (other than a first bid) shall not be recognised unless it is in advance of the last preceding bid; and
- (f) It shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the Company within three months after the date of the auction or of the acceptance of the tender as the case may be.

(3) Any shares or stock which have been so offered for sale and are not sold may be offered at the reserve price to the holders of ordinary and preference shares or stock of the Company in accordance with the provisions of sections 18 to 20 of the Companies Clauses Act 1863 and to the employees of the Company and to the consumers of water supplied by the Company 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 or stock applied for shall exceed the aggregate amount so offered the same shall be allotted to and distributed amongst the applicants as nearly as may be in proportion to the amounts applied for by them respectively.

(4) Any shares or stock 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 at such price and in such manner as the directors may determine for the purpose of realising the best price obtainable.

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

Power to
issue
capital to
employees
and
consumers.

51. Notwithstanding anything in any Act or Order relating to the Company the Company may with the consent of the Minister and subject to such conditions as the Minister may think fit to impose offer for subscription to the consumers of water supplied by the Company and to the employees of the Company any ordinary or preference shares or stock which they may for the time being be authorised to issue without offering the same for sale by public auction or tender.

Power to
offer shares
or stock for
subscription
by public.

52. Notwithstanding anything in any Act or Order relating to the Company the Company may with the approval of the Minister and subject to such conditions as the Minister may think fit to impose offer for subscription by the public any ordinary or preference shares or stock which they may for the time being be authorised to issue without offering the same for sale by public auction or tender.

As to back
dividends.

53. If in any year the aggregate amount of the rates and charges charged by the Company for the supply of water to any premises for domestic purposes exclusive of any sums charged under section 24 (Charges for supplies for refrigerating apparatus) or section 25 (Charges for horses and washing vehicles) of this Act shall exceed the rates authorised by section 26 (Rates of supply for domestic purposes) of the Order of 1909 no part of the revenues of the Company in that year shall be applied in that year or any subsequent year in the payment of any dividends in arrear at the passing of this Act.

Power to
borrow.

54.—(1) The Company may without further or other authority borrow on mortgage of the undertaking in respect of the capital raised by the Company before the passing of this Act any sum or sums not exceeding in the whole (when added to any money raised by the creation and issue of debenture stock by the Company before the passing of this Act and outstanding at the date or respective dates on which the Company exercise the powers of this subsection) sixty thousand pounds.

(2) The Company may also subject to the provisions of this Act borrow on mortgage of the undertaking in respect of any capital raised by them after the passing of this Act any sum or sums not exceeding in the whole one-half of the amount (including premiums and allowing for discounts) which at the time of borrowing has been so raised and in the case of any capital raised by the issue of redeemable preference shares or stock has not been redeemed by paying off the shares or stock. But no sum shall be borrowed in respect of any such capital until the Company have proved to a justice before he gives his certificate under section 40 of the Companies Clauses Consolidation Act 1845 that the whole of the amounts payable in respect of such capital together with the premiums (if any) realised on the sale thereof has been fully paid up.

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55. The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver. In order to authorise the appointment of a receiver in respect of arrears of principal the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than five thousand pounds in the whole.

Appoint-
ment of
receiver.

56. The Company may create debenture stock subject to the provisions of section 19 (Debenture stock) of the Act of 1897.

Power to
create
debenture
stock.

57. All moneys raised or to be raised by the Company on mortgage or by debenture stock under the provisions of the Gravesend and Milton Waterworks Acts and Orders 1846 to 1936 shall have priority against the Company and the property from time to time of the Company over all other claims on account of any debts incurred or engagements entered into by them after the passing of this Act :

Priority of
mortgages
and
debenture
stock over
other debts.

Provided that this priority shall not affect any claim against the Company or their property in respect of—

- (a) any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts ;
- (b) any rent or sum reserved by or payable under any lease granted or made to or vested in the Company which is entitled to rank in priority to or

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pari passu with the interest on their mortgages or debenture stock; or

(c) land taken used or occupied by the Company for the purposes of the undertaking and works or injuriously affected by the construction thereof or by the exercise of any powers conferred on the Company.

Redeemable
preference
capital and
debenture
stock.

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

“Stock” means and includes preference stock and debenture stock;

“Preference stock” includes preference shares;

“Issue” includes re-issue;

“Redeemable stock” means any stock issued under the powers of this section so as to be redeemable;

“Redeemed stock” means any redeemable stock which has been redeemed and is available for issue under the provisions of this section.

(2) Subject to the provisions of this section the directors may from time to time by virtue of this Act and without further or other sanction issue so as to be redeemable any stock created by the Company after the passing of this Act and any redeemed stock:

Provided that no redeemed stock shall be issued except for the purpose of effecting the redemption of redeemable stock under the provisions of this section unless the issue is authorised by a resolution of a general meeting of the Company.

(3) Redeemable stock may be redeemed either by paying off the stock or by issuing to the holder of the stock (subject to his consent) other stock in substitution therefor and for the purpose of raising money to pay off or of providing stock in substitution for any redeemable stock the Company may create new stock or the directors may issue any redeemed stock so as to be redeemable or irredeemable as they may think fit:

Provided that—

(a) no new stock shall be created nor shall any redeemed stock be issued so as to make the total amount of any particular class of stock

exceed the amount of stock of that class which the Company are for the time being authorised to create except during any necessary interval between the creation or (in the case of redeemed stock) the issue of the stock and completion of the redemption of the redeemable stock for the purpose of redeeming which the stock of such particular class is proposed to be so created or issued; and

- (b) during such interval as aforesaid the amount raised by means of any preference stock so created or issued shall not be deemed to be paid-up capital for the purposes of any enactment regulating the borrowing powers of the Company.

(4) The redemption of any preference stock issued so as to be redeemable shall not affect the validity of any mortgage or debenture stock of which the grant or issue by the Company was lawful in the circumstances existing at the date of such grant or issue.

(5) Redeemable stock shall bear such rate of dividend or interest (not exceeding any maximum rate prescribed in respect of the particular class of stock) and shall be redeemable at such time and in such manner and subject otherwise to such terms and conditions as the directors may before the issue thereof determine:

Provided that the terms and conditions of redemption upon which any redeemable stock is issued shall be stated in any offer by the Company of such stock for sale and in the certificate of such stock and no term or condition of redemption which is not so stated shall be binding upon the holder of the stock.

(6) The Company shall not redeem out of revenue any redeemable stock but any discount allowed on the issue or any premium payable on the redemption thereof may be written off out of revenue.

(7) Any preference stock issued solely in substitution for redeemable stock shall not be subject to the provisions of section 50 (Sale of shares or stock by auction or tender) of this Act.

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Commissions on sale
of shares or
stock or
debenture
stock.

59. The Company when ordinary or preference shares or stock or debenture stock are to be issued may with the approval of the Minister and subject to such conditions as the Minister may think fit to impose pay a commission not exceeding three per centum to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any such shares or stock or debenture stock or procuring or agreeing to procure subscriptions whether absolute or conditional therefor :

Provided that—

- (a) 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 Company relating to the issue of the ordinary or preference shares or stock or debenture stock; and
- (b) nothing in this section shall affect any power of the Company to pay brokerage.

Company
not bound
to regard
trusts.

60. The Company shall not be bound to see to the execution of any trusts whether express implied or constructive to which any stock or debenture stock may be subject and the provisions of section 20 of the Companies Clauses Consolidation Act 1845 shall mutatis mutandis extend and apply to any stock or debenture stock of the Company as if the same were shares in the capital of the Company.

Company
may incur
temporary
loans.

61.—(1) The Company may for the purposes of or in connection with the undertaking borrow or raise money on temporary loans from bankers by means of overdrafts or otherwise or by the issue of notes or bonds of a currency of not less than five years and of not more than ten years.

(2) The powers of borrowing or raising money conferred by this section shall be in addition to any powers for the time being of the Company to borrow on mortgage of the undertaking or to raise money by the issue of debenture stock.

(3) The aggregate amount outstanding at any one time of the money borrowed or raised under this section shall not exceed twenty thousand pounds.

62.—(1) The Company may at any time purchase by agreement any debenture stock of the Company at a price not exceeding the market value thereof and for that purpose may apply any moneys for the time being in their hands which they are entitled to apply to capital purposes. A.D. 1936.
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Purchase of
debenture
stock by
agreement.

(2) Any debenture stock purchased under the provisions of this section may at any time be cancelled and extinguished by the Company and the amount of any debenture stock so cancelled shall be deemed to be money borrowed and paid off by the Company within the meaning of section 39 of the Companies Clauses Consolidation Act 1845 and the provisions of that section as to reborrowing by the Company shall apply accordingly.

63.—(1) All money raised under this Act whether by ordinary or preference shares or stock or debenture stock or by borrowing, including premiums (after deducting therefrom the expenses of and incidental to the issue of the shares stock or debenture stock) 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 any such shares stock or debenture stock shall not be considered as part of the capital of the Company entitled to dividend. Application
of money.

(2) The Company may apply to any of the purposes of this Act any money which they have raised or may raise under the existing Acts or Orders.

64.—(1) The directors may (if they think fit) in any year set apart out of the clear profits of the undertaking such sum as they may determine (subject to the provisions of section 66 (Limit on reserve and contingency funds) of this Act) and any sums so set apart may from time to time be invested in investments in which trustees are authorised by law to invest and the dividends and interest arising from such investments may also be invested in the same or like investments 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 in the amount of divisible profits or to meet any extraordinary claim or demand which may at any time arise against the Reserve
fund.

A.D. 1936. — Company and if such fund be at any time reduced it may thereafter be again restored within the limit prescribed by the said section 66 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) The amount standing to the credit of "the shareholders dividend account" of the Company at the passing of this Act shall be credited to the reserve fund authorised by this section. Provided that the amount so credited shall not for the purpose of subsection (1) of the said section 66 be reckoned as an amount carried to the reserve fund.

Contingency
fund.

65. The amounts respectively standing to the credit of the various suspense accounts and the fund for contingencies of the Company at the passing of this Act shall be credited to any contingency fund formed under section 122 of the Companies Clauses Consolidation Act 1845. Provided that the amounts so credited shall not for the purposes of subsection (1) of the next succeeding section of this Act be reckoned as amounts carried to the contingency fund.

Limit on
reserve and
contingency
funds.

66.—(1) The aggregate amount which may be carried by the Company in any year to any reserve fund formed in pursuance of section 64 (Reserve fund) of this Act and to any contingency fund formed under section 122 of the Companies Clauses Consolidation Act 1845 shall together not exceed a sum equal to one per centum of the capital for the time being expended by the Company for the purposes of the undertaking.

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

Limit on
carry
forward.

67. It shall not be lawful for the Company to carry forward at the end of any year to the credit of the profit

and loss (net revenue) account any sum exceeding the total of the following amounts :— A.D. 1936.

- (a) The amount required by the Company for paying any dividend or interest which the Company 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 Company would be lawfully entitled to distribute as dividends on their preference and ordinary capital in respect of the next following year; and
- (c) An amount equal to the total sum which the Company will be required to pay during the next following year as interest on any mortgages or debenture stock.

PART V.

ADMINISTRATIVE PROVISIONS.

68. In this Part of this Act—

the words “ share ” and “ shares ” include stock but not debenture stock;

the word “ shareholder ” includes stockholder but not the holder of debenture stock.

Meaning of
“ share ”
and
“ share-
holder ” in
Part V.

69. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 or the existing Acts and Orders the ordinary meetings of the Company shall (unless the Company by a resolution of a general meeting otherwise determine) be held once only in each year in the month of November or December or in such other month as the directors may from time to time prescribe and at such place and time as the directors may from time to time determine.

Meetings of
Company.

70. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 notice of all meetings of the Company whether ordinary or extraordinary may (if the directors so determine) be given by letter sent by ordinary letter post to each shareholder instead of by public advertisement Provided that the letters giving the notice shall be directed according to the registered address or other known address of each shareholder prepaid and posted not later than seven clear days before the date of the meeting In proving that any such

Notices of
meetings.

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notice has been given it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post as a prepaid letter not later than the time hereby prescribed.

Voting
rights and
votes at
meetings.

71.—(1) Every question submitted to a general meeting of the Company shall be decided in the first instance by a show of hands and if there be an equality of votes on a show of hands the chairman shall have a casting vote in addition to the vote to which he may be entitled as a shareholder.

(2) At every general meeting of the Company every holder of ordinary capital and of any preference capital to which voting rights are attached by the resolution creating such capital shall on a show of hands be entitled to one vote and on a poll to vote in respect of the nominal amount of such capital held by him according to the following scale :—

If such nominal capital is less than £60 One vote;

If such nominal capital is not less than £60 but is less than £100 Two votes;

If such nominal capital is not less than £100 but is less than £160 Three votes;

If such nominal capital is not less than £160 but is less than £200 Four votes;

If such nominal capital is not less than £200 Five votes :

Provided that no such holder shall be entitled to vote at any general meeting in respect of any share on which any call remains unpaid.

(3) Where a corporate body being a holder of shares in the capital of the Company and entitled to vote at a general meeting is present by a proxy who is not a holder of such shares the proxy shall be entitled to vote for the corporate body on a show of hands.

(4) Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote on a show of hands or a poll in respect of any shares to which a preferential dividend shall be assigned.

As to
appoint-
ment of
proxies.

72. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 the attorney of any shareholder duly authorised in writing may appoint a proxy to vote for and on behalf of the shareholder and for that

purpose may execute on behalf of the shareholder the necessary form of proxy : A.D. 1936.

Provided that except in cases where the instrument appointing the attorney shall have been previously registered with the Company the instrument or (if the instrument has been deposited with the central office of the Supreme Court) an office copy thereof shall be transmitted to the secretary at the same time as the instrument appointing the proxy.

73. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 where several persons are jointly entitled to and registered as holders of any shares in the capital of the Company any one of those persons may vote at any meeting (at which holders of shares of the same class are entitled to vote) either personally or by proxy in respect of such shares as if he were solely entitled thereto but if more than one of the joint holders be present at any meeting personally or by proxy that one of the said persons so present whose name stands first on the register in respect of the shares shall alone be entitled to vote in respect thereof Several executors or administrators of a deceased member in whose name any share stands shall for the purposes of this section be deemed joint holders thereof. Joint holders.

74. At any meeting of the Company a majority of votes shall only be required to be proved if a poll be demanded at the meeting and if a poll be not demanded then a declaration by the chairman that the resolution has been carried and an entry to that effect in the book of proceedings of the Company shall be sufficient and conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the resolution. Proof of majority of votes only required when poll demanded.

75. If any money is payable to a shareholder debenture stockholder or mortgagee being a minor the receipt of his guardian shall be a sufficient discharge to the Company. Receipts of minors.

76. Notwithstanding anything in section 13 of the Companies Clauses Consolidation Act 1845 or in any other enactment the Company shall not be under any obligation to issue a new debenture or mortgage bond or a new certificate of any shares or debenture stock or Indemnity before issue of substituted certificates &c.

A.D. 1936. — a new warrant in respect of interest or dividend in lieu of any debenture bond certificate or warrant lost or destroyed or alleged to be lost or destroyed until they have received from the person to whom such new debenture bond certificate or warrant is to be issued such indemnity as the directors may require against any and every claim or expense which may be made against the Company or which the Company may incur in respect of such lost or destroyed debenture bond certificate or warrant or the debenture mortgage share stock interest or dividend represented thereby.

As to
directors.

77.—(1) The number of the directors of the Company shall be nine. Provided that the Company may from time to time vary the number of directors between a minimum of five and a maximum of nine.

(2) The qualification of a director shall be the possession in his own right of ordinary and preference shares in the capital of the Company or of any one or more of those classes of capital of a total nominal amount of not less than two hundred pounds.

(3) The quorum of a meeting of the directors shall be such number (not being less than three) as the directors may from time to time determine.

(4) Except in the case of a director retiring by rotation and offering himself or being proposed for re-election no person shall be capable of being elected at a general meeting a director of the Company unless notice in writing that such person intends to offer himself or will be proposed for the office of director shall have been given to the secretary or left at the head office of the Company seven days at least before the day of election.

(5) Notwithstanding anything in the Companies Clauses Consolidation Act 1845 no person shall be disqualified from being a director of the Company by reason of his holding any office or place of trust or profit under the Company or by reason of his being interested in any contract with the Company nor shall any director be required to cease from voting or acting as a director by reason of his accepting any such office or place of trust or profit or becoming interested in any such contract. Provided that—

(a) If a director is or becomes interested in any contract with the Company (whether such

interest shall arise before or after his appointment as a director) the nature of his interest in the contract shall be declared by him at the meeting of the directors at which the contract is determined on if his interest then exists or in any other case at the first meeting of the directors after the acquisition of his interest or after his appointment; and

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- (b) No director shall as a director vote in respect of any such contract and if he does so vote his vote shall not be counted but this prohibition shall not apply to any contract by or on behalf of the Company to give to the directors or any of them any security by way of indemnity.

For the purposes of proviso (a) to this subsection a general notice given to the directors by one of them to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may after the date of the notice be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

(6) If any of the directors shall be made bankrupt or shall go to reside abroad for a longer period than six months or shall become of unsound mind or shall neglect to attend the meetings of directors for six months (unless such neglect to attend be occasioned by illness or by any other reasonable cause allowed by the directors) then in any of the cases aforesaid the office of such director shall become vacant and thenceforth he shall cease from voting or acting as a director.

(7) The continuing directors may act notwithstanding any vacancy in their body but so that if at any time the number of directors holding office shall be less than five the directors shall not act except for the purpose of filling vacancies and allotting stock to any proposed director or directors.

(8) If any director shall devote to the business of the Company either his whole time and attention or more of his time and attention than in the opinion of the directors would usually be so devoted by a person holding such office or shall undertake or perform any

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duties or services other than those which in the opinion of the directors would usually be undertaken or performed by a person holding such office or shall be called upon to perform and shall perform extra services for any of the purposes of the Company then and in any of such cases the directors may remunerate the director so doing either by a fixed sum annual or otherwise or in such other manner as shall be determined by the directors and such remuneration may at the discretion of the directors be either in addition to or in substitution for all or any part of any other remuneration to which such director may be entitled. Provided that the amount of such remuneration shall be disclosed in the next annual report of the directors or in the next annual accounts of the Company.

Managing
director.

78.—(1) The directors may appoint one of their body to be managing director either for a fixed term or without any limitation as to time and remove or dismiss him from office and appoint another in his place.

(2) A managing director shall not while holding that office be subject to retirement by rotation and shall not be taken into account in determining the rotation of retirement of directors but if he ceases to hold the office of director from any other cause he shall ipso facto immediately cease to be managing director.

(3) The remuneration of a managing director shall from time to time be fixed by the directors and may be by way of salary or commission or participation in profits or by all or any of those modes.

(4) The directors may entrust to and confer upon a managing director such of the powers exercisable by the directors and subject to such conditions as they think fit and may from time to time revoke withdraw alter or vary all or some of such powers.

Appoint-
ment of
officers as
directors.

79.—(1) The directors may at any time appoint any general manager or secretary of the Company to be a director and for such purpose the maximum number of directors prescribed by subsection (1) of section 77 (As to directors) of this Act shall be deemed to be increased by one so long as the director who has been so appointed is in office as a director :

Provided that—

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- (a) in no event shall there be at the same time more than one such person holding office as a director by virtue of the provisions of this section; and
- (b) any person so appointed shall unless the appointment is approved at the next annual general meeting of the Company after such appointment by a majority of the votes of the proprietors of the Company present personally or by proxy and entitled to vote and voting at the meeting cease to be a director as from the date of that meeting.

(2) Any person appointed as a director under the provisions of this section shall not be subject to retirement by rotation and shall not be taken into account in determining the rotation of retirement of directors but he shall cease to be a director upon ceasing to hold his position as general manager or secretary as the case may be.

80. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 it shall not be obligatory upon the Company—

Register of shareholders and shareholders' address book.

- (a) to keep separately a register of shareholders and a shareholders' address book but in lieu thereof the Company may if they think fit keep one register only containing such particulars as are required by that Act to be entered in the register of shareholders and the shareholders' address book respectively; or
- (b) to authenticate by the affixing of their common seal or otherwise the register of shareholders or any register which the Company may keep in lieu thereof under the powers of this section.

81.—(1) The Company may—

Closing of transfer books.

- (a) close the register of transfers of any ordinary or preference shares of the Company for a period not exceeding fourteen days previous to an ordinary meeting or the date of payment of any interim dividend on any such shares; and

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- (b) close the register of transfers of any class of mortgages or debenture stock for a period not exceeding fourteen days previous to any date on which the interest on mortgages or debenture stock of that class shall be payable; and
- (c) fix a day for closing any such register subject to giving seven days' notice either by circular to each holder of shares or mortgages or debenture stock of the class to which the register relates or by advertisement in a newspaper circulating in the county of Kent.

(2) Any transfer of shares or mortgages or debenture stock made during the time when the register of transfers of shares or mortgages or debenture stock of the same class is so closed shall as between the Company and the person claiming under the transfer but not otherwise be considered as made subsequent to the declaration of any such dividend or the payment of any such interest as the case may be.

Copy of
accounts to be
sent to North-
fleet Council.

82. The Company shall every year as soon as the same are ready send a printed copy of their annual accounts to the Northfleet Council.

Determina-
tion of
remunera-
tion of
secretary.

83. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may notwithstanding anything in section 32 (Company to appoint a secretary and treasurer and to fix salaries) of the Act of 1846 determine the remuneration of the secretary.

As to
treasurer.

84. Notwithstanding anything in the Act of 1846 it shall not be obligatory on the Company to appoint a treasurer and accordingly section 32 (Company to appoint a secretary and treasurer and fix salaries) and section 33 (Power to suspend secretary or treasurer) of that Act shall have effect as if all references therein to the treasurer or a treasurer were repealed.

PART VI.

MISCELLANEOUS.

For
protection
of county
council.

85. Unless and except so far as may be from time to time otherwise agreed in writing between the county council and the Company the following provisions shall have effect and apply to the exercise of the powers

conferred by the Gravesend and Milton Waterworks Acts and Orders 1846 to 1936 so far as such powers affect any county road or county bridge :—

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(1) In this section—

“ county road ” means a county road for the time being vested in the county council ;

“ county bridge ” means a bridge for the time being maintained by or at the expense of the county council and includes the approaches to any such bridge and any culvert or other similar structure for the time being maintained by or at the expense of the county council ;

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

“ the Act of 1847 ” means the Waterworks Clauses Act 1847 :

- (2) All mains pipes and works of the Company to be laid in or along any county road or the soil or pavement of any county bridge shall be laid in such position in or at the side thereof and at such depth as the county council in writing under the hand of the surveyor may reasonably direct :
- (3) The notice required by section 30 of the Act of 1847 to be given to the county council shall (except for laying connecting or repairing communication pipes as to which three days' notice shall be given and except in emergency) be not less than seven days instead of three days :
- (4) The plan required by section 31 of the Act of 1847 shall be accompanied by a section of the proposed works and shall (except as aforesaid) be delivered to the surveyor not less than seven days before the Company commence to open or break up any county road or to interfere with the soil or pavement of any county bridge for the purpose of executing the works. If the surveyor shall not within seven days after the plan and section shall have been delivered to him express his disapproval thereof or signify his requirements in relation thereto he shall be deemed to have approved thereof :

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- (5) The surplus paving metalling or materials removed during the laying renewal or repair of the mains pipes and works of the Company shall not (so far as may be reasonably practicable) be placed on the metalled portion of any county road or in or upon any county bridge without the written consent of the surveyor. Such consent shall not be unreasonably withheld and may be given subject to such conditions (other than a payment of money) and directions as the surveyor may reasonably require or give :
- (6) Subject to the rights of all parties claiming to be entitled thereto all surplus paving metalling or materials removed during the laying of the mains pipes or works of the Company in any county road or in the soil or pavement of any county bridge and not required by the Company for the purpose of reinstating and making good the said road or the road on the bridge may be used by the county council for the maintenance and repair of any county or other road and may be removed by the county council for that purpose :
- (7) If the Company in the execution of any works in or affecting any county road or county bridge shall cause any damage injury or disturbance thereto and shall neglect or refuse to make good all such damage injury or disturbance to the reasonable satisfaction of the county council then it shall be lawful for the county council after reasonable notice to the Company of the alleged neglect or refusal and of the works they propose to execute to do all works necessary for making good all such damage injury or disturbance and the Company shall repay to the county council all costs charges and expenses which the county council shall reasonably and properly incur in carrying out such works including all reasonable expense of superintendence :
- (8) Nothing in the Gravesend and Milton Waterworks Acts and Orders 1846 to 1936 shall authorise the Company to interfere with the structural part of any county bridge without the consent in writing of the surveyor. Such consent shall

not be unreasonably withheld and may be given upon such conditions as the surveyor may reasonably determine : A.D. 1936.

- (9) Nothing in the Gravesend and Milton Waterworks Acts and Orders 1846 to 1936 shall prejudice or affect the right of the county council at any time or times to divert widen alter the levels of or otherwise alter and improve any county road and to remove alter rebuild widen or repair any county bridge in under over or attached to which any mains pipes or works of the Company are situated or carried in the same manner as the county council might have diverted improved or removed altered rebuilt widened or repaired any such county road or county bridge if the said Acts and Orders had not been passed and the Company shall with all reasonable speed after receiving notice in writing under the hand of the surveyor alter the position of any such mains pipes or works in such manner and to such extent as the surveyor may reasonably require Provided that the cost of carrying out any work necessary for the purpose of complying with any requirement of the surveyor pursuant to the foregoing provisions of this subsection shall—

(i) if carried out in connection with the diversion widening alteration of level or other alteration or improvement of a county road be repaid to the Company by the county council; and

(ii) if carried out in connection with the removal alteration rebuilding widening or repair of a county bridge be borne and paid by the Company :

Provided also that during any such diversion improvement removal alteration rebuilding widening or reparation of such county road or county bridge as aforesaid the county council shall afford to the Company all reasonable facilities for temporarily carrying such mains pipes and works along the road or across any stream or river so as not to interrupt the continuous supply of water or to diminish the

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pressure of such supply through such mains pipes or works and the Company may carry such mains pipes and works accordingly :

- (10) All works of the Company shall be so executed by them as not unreasonably to impede or interfere with the traffic on any county road or over any county bridge and the Company shall not without the consent of the surveyor (which consent shall not be unreasonably withheld) open or break up at any one time a greater continuous length than one hundred and fifty yards of any county road at any place where not more than two carts can pass at the same time or than seventy-five yards where only one cart can pass or leave an interval of less than one hundred yards between any two places at which they open or break up such county road at the same time :
- (11) 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 Company laid or executed in under or along a county road or in the soil or pavement of a county bridge by reason of such mains pipes or other works being laid or executed at a depth below the surface of any road or the roadway over any 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 such road or roadway or of any traction engine not exceeding the weight aforesaid :
- (12) Any difference which may arise between the county council or the surveyor and the Company under the foregoing provisions of this section and any matter required by those provisions to be determined by arbitration or which would under the provisions of the Act of 1847 with respect to the breaking up of streets for the purpose of laying pipes be (but for this provision) determined by two justices shall be referred to and determined by an arbitrator to be agreed upon between the Company and the county council 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 Acts 1889 to 1934 shall apply to any such reference.

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The foregoing provisions of this section are in addition to and not in substitution for the provisions of the Act of 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 or are inconsistent with such first-mentioned provisions.

86. For the protection of the Northfleet Council the following provisions shall unless otherwise agreed in writing between the Company and the Northfleet Council have effect within the urban district of Northfleet:—

For pro-
tection of
Northfleet
Urban
District
Council.

- (1) In this section the expression "the surveyor" means the surveyor of the Northfleet Council and "street" includes any street laid out but not dedicated to public use :
- (2) All mains or pipes to be laid in along or across any street or bridge shall be laid in such position as the Northfleet Council in writing under the hand of the surveyor may reasonably direct and at such depth as to leave in any case where the Northfleet Council may reasonably so require not less than two feet six inches of cover between the surface of the carriageway or footway as the case may be and the top of the barrel of the pipe :
- (3) The Company shall not open a greater continuous length of street than one hundred yards nor shall they leave a less space than fifty yards between any two consecutive openings and they shall not open a greater length than fifty yards at any place where such opening would leave insufficient space for the passage of two vehicles abreast :
- (4) 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

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of that Act shall (except in cases of emergency in which cases the earliest possible notice shall be given) be not less than seven days instead of three days :

- (5) The plan required by section 31 of the said Act of 1847 shall be delivered by the Company to the Northfleet Council or the surveyor not less than seven days before the Company commence to open or break up any street or interfere with any bridge :
- (6) All works of the Company so far as they affect any streets and bridges shall be so executed by the Company as not so far as reasonably practicable to impede or interfere with the traffic on any road or over any bridge or the approaches thereto :
- (7) Any difference which shall arise at any time between the Northfleet Council and the Company under this section shall be settled by arbitration by an engineer to be agreed on between the Northfleet Council and the Company and failing agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference.

For
protection
of Southern
Railway
Company.

87. For the protection of the Southern Railway Company (in this section referred to as "the railway company") the following provisions shall unless otherwise agreed in writing between the railway company and the Company apply and have effect with reference to the exercise by the Company of the powers of this Act within the new limits :—

- (1) All works executed by the Company involving interference with or in any way affecting the railway works or property (in this section referred to as "the railway") of the railway company (all of which first-mentioned works are hereinafter in this section referred to as "the said works" which expression shall also include (except where the context otherwise

requires) any work of maintenance repair renewal or removal of any work so executed and involving such interference and affection as aforesaid) shall be carried out under the superintendence (if given) and to the reasonable satisfaction of the chief engineer of the railway company (in this section referred to as "the engineer") and according to plans and sections to be previously submitted to and approved by him or in case of difference as may be determined by arbitration in manner in this section provided. Provided that if the engineer does not signify his approval or disapproval of such plans and sections within twenty-eight days after they shall have been submitted to him he shall be deemed to have approved thereof: A.D. 1936.

- (2) The said works shall be carried out by and at the expense of the Company who shall restore and make good to the reasonable satisfaction of the engineer any portion of the railway which may be disturbed or interfered with and the said works shall be carried out so as to cause as little injury as may be to the railway and so as not to cause any interference with the passage or conduct of traffic thereover:
- (3) The Company shall bear and on demand pay to the railway company the reasonable expense of the employment by them during the carrying out of the said works of such signalmen or watchmen (if any) to be appointed by the railway company as may be reasonably necessary for watching and protecting the railway and the conduct of the traffic thereon with reference to and during the carrying out of the said works and for preventing as far as may be all interference obstruction danger and accident from any of the operations or from the acts or defaults of the Company or their contractors or any person or persons in the employ of the Company or their contractors:
- (4) If the railway company so elect they may themselves execute and maintain so much of the said works as may be carried over or under

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the railway or across the same on the level (other than the actual laying down and maintenance of the pipes) and may recover the reasonable costs of so doing from the Company :

- (5) If any injury or interruption of traffic shall arise from or be in any way owing to the said works or to the bursting leakage or failure of any main pipe apparatus or work of the Company the Company shall make full compensation to the railway company in respect thereof :
- (6) Any additional expense which the railway company may reasonably incur in widening altering reconstructing repairing or maintaining in pursuance of any powers existing at the passing of this Act their railways or other works by reason of the existence of the said works shall be paid by the Company :
- (7) The railway company may at any time or times hereafter upon giving to the Company not less than seven days' notice in writing call upon the Company to divert or alter the level of any main pipe apparatus or work of the Company passing over under or across or in any way affecting the railway so as to admit of any repair renewal or alteration of the railway which they may think necessary without being liable to pay any compensation in respect thereof :
- (8) The Company shall not without the previous consent of the railway company exercise the powers of section 17 (Power to lay pipes in private streets) and section 42 (Meters &c. to measure water or detect waste) of this Act in respect of any street road footway pipe wire or apparatus belonging to or repairable by the railway company but such consent shall not be unreasonably withheld :
- (9) Any difference arising between the Company and the railway company respecting any of the matters referred to in this section shall be referred to and determined by an arbitrator to be appointed (failing agreement) at the request 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 Acts 1889 to 1934 shall apply to any such reference and determination.

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88. For the mutual protection of the Company and the Gravesend and Milton Gas Light Company (in this section referred to as "the gas company") the following provisions shall unless otherwise agreed in writing between the Company and the gas company apply and have effect:—

For mutual protection of the Company and the Gravesend and Milton Gas Light Company.

(1) Subject to the provisions of this section the Company may alter the position of any apparatus of the gas company in or under any street which may interfere with the lawful exercise of the powers of the Company under any enactment relating to the undertaking and the gas company may alter the position of any apparatus of the Company in or under any street which may interfere with the lawful exercise by the gas company of any powers vested in them in relation to that street:

(2) Not less than twenty-eight days before commencing any authorised work the Company or the gas company as the case may be (the company proposing to execute the work being in this section referred to as "the operators") shall give notice in writing to the gas company or the Company as the case may be (the company to whom such notice is given being in this section referred to as "the owners") and to the highway authority together with a plan section and particulars describing the manner in which it is proposed to execute the authorised work and shall upon being required to do so by the owners or the highway authority give them any such further information in relation thereto as they may desire:

Provided that where it is necessary in emergency to execute an authorised work and the authorised work is not exclusively any such alteration of the position of apparatus as is referred to in subsection (1) of this section the

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foregoing provisions of this subsection shall not apply but the operators shall give to the owners and the highway authority the longest possible notice of the intended execution of such authorised work together with (when practicable) such a plan section and particulars as aforesaid :

- (3) (a) At any time within twenty-one days from the receipt of such plan section and particulars the owners or the highway authority may by notice in writing to the operators intimate their disapproval of the proposed manner of executing the authorised work or make reasonable requirements with respect to such plan section and particulars and if it is reasonably necessary so to do the owners may require the operators to support the apparatus of the owners and to substitute temporarily or otherwise other apparatus in such manner as may be reasonably necessary and to lay or place under any apparatus cement concrete or other like substance (all such works in connection with any apparatus of the owners being hereinafter referred to as "protective works");

(b) If the owners or the highway authority do not within the said period of twenty-one days give any such notice in writing to the operators they shall be deemed to have approved the plan section and particulars as submitted and if within that period the owners or the highway authority give such notice the matters in difference shall (if not agreed between the operators and the owners and the highway authority) be settled by arbitration :

- (4) The operators shall not execute any authorised work except in accordance with the said plan section and particulars as approved by the owners and the highway authority or settled by arbitration :
- (5) Every authorised work and all protective works shall save as hereinafter provided be executed or done by and at the expense of the operators but to the satisfaction and under the superintendence (if after reasonable notice in writing to the owners such superintendence shall be

given) of the engineer of the owners and also in the case of any authorised work of the surveyor of the highway authority and the reasonable costs charges and expenses of such superintendence of the engineer of the owners shall be paid by the operators :

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- (6) Not less than fourteen days before commencing the execution of any authorised work the operators shall give to the owners notice in writing of the time at which they intend so to commence and if at any time within seven days after the receipt of such notice the owners give to the operators notice in writing that they intend themselves to execute any alteration of their apparatus shown on the said plan and section and described in the said particulars or any protective works which may have been agreed or settled by arbitration as aforesaid the owners and not the operators shall proceed with all reasonable dispatch to execute such alteration in accordance with the said plan section and particulars as approved or settled by arbitration or (as the case may be) such protective works and the reasonable expenses incurred by them in so doing shall be repaid to them by the operators :
- (7) If any interruption in the supply of gas or water (as the case may be) by means of any apparatus of the owners or any loss of gas or water of the owners shall without the written authority of the owners be in any way occasioned either by reason of the execution of any authorised work or by the act or default of the operators or of their contractors or agents or the workmen or servants or any person in the employ of them or any or either of them in connection with the execution of such work the operators shall pay to the owners reasonable compensation for such loss and shall indemnify the owners against all claims demands proceedings costs losses damages and expenses which may be made or taken against the owners or which the owners may incur consequent upon such interruption :

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- (8) The reasonable expense of all repairs or renewals of any apparatus of the owners which may be rendered necessary by reason or in consequence of—
- (a) the execution of any authorised work or the act or default of the operators or their contractors or agents or the workmen or servants or any person in the employ of them or any or either of them in connection with the execution of such work; or
- (b) any subsidence resulting from the execution of any authorised work whether during the execution or within twelve months after the completion of such work;
- shall be borne by the operators and paid by them to the owners :
- (9) If the operators make default in complying with any requirements of this section they shall (a) make full compensation to the owners for any loss damage penalty or costs which they may incur by reason of such default and (b) pay to the highway authority the cost reasonably incurred by them in making good any damage to their property consequent on such default :
- (10) (a) Any difference which may arise between the Company and the gas company or between both or either of those companies and the highway authority under this section shall be referred to and determined by a single arbitrator to be agreed upon between the parties to the difference or failing agreement appointed on the application of any of the parties (after notice in writing to the others or other of them) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination ;
- (b) On any arbitration under this subsection the Company the gas company and the highway authority shall be entitled to be heard before the arbitrator :
- (11) In settling any question under this section an arbitrator shall have regard to any duties or

obligations which the owners may be under in respect of their apparatus and may if he thinks fit require the operators to execute any temporary or other works so as to avoid interference so far as possible with any purpose for which the apparatus is used :

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- (12) Where the execution of any authorised work will involve the breaking up by the Company or the gas company of a street repairable by the inhabitants at large nothing in this section shall deprive the highway authority of any protection to which they are entitled under the provisions of sections 28 to 34 of the Waterworks Clauses Act 1847 or any enactment (including this Act) relating to the Company or (as the case may be) under the provisions of sections 6 to 12 of the Gasworks Clauses Act 1847 or of any enactment relating to the gas company except so far as such provisions are inconsistent with the provisions of this section. Provided that where under any such first-mentioned provisions any matter is required to be determined by two justices that matter shall be referred to and determined by an arbitrator in accordance with the provisions of subsection (11) of this section :

10 & 11 Vict.
c. 15.

- (13) In this section—

“ apparatus ” includes mains pipes valves and works ;

“ street ” includes any square court or alley highway lane road thoroughfare or public passage or place ;

“ highway authority ” means with reference to any street or part of a street repairable by the inhabitants at large the authority (being either the county council or the council of a borough or urban district) in whom such street or part of a street is vested ;

“ authorised work ” means any such alteration of apparatus as is referred to in paragraph (1) of this section and any work which either of the said companies in the exercise of their statutory powers may require

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to execute over under or within three feet of any apparatus of the other company :

- (14) The reference in any provision of this section to the highway authority shall only have effect where the authorised work to which that provision relates is to be executed in or under a street repairable by the inhabitants at large.

Power to
grant
pensions &c.

89.—(1) The Company may grant such reasonable gratuities pensions and superannuation allowances or make such other reasonable payments as they may think fit to any employee or the personal representative of any employee or (where in any particular case no adequate provision is in their opinion otherwise made) to the widow or family or any dependant of an employee and they may establish and maintain a fund out of which such gratuities pensions allowances and payments may be granted or made.

(2) The Company may enter into and carry into effect agreements with any insurance company or other association or company for securing gratuities pensions allowances or payments to any employee or the widow family or dependant of any employee.

(3) The Company may subscribe or make donations to any national charitable benevolent scientific literary educational religious or public object or to or towards any exhibition or trade society or to or towards any object likely to promote the interests of the Company.

(4) The Company may apply the revenues of the Company for the purposes of this section.

Contribu-
tory
pensions
fund.

90.—(1) In addition to the powers conferred on the Company by the last preceding section of this Act the Company may if they think fit establish and maintain a fund to be called “the pensions fund” and pay out of the pensions fund gratuities of any sum or pensions or other allowances or benefits to any employees of the Company who may be contributors to the fund or to the widow family or dependants of any such employees and the pensions fund shall be applicable only for the payment of such gratuities pensions allowances and benefits as aforesaid and for no other purpose whatsoever.

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

*Gravesend and Milton
Waterworks Act, 1936.*

[Ch. 1.]

(2) The Company may also prepare put in force and from time to time modify alter or rescind a scheme prescribing the terms and conditions on which the employees of the Company or any classes of such employees may or shall become contributors to the pensions fund and the contributions to be made by such employees and the gratuities pensions allowances or benefits to which such contributors shall be entitled.

A.D. 1936.

(3) The Company may apply the revenues of the Company for all or any of the purposes of this section including the purpose of maintaining the pensions fund at an adequate amount.

(4) No employee of the Company shall be required to become a contributor to any pensions fund established under this section until the fund has been registered under the Superannuation and other Trust Funds (Validation) Act 1927.

17 & 18
Geo. 5. c. 41.

91.—(1) The council of any borough or district wholly or partly within the limits of supply may give and enter into any guarantee or contract for securing payment to the Company of such periodical or other sum or sums at such time or times in such manner and subject to such stipulations as may be agreed by and between such council and the Company for the purpose of or with respect to the providing or laying down by the Company of any main pipe or works for the supply of water within any part of such borough or district which is within the limits of supply.

Guarantees
by local
authorities.

(2) Subject to the provisions of subsections (4) and (5) of section 190 of the Local Government Act 1933 any expenses incurred by a rural district council in pursuance of this section shall be defrayed as special expenses on the contributory places in respect of which the guarantee or contract is entered into.

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

Authenti-
cation and
service of
notices by
Company.

(2) Any such notice may be served either personally or by a prepaid letter sent by post and addressed to the

A.D. 1936.

person to be served by name at his last known or usual place of abode or business or by delivering the same to some inmate at his last known or usual place of abode or business or to any inmate of the premises supplied or if such premises be unoccupied and the place of abode of the person to be served is after proper inquiry unknown it shall in the case of any notice not being a notice to pay any charge be sufficient to affix such notice or a copy thereof upon some conspicuous part of such premises.

Penalty for closing valves and apparatus.

93. Every person who shall wilfully (without the consent of the Company) or negligently close or shut off any valve cock or other work or apparatus belonging to the Company whereby the supply of water shall be interfered with shall (without prejudice to any other right or remedy of the Company) be liable on conviction to a penalty not exceeding five pounds and the Company 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.

94. 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 Company who shall without the authority of the Company turn on any valve cock or other work or apparatus attached to any service main or pipe connected with any main of the Company and provided or available for the purpose of affording such supply shall be deemed to commit an offence under section 60 of the Waterworks Clauses Act 1847 and that section shall extend and apply accordingly.

Liability to water rent &c. not to disqualify justices &c.

95. A judge of any court or a justice shall not be disqualified from acting in the execution of any Act or Order from time to time relating to the Company by reason of his being liable to the payment of any water rent meter rent rate or charge.

Contents of summons &c.

96. Where the payment of more than one sum by any person is due under any one or more of the Acts or Orders from time to time relating to the Company any summons or warrant issued for the purposes of any one or more of such Acts or Orders in respect of that

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

*Gravesend and Milton
Waterworks Act, 1936.*

[Ch. 1.]

person may contain in the body thereof or in a schedule thereto all the sums payable by him. A.D. 1936.

97. Penalties imposed under any Act or Order from time to time relating to the Company for one and the same offence shall not be cumulative. Penalties not cumulative.

98. Save as otherwise by this Act expressly provided all offences against any Act or Order from time to time relating to the Company and all penalties forfeitures costs and expenses imposed or recoverable under any such Act or Order or any byelaw made in pursuance thereof 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. Recovery of penalties &c.

99. Proceedings for the recovery of any demand made under the authority of any Act or Order from time to time relating to the Company whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in an action founded on contract or tort. Recovery of demands.

100.—(1) Whereas by section 27 of the Act of 1897 it was enacted that the provisions of the Waterworks Clauses Act 1847 except section 68 thereof and of the Waterworks Clauses Act 1863 except section 12 thereof should subject as provided by sections 28 to 31 of the Act of 1897 be incorporated with and form part of the Act of 1897 and that such of the provisions of the Act of 1846 as were inconsistent with any of the provisions so incorporated should as from the twenty-ninth day of September eighteen hundred and ninety-seven be repealed Now it is hereby enacted for removal of doubts that the following sections of the Act of 1846 shall be deemed to have been repealed by the said section 27 of the Act of 1897 :— Repeal.

Section 42 (Power to break up streets for the purposes of this Act);

Section 43 (Notice to be served on the persons under whose control the streets are before breaking up the same);

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- Section 44 (Streets to be broken up under superintendence);
- Section 45 (Streets broken up to be reinstated without delay);
- Section 46 (Penalty for delay in reinstating streets);
- Section 47 (In case of delay other parties may reinstate and recover the expenses of the Company);
- Section 48 (Power to inhabitants to break up pavements for laying down pipes);
- Section 49 (Communication of pipes to be made under superintendence of Company's surveyor);
- Section 50 (Power to inhabitants to lay service pipes);
- Section 51 (As to the bore of service pipes);
- Section 52 (Occupiers not to make pipes to communicate until water rent is paid);
- Section 54 (Persons may remove communication pipes upon giving notice to the Company);
- Section 55 (Company shall lay down pipes in all streets in which a sufficient number of owners shall agree to take a supply for three years);
- Section 58 (Where several houses are supplied by one pipe the several owners &c. liable for rates);
- Section 59 (Rates to be paid in advance and quarterly First payment);
- Section 60 (Parties removing to pay the rates to next quarter day);
- Section 62 (Recovery of rates);
- Section 63 (Owners of houses though not exceeding ten pounds rent liable to pay water rates);
- Section 64 (Defining the term "owner");
- Section 68 (Fire-plugs to be provided by the Company);

- Section 69 (Supply of water for sewers drains and other public purposes); A.D. 1936.
Section 70 (Water to be taken to extinguish fires);
Section 71 (Persons using the water to provide cisterns and cocks);
Section 72 (Penalty for suffering cisterns &c. to be out of repair);
Section 73 (Company may repair and recover the expenses);
Section 74 (Power to Company's surveyor to enter houses for the purpose of inspecting the same);
Section 75 (Penalty on persons supplied with water allowing others to use the same);
Section 76 (Penalty for taking the Company's water without agreement);
Section 77 (Penalty for destroying valves &c.);
Section 78 (Penalties for fouling the water of the Company);
Section 79 (Authority to lay down pipes into private houses at the request of owners and occupiers);
Section 80 (Penalty for refusing to lay down pipes);
Section 81 (In case of breach of agreement Company may recover);
Section 82 (Owner may pay off sum due to Company);
Section 83 (Certain provisions not to come into operation until a public officer is appointed);
Section 84 (Penalty on gas makers for corrupting water within the limits of the Act);
Section 85 (Penalty to be sued for in superior courts within twelve months);
Section 86 (Daily penalty during the continuance of the offence);
Section 87 (Penalty on gas makers if water contaminated);

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- Section 88 (Daily penalty during the continuance of the contamination after notice);
- Section 89 (Daily penalty during escape of gas after notice);
- Section 90 (Power to examine gas pipes to ascertain cause of contamination);
- Section 91 (The expenses to abide the result of the examination);
- Section 92 (The amount of the expenses to be ascertained and recovered as other damages);
- Section 94 (Justices may award one half of penalty to informer and remainder to overseers);

and save as aforesaid the provisions of the Act of 1846 shall not be deemed to have been repealed by the said section 27 of the Act of 1897.

(2) The following sections of the existing Acts and Orders are hereby repealed:—

Act of 1846—

- Section 18 (Abstract of account of receipt and expenditure to be laid before justices and to be verified if required);
- Section 19 (If profits amount to more than ten pounds per cent. and reserved fund amounts to four thousand pounds the water rent shall be reduced);
- Section 20 (Penalty on Company omitting to supply abstract of account);
- Section 21 (Company may resort to contingent fund in case divisible profits are less than ten pounds per cent.);
- Section 22 (First and other meetings);
- Section 25 (Scale of voting);
- Section 26 (Number and qualification of directors);
- Section 27 (Power to reduce the number of directors);
- Section 30 (Quorum of directors);
- Section 41 (Authority to Company to sell part of lands acquired previous to the passing of this Act);

Section 61. (Water for other than domestic purposes to be supplied by agreement). A.D. 1936.

Act of 1897—

Section 8 (Dividend on different classes of stock or shares to be paid proportionately);

Section 20 (Mortgages and debenture stock to be offered by auction);

Section 21 (Purchase money of mortgages or debenture stock to be paid within three months);

Section 22 (As to notice to be given of sale of mortgages or debenture stock);

Section 23 (Mortgages or debenture stock not sold by auction to be re-offered);

Section 25 (Priority of money raised on mortgage or debenture stock over other claims);

Section 30 (Regulations for preventing waste &c. of water).

Order of 1909—

Section 20 (Prescribed rates to be paid proportionately);

Section 23 (Limit of interest on moneys borrowed);

Section 24 (Appointment of a receiver).

(3) Section 17 (Profits to be divided by the Company not to exceed ten pounds per cent. If profits amount to more than ten pounds per cent. excess shall be invested to form a reserved fund) of the Act of 1846 is also hereby repealed except so far as it relates to the dividends payable on the share capital authorised by that Act.

101. All costs charges and expenses of and incidental 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. Costs of Act.

Printed by EYRE AND SPOTTISWOODE LIMITED

FOR

SIR WILLIAM RICHARD CODLING, C.B., C.V.O., C.B.E., the King's Printer of Acts of Parliament

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