

[26 GEO. 5. & Ministry of Health [Ch. xciv.]
1 EDW. 8.] Provisional Order Confirmation
(Heathfield and District Water) Act, 1936.



CHAPTER xciv.

An Act to confirm a Provisional Order of the Minister of Health relating to the Heathfield and District Water Company. A.D. 1936.

[31st July 1936.]

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

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

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

2. This Act may be cited as the Ministry of Health Provisional Order Confirmation (Heathfield and District Water) Act 1936. Short title.

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SCHEDULE.

*Heathfield
and District
Order.*

HEATHFIELD AND DISTRICT WATER.

Provisional Order under the Gas and Water Works Facilities Act 1870 and the Gas and Water Works Facilities Act 1870 Amendment Act 1873 empowering the Heathfield and District Water Company to extend their limits for the supply of water to authorise them to raise additional capital and for other purposes.

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

PART I.

PRELIMINARY.

Short and
collective
titles.

1. This order may be cited as the Heathfield and District Water Order 1936 and the Heathfield and District Water Act and Orders 1913 to 1926 and this order may be cited together as the Heathfield and District Water Act and Orders 1913 to 1936.

Commence-
ment of
order.

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

Incorpora-
tion of
Acts.

3. So far as the same relate to the powers conferred by this order the provisions of the Lands Clauses Acts (except with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking) and of the Companies Clauses Consolidation Act 1845 as amended by subsequent Acts with respect to the following matters (that is to say) :—

8 & 9 Vict.
c. 16.

- The distribution of the capital of the Company into shares ;
- The transfer or transmission of shares ;
- The payment of subscriptions and the means of enforcing the payment of calls ;
- The forfeiture of shares for non-payment of calls ;
- The remedies of creditors of the Company against the shareholders ;

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- The borrowing of money by the Company on mortgage or bond; A.D. 1936.
The consolidation of the shares into stock; *Heathfield and District Order.*
The general meetings of the Company and the exercise of the right of voting by the shareholders;
The making of dividends;
The giving of notices; and
The provision to be made for affording access to the special Act by all parties interested;

and Part I (relating to cancellation and surrender of shares) Part II (relating to additional capital) and Part III (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts and the Waterworks Clauses Acts 1847 and 1863 are (except where expressly varied by this order) incorporated with and form part of this order : 26 & 27 Vict. c. 118.
10 & 11 Vict. c. 17.
26 & 27 Vict. c. 93.

Provided that section 44 of the Waterworks Clauses Act 1847 shall for the purposes of this order have effect as if the words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" were omitted therefrom.

For the purpose of such incorporation the term "special Act" in the said Acts shall be construed to mean this order and the term "Company" shall mean the Undertakers.

- 4.—(1) In this order unless the context otherwise requires— Interpretation.
"the commencement of this order" means the date upon which this order comes into operation;
"the Undertakers" means the Heathfield and District Water Company;
"the undertaking" means the undertaking of the Undertakers as from time to time authorised;
"the Minister" means the Minister of Health;
"the county council" means the county council of the administrative county of East Sussex or the county council of the administrative county of Kent as the case may require;
"the existing limits" means the limits within which the Undertakers were immediately prior to the commencement of this order authorised to supply water;
"the added limits" means the area added by this order to the existing limits;
"the limits of supply" means the limits within which the Undertakers are from time to time authorised to supply water;

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3 & 4 Geo. 5
c. xciv.

16 & 17
Geo. 5. c. lvii.

41 & 42 Vict.
c. 76.

“ the Act of 1913 ” means the Heathfield and District Water Act 1913;

“ the Order of 1926 ” means the Heathfield and District Water Order 1926 as confirmed by the Ministry of Health Provisional Orders Confirmation (No. 8) Act 1926;

“ the existing Act and order ” means the Act of 1913 and the Order of 1926;

“ the directors ” means the directors of the Undertakers;

“ employee ” means any workman servant or officer of the Undertakers other than a director; and

“ telegraphic line ” has the same meaning as in the Telegraph Act 1878.

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

PART II.

EXTENSION OF LIMITS.

Extension of
limits of
supply.

5.—(1) The limits within which the Undertakers may supply water shall extend to and include in addition to the existing limits the following areas in the county of East Sussex :—

In the rural district of Battle—

The parishes of Bodiam Brightling and Dallington.

In the rural district of Hailsham—

The parish of Warbleton.

(2) Subject to the provisions of this order the Undertakers shall have and may exercise within the added limits all and the like powers rights 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 thereto as they now have and are subject to within the existing limits.

Power to
councils to
supply
water in
case Under-
takers fail to
supply.

38 & 39 Vict.
c. 55.

6.—(1) If after the expiration of three years from the commencement of this order the Undertakers are not furnishing or prepared on demand to furnish a sufficient supply of water in accordance with the provisions of this order throughout the added limits the local authority of any district within which the added limits are situate may provide a supply in accordance with the provisions of the Public Health Act 1875 or the local authority or any company body or person may apply for an Act of

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Parliament or provisional order for the purpose of supplying water in any part of the added limits not sufficiently supplied by the Undertakers and for the repeal of the powers of the Undertakers in that behalf.

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(2) If any difference shall arise between the Undertakers and any such local authority company body or person as to the sufficiency of the supply of water in any part of the added limits such difference shall be settled by an arbitrator to be appointed on the application of either party by the Minister.

PART III.

WORKS.

7.—(1) The construction by the Undertakers of the following works in the county of East Sussex (namely) :—

Confirmation
of construc-
tion of
works.

- (i) boreholes Nos. 1 and 2 in the parish of Ticehurst in the rural district of Battle near the two existing wells of the Undertakers and situate in the enclosure numbered 1240 on the 1/2500 ordnance map of Sussex East sheet XXX-5 (edition 1909);
- (ii) storage tank in the parish of Ticehurst in the rural district of Battle situate in the enclosure numbered 179 on the 1/2500 ordnance map of Sussex East sheet XIX-10 (edition 1909);
- (iii) service reservoir in the parish of Ticehurst in the rural district of Battle situate in the enclosures numbered 41 and 179 on the 1/2500 ordnance map of Sussex East sheet XIX-10 (edition 1909); and
- (iv) service reservoir in the parish of Heathfield in the rural district of Hailsham near the existing reservoir of the Undertakers and situate in the enclosure numbered 850 on the 1/2500 ordnance map of Sussex East sheet XLII-1 (edition 1910);

is hereby sanctioned and confirmed.

(2) The Undertakers may from time to time maintain alter improve enlarge extend renew reconstruct or discontinue the said works and may construct and maintain all such shafts adits headings filter beds machinery works buildings and apparatus as may be necessary or convenient in connection with or subsidiary to the said works and may retain hold and use for the purposes of the undertaking all or any of the lands or any interest in any lands already acquired by them for the purposes of or in connection with the said works :

Provided that any electrical works or apparatus constructed or maintained under the provisions of this section shall be so

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Power to
take
waters.

constructed maintained and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of such line.

8. Subject to the provisions of this order the Undertakers may pump collect impound take use divert and appropriate for the purposes of the undertaking all underground streams springs and waters which will or may be taken or intercepted by means of the said boreholes the construction of which is confirmed by this order.

Power to lay
pipes in
private
streets.

9.—(1) The Undertakers may on the application of the owner or occupier of any premises within the limits of supply abutting on or being erected in any street laid out but not dedicated to public use supply those premises with water and for that purpose the Waterworks Clauses Act 1847 shall apply as if section 29 (Undertakers not to enter on private land without consent) of that Act were excepted from incorporation with this order.

(2) The county council shall be deemed in addition to any other person to be persons having the control or management of any street laid out but not dedicated to public use for the purpose of the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes.

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

As to
streets and
roads
forming
boundary
of limits
of supply.

10. Where the limits of supply are bounded by or abut upon any street or road or part of a street or road wholly or for part of its width outside such limits the Undertakers may for the purpose of supplying water to the owner or occupier of any premises abutting upon that street or road or part of a street or road being within such limits exercise with respect to such street or road or part of a street or road the like powers of breaking up the same for the purpose of laying maintaining inspecting repairing and renewing pipes as are exercisable by them with respect to streets or roads within the said limits subject nevertheless to the observance of the conditions imposed on the exercise of those powers and the owner or occupier of any such premises

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may for the purpose of laying any communication pipes 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 Undertakers and his premises and of opening and breaking up so much of the pavement of the street or road and any sewer or drain therein as shall be between such main or pipe and his premises as if such street or road or part of a street or road were within the limits of supply :

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Order.*

Provided that nothing in this section shall entitle or require the Undertakers to supply water to the owner or occupier of any premises outside the limits of supply.

11.—(1) For the purpose of constructing enlarging extending repairing cleansing emptying or examining any of the works of the Undertakers as from time to time existing the Undertakers may cause the water in such works to be discharged into any available stream watercourse or ditch and for that purpose the Undertakers may lay down and maintain in any street all necessary discharge pipes and apparatus and the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets as incorporated with this order and of section 54 (For protection of East Sussex County Council) of the Act of 1913 as extended and applied by this order and of section 13 (For protection of Kent County Council) of this order shall with the necessary modifications apply thereto :

Discharge
of water
into streams.

Provided that any water so discharged shall so far as may be reasonably practicable be free from mud solid or offensive matter and from matter injurious to fish or spawn or spawning beds or food of fish.

(2) In the exercise of the powers conferred by this section the Undertakers shall do as little damage as may be and shall make compensation to all persons interested 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.

(3) The rate at which the Undertakers may cause water to be discharged directly or indirectly into any available stream watercourse or ditch shall not (except in emergency) exceed such a rate as may be agreed between the Undertakers and the local authority in whose district the stream watercourse or ditch is situate or as failing agreement may be determined by arbitration under and pursuant to the provisions of the Arbitration Acts 1889 to 1934 to be reasonable having regard to all the circumstances of the case :

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Provided that the local authority shall for the purpose of this section be deemed to include (in addition to any other person) the county council in respect of any stream watercourse or ditch draining or adjacent to a county road under the control of the county council :

Provided also that—

- (a) 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; and
- (b) in the exercise of the powers conferred upon the undertakers by this section in respect of any street repairable by the said Company the provisions of section 56 (For protection of London Brighton and South Coast Railway Company South Eastern Railway Company and South Eastern and Chatham Railway Companies' Managing Committee) of the Act of 1913 shall so far as the same are applicable and with the necessary modifications apply for the protection and benefit of the Southern Railway Company.

For protec-
tion of
East Sussex
County
Council.

12.—(1) Section 54 (For protection of East Sussex County Council) of the Act of 1913 shall extend and apply to any works in the added limits executed by the Undertakers under this order in or affecting any such road bridge roadway or approach as is mentioned in that section :

Provided that for the purpose of such extension and application the said section shall be read and have effect as if the words " county road " and " county bridge " were substituted for the words " main road " and " county or main road bridge " respectively wherever such words occur in that section.

(2) Section 55 (For further protection of East Sussex County Council) of the Act of 1913 shall extend and apply to the boreholes described in the section of this order of which the marginal note is " Confirmation of construction of works. "

For protec-
tion of
Kent County
Council.

13.—(1) The provisions of section 54 (For protection of East Sussex County Council) of the Act of 1913 shall extend and apply to the county council of the administrative county of Kent and to the Undertakers as respects the exercise of the powers of the Undertakers in relation to any county road or county bridge in the administrative county of Kent as if that section had been expressly enacted in this order with the substitution of the words " Kent " " county road " and " county bridge " for the words " East Sussex " " main road for the time being repairable by the county council " and " county or main road bridge vested in the county council " respectively where such words occur in that section.

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(2) In and for the purposes of this section and the said section 54 as extended and applied by this section the expression "county road" means any street vested in the county council of the administrative county of Kent and "county bridge" means any bridge which that county council are liable to repair.

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14. For the protection of the Rother and Jury's Gut Catchment Board (in this section referred to as "the catchment board") or other the drainage authority for the time being having jurisdiction in the Rother and Jury's Gut Catchment Area the following provisions shall unless otherwise agreed in writing between the catchment board and the Undertakers have effect (that is to say) :—

For protec-
 tion of
 Rother and
 Jury's Gut
 Catchment
 Board.

- (1) Before commencing within the added limits to construct otherwise than in a highway any aqueduct pipe line or works across or under any river stream watercourse or drain under the jurisdiction of the catchment board the Undertakers shall submit to the catchment board for their reasonable approval a plan and section showing the proposed mode of constructing the same across or under such river stream watercourse or drain. If the catchment board do not within twenty-one days after the submission to them of any such plan and section signify to the undertakers in writing their approval or disapproval thereof they shall be deemed to have approved thereof.
- (2) Such aqueduct pipe line or other works shall not be executed otherwise than in accordance with such plan and section as may be approved by the catchment board or if such approval be withheld as may be settled by arbitration.
- (3) Any question to be settled by arbitration under this section shall be referred to and determined by an arbitrator to be appointed failing agreement by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference and determination.

PART IV.

FINANCIAL.

15. In addition to the capital authorised by the Act of 1913 and by the Order of 1926 the Undertakers may from time to time raise additional capital not exceeding in the whole seventy thousand pounds by the creation and issue of new ordinary shares or stock or new preference shares or stock or wholly or partially by any one or more of those modes respectively :

Additional
 capital.

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

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

Limits of
dividend
on capital.

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

Additional
capital to be
part of
general
capital.

17. Except as by this order otherwise provided the additional capital created by the Undertakers under this order and the new shares or stock in that capital 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 the additional capital were part of the existing capital of the Undertakers of the same class or description and the new shares or stock were shares or stock in that capital :

Provided that except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

Power to
offer shares
or stock for
subscription
by public.

18. Notwithstanding anything in any Act or order relating to the Undertakers the Undertakers 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 shares or stock or preference shares or stock which they may for the time being be authorised to issue.

Provisions
as to pay-
ment of
commission
on sale of
shares or
stock.

19. The Undertakers when ordinary shares or stock 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 two and a half per centum to any person in consideration of his

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subscribing or agreeing to subscribe whether absolutely or conditionally for any such shares or stock or procuring or agreeing to procure subscriptions whether absolute or conditional therefor:

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Order.*

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

20.—(1) In addition to any other sums which they are authorised by the existing Act and order to borrow the Undertakers may subject to the provisions of this order borrow on mortgage of the undertaking any sum or sums not exceeding in the whole one-half of the amount of the additional capital which at the time of borrowing has been raised under the powers of this order. Power to borrow.

(2) No sum shall be borrowed in respect of any capital so raised until the Undertakers 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 capital in respect of which such sum is borrowed together with the premiums (if any) realised on the sale thereof has been fully paid up.

21. The Undertakers shall not without the consent of the Minister pay interest at a higher rate than five pounds per centum per annum in respect of any moneys borrowed on mortgage or any debenture stock issued under the authority of this order. Limit of interest on money borrowed.

22. The Undertakers may create and issue debenture stock subject to the provisions of section 15 (Power to create debenture stock) of the Act of 1913. Debenture stock.

23. All money to be raised by the Undertakers on mortgage or by the creation and issue of debenture stock under the provisions of this order shall have priority against the Undertakers and the property from time to time of the Undertakers over all other claims on account of any debts incurred or engagements entered into by them after the commencement of this order: Priority of money raised on mortgage or debenture stock.

Provided that this priority shall not affect any claim against the Undertakers or their property in respect of any rentcharge granted or to be granted by them in pursuance of the Lands Clauses Acts or in respect of any rent or sum reserved by or payable under any lease granted or made to the Undertakers which is entitled to rank in priority to or *pari passu* with the interest on their mortgages or debenture stock nor shall anything

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Existing
mortgages
to have
priority.

in this section contained affect any claim for land taken used or occupied by the Undertakers 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 Undertakers.

24. All mortgages granted by the Undertakers in pursuance of or in conformity with any Act or order before the commencement of this order and subsisting at the date of such commencement shall during the continuance of such mortgages and subject to the provisions of the Act or order in pursuance of or in conformity with which the same were granted have priority over any mortgages granted under the authority of this order but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created and issued by the Undertakers.

Appoint-
ment of
receiver.

25. Section 35 (For appointment of receiver) of the order of 1926 is hereby repealed as from the commencement of this order but without prejudice to any appointment heretofore made or to the continuance of any proceedings then pending The mortgagees of the Undertakers may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver and 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 ten thousand pounds in the whole.

Application
of money.

26. All moneys raised under this order including premiums shall be applied only to purposes to which capital is properly applicable and any sum of money which may arise by way of premium from the issue of shares or stock under the provisions of this order shall not be considered as part of the capital of the Undertakers entitled to dividend.

PART V.

WATER SUPPLY.

Supply of
water by
Undertakers
to premises
outside
limits of
supply.

27.—(1) If the owner or occupier of any premises outside the limits of supply desires to obtain from the Undertakers a supply of water the Undertakers may with the approval of the Minister and subject to the provisions of this section and to such conditions (if any) as the Minister may impose supply water to those premises.

(2) Before an application is made to the Minister for an approval under this section the Undertakers shall obtain the consent of the county council and of the local authority within whose area the premises are situate and of any undertakers authorised by an Act or order to supply water within whose limits of supply the premises are situate.

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(3) The charge made by the Undertakers 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 Undertakers for water supplied for a similar purpose within the limits of supply.

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(4) Where the Minister has given his approval to a supply of water to any premises by the Undertakers under this section the provisions of the Acts and orders from time to time relating to the Undertakers shall subject to any necessary modifications apply in relation to the laying of pipes for affording a supply to those premises and otherwise for the purposes of and in relation to that supply as if the limits of supply extended as far as and so as to include the premises in respect of which a supply approved by the Minister is to be given.

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

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

29.—(1) Where the net annual value of a house supplied with water does not exceed thirteen pounds the owner instead of the occupier shall if the Undertakers so determine be liable to pay the rate for the supply of water but the rate may be recovered by the Undertakers from the occupier and may if so recovered and if the occupier be not himself liable for the water rate under any lease or agreement be deducted by the occupier from the rent from time to time due from him to the owner :

Rates pay-
 able by
 owners of
 small houses.

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.

(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 order.

30. Notwithstanding anything in the Waterworks Clauses Act 1847 or in any Act or order from time to time relating to the Undertakers the water rates rents and charges leviable by the Undertakers shall if the Undertakers so determine be paid

Rates
 leviable
 half-yearly.

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— Christmas Day and Midsummer Day or at Lady Day and
Heathfield Michaelmas Day :
and District
Order.

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

Special
terms for
supplies to
caravans &c.

31.—(1) Notwithstanding anything in the existing Act and order or this order or any Act relating to the Undertakers a person shall not be entitled to demand or continue to receive from the Undertakers a supply of water to any caravan shack hut tent or other like structure (all of which are in this section referred to as "structure") unless he has agreed with the Undertakers to take a supply of water by meter and to pay to the Undertakers such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing the supply or supplies required by him and will cover other standing charges incurred by them in order to meet the possible maximum demand for his 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 Undertakers by way of deposit or otherwise payment of such a sum as may be reasonable having regard to the possible maximum demand of such person for his 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 justices shall be final and binding on all parties.

(3) Notwithstanding anything in this section or any other provisions of or incorporated with this order the Undertakers shall not (unless required so to do by the Minister) supply water to any structure if the local authority of the district in which the structure is situated objects to the supply being given.

Extension of
powers for
preventing
waste &c.
of water.

32.—(1) In addition to the powers conferred by section 73 (Byelaws for preventing waste &c. of water) of the Act of 1913 the Undertakers may make byelaws as to the testing and stamping of taps cocks ferrules valves flushing cisterns flushing apparatus and other similar fittings and apparatus and prescribing the charge to be made for such testing and stamping.

(2) 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

23 & 24
Geo. 5. c. 51.

[26 GEO. 5. & Ministry of Health [Ch. xciv.]
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those sections shall for the purposes of this section be construed as if the Undertakers were a local authority within the meaning of those sections and the secretary of the Undertakers were the clerk of the local authority The confirming authority for the purposes of the said section 250 shall be the Minister.

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

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

33.—(1) Where water is supplied by measure the register of the meter or other instrument for measuring water shall be prima facie evidence of the quantity of water consumed and in respect of which any water rate or rent is charged and sought to be recovered by the Undertakers :

Register of a
meter to be
prima facie
evidence.

Provided that if the Undertakers and the person to whom the water is supplied differ as to the quantity consumed such difference shall be determined upon the application of either party by a court of summary jurisdiction who may also order by which of the parties the costs of the proceedings before them shall be paid and the decision of such court shall be final and binding on all parties.

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

34. If it should appear to the Undertakers that any waste of water or injury or risk of injury to persons or property is caused or likely to be caused by reason of any injury to or defect in any communication pipe which the Undertakers are not under any obligation to maintain it shall be lawful for the Undertakers subject to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying

Power to
Undertakers
to repair
communica-
tion pipes.

[Ch. xciv.] *Ministry of Health* [26 GEO. 5. &
Provisional Order Confirmation 1 EDW. 8.]
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Order.*

pipes and of section 54 (For protection of East Sussex County Council) of the Act of 1913 as extended and applied by this order and of section 13 (For protection of Kent County Council) of this order to execute such repairs to the communication pipe as they may think necessary or expedient in the circumstances of the case without being requested so to do and if any injury to or defect in the communication pipe shall have been found the reasonable expenses incurred by the Undertakers 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 summarily as a civil debt by the Undertakers from the owner of the premises supplied or in cases where the communication pipe is repairable by the occupier of such premises from the occupier :

Provided that except in case of emergency the Undertakers shall not under the powers of this section enter into any house or private premises unless they shall have given to the occupier of such house or premises and (in any case where the communication pipe is repairable by the owner of such house or premises) to such owner not less than twenty-four hours' previous notice of their intention so to enter.

Penalty for
opening
valves &c.

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

Extension of
power to
inspect
premises.

36. In addition to the powers conferred by section 57 of the Waterworks Clauses Act 1847 any duly authorised officer of the Undertakers may at all reasonable times between the hours of seven and nine in the morning and also between the hour of four in the afternoon and one hour after sunset enter into any house or premises supplied with water by the Undertakers in order to examine if there be any waste or misuse of such water and if any such 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.

37. The Undertakers by their agents or workmen after forty-eight hours' notice in writing under the hand of the engineer or other officer of the Undertakers to the occupier or if there be no occupier then to the owner or lessee of any house building or land in which any water pipe meter or fitting belonging to the Undertakers is laid or fixed and through or in which the supply of water is from any cause other than the default of the Undertakers discontinued for the space of forty-eight hours may enter such house building or land between the hours of nine in the morning 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.

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Entry of
premises to
remove
fittings and
meters.

PART VI.

ADMINISTRATIVE PROVISIONS.

38. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 notice of all meetings of the Undertakers (whether ordinary or extraordinary) may (if the directors so determine) be given by a prepaid letter sent by ordinary letter post to each holder of shares or stock instead of by public advertisement :

Notices of
meetings.

Provided that—

- (a) the letters giving the notice shall be directed according to the registered address or other known address of each holder of shares or stock and posted not later than seven clear days before the date of the meeting; and
- (b) in proving that any such notice has been given it shall be sufficient to prove that the letter containing the notice was properly addressed and posted as a prepaid letter not later than the time hereby prescribed.

39. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 no person shall be disqualified from being a director by reason of his holding any office or place of trust or profit under the Undertakers or by reason of his being interested in any contract with the Undertakers 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 :

Directors
holding
office under
or contract-
ing with
Undertakers.

Provided that—

- (a) in the case of his being or becoming interested in any such contract with the Undertakers whether such interest arises before or after his appointment as a

[Ch. xciv.] *Ministry of Health* [26 GEO. 5. &
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director the nature of his interest in the contract shall if it then exists be disclosed by him at the meeting of the directors at which the contract is determined upon or in any other case at the first meeting of the directors after the acquisition of his interest or after his appointment as a director as the case may be; and

- (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 Undertakers to give to the directors or any of them any security by way of indemnity.

Vacation of
office of
director.

40. 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 lunatic or of unsound mind or shall neglect to attend the meetings of directors for twelve 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.

Notice of
candidature
of or of
opposition to
re-election of
director.

41.—(1) No person not being a director retiring by rotation and offering himself or being proposed for re-election or not being a candidate for election by the directors to fill a casual vacancy shall be capable of being elected a director of the Undertakers 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 principal office of the Undertakers ten days at least before the day of election and the secretary shall during those ten days and on the day of election cause to be displayed a copy of every such notice so delivered in some conspicuous place in the principal office.

(2). In the case of a retiring director notice of opposition to his re-election shall be given in like manner.

(3) No person shall be eligible to be elected a director at any general meeting of the Undertakers unless he shall have been the holder of the qualifying amount of stock for at least two months prior to his election.

Register of
shareholders
and share-
holders'
address
book.

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

- (a) to keep separately a register of shareholders and a shareholders' address book but in lieu thereof the Undertakers may if they think fit keep one register only containing

[26 GEO. 5. & Ministry of Health [Ch. xciv.]
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such particulars as are required by the said 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 Undertakers may keep in lieu thereof under the powers of this section.

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and District
Order.

43. Notwithstanding anything in section 10 of the Companies Clauses Consolidation Act 1845 the Undertakers may substitute for the shareholders' address book provided under that section a card or other index (of a type to be approved by the auditors of the Undertakers) containing the names and addresses of the several shareholders of the Undertakers and that section in its application to the Undertakers shall be read and have effect accordingly.

Substitution
of card index
for share-
holders'
address
book.

44.—(1) It shall be lawful for the Undertakers at any time by resolution passed at a general meeting to decide that the accounts of the Undertakers shall be audited by a single auditor or by a firm of accountants and notwithstanding anything in the Companies Clauses Consolidation Act 1845 it shall not be necessary for such auditor or the members of such firm to hold any share or stock in the capital of the Undertakers.

Auditors.

(2) No person not being a retiring auditor of the Undertakers shall be eligible to be elected at any general meeting as auditor of the Undertakers unless notice be given to the secretary or left at the principal office of the Undertakers seven days at least before the date of the meeting that such person will be proposed for election as an auditor of the Undertakers. The secretary shall on receipt of any such notice send a copy thereof to the retiring auditor and during such seven days and the day of election keep a copy of the notice fixed in some conspicuous place in the said office.

(3) If any auditor of the Undertakers dies or resigns the directors may appoint another auditor in his place and any auditor so appointed shall hold office until the next ordinary meeting.

45.—(1) The directors may grant such gratuities pensions and superannuation allowances or make such other payments as they may think fit to 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 any employee or to any superannuation fund established for the benefit of the employees or of their widows or families.

Power to
grant
pensions &c.

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(2) The directors may enter into and carry into effect agreements with any local authority as defined by the Local Government and other Officers' Superannuation Act 1922 to which that Act applies or with any insurance company or other association or company for securing to any such employee widow family or dependant such gratuities pensions allowances or payments as are by this section authorised to be granted or made.

(3) The directors may subscribe or make donations to infirmaries hospitals convalescent homes and other institutions and to the benevolent and sick funds of the employees.

(4) The directors may apply the revenues of the Undertakers to any of the purposes of this section.

Super-
annuation
scheme.

46.—(1) The Undertakers may establish and carry into effect and from time to time alter modify or rescind a scheme or schemes for the provision of superannuation allowances for employees and may by any such scheme provide for the making of contributions by the Undertakers and by the employees to the superannuation fund formed under any such scheme and for the investment of moneys for the time being forming part of any such fund and the accumulation of interest or dividends on such investments by way of compound interest :

Provided that no such modification alteration or rescission of any such scheme shall place any employee who at the date of such modification alteration or rescission is entitled under such scheme to a superannuation allowance in a worse position than he would have been if such modification alteration or rescission had not been made.

(2) Any superannuation fund formed under any scheme established by the Undertakers under the powers of this section shall not come into operation until it has been registered under the Superannuation and other Trust Funds (Validation) Act 1927.

Undertakers
not bound
to regard
trusts.

47. The Undertakers shall not be bound to see to the execution of any trust whether express implied or constructive to which any shares or stock or mortgage bonds or debenture stock of the Undertakers may be subject and the provisions of section 20 of the Companies Clauses Consolidation Act 1845 shall mutatis mutandis extend and apply to any shares or stock or mortgage bonds or debenture stock of the Undertakers as if such shares or stock or mortgage bonds or debenture stock were shares to which that section applies :

Provided that in that section for the words " receipt of one of the parties named in " the words " receipt of the party whose name stands first on " shall be substituted.

[26 GEO. 5. & Ministry of Health. [Ch. xciv.]
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PART VII.

SUPPLEMENTAL.

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

Several sums
 in one
 summons &c.

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

Judges not
 disqualified.

50. The Minister may hold any inquiry which he may deem necessary for the purposes of this order and section 290 of the Local Government Act 1933 shall apply as if the Undertakers were a local authority.

Inquiries
 and
 expenses.

51.—(1) The Act of 1913 shall be read and have effect as if in section 75 (Company not bound to supply several houses by one pipe) the following subsection were added at the end of that section (namely):—

Amendment
 of existing
 enactments.

“(2) If the owner of any house supplied with water by the Undertakers when so required in pursuance of the preceding subsection fails within a period of one month after the receipt of such requirement to provide a separate pipe from the main pipe into such house the Undertakers may themselves do the work necessary in that behalf and may recover from such owner the reasonable cost incurred by them in so doing summarily as a civil debt.”

(2) The Order of 1926 shall be read and have effect as if in section 41 (As to appointment of proxies) the words “or if it has been deposited in the Central Office of the Supreme Court an office copy thereof” were inserted after the words “the instrument appointing the attorney.”

52. The Act and order mentioned in the schedule to this order are hereby repealed to the extent shown in the second column of that schedule.

Repeal.

53. All costs charges and expenses of and incident to applying for preparing obtaining and confirming this order and otherwise in relation thereto shall be paid by the Undertakers and may be paid wholly or partly out of revenue.

Costs of
 order.

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SCHEDULE.

PROVISIONS REPEALED.

Act or order.	Extent of repeal.	Subject-matter of repealed provision.
Heathfield and District Water Act 1913.	Section 10	Shares not to be issued until one-fifth part thereof shall have been fully paid up.
	Section 11	Calls.
	Section 24	Contracts not to disqualify for office of director.
	Section 70	Register of meter to be prima facie evidence.
	Section 78	Power to lay pipes in private streets.
	Section 79	Temporary discharge of water into streams.
	Section 83	Liability for water rate not to disqualify justices.
Heathfield and District Water Order 1926 as confirmed by the Ministry of Health Provisional Orders Confirmation (No. 8) Act 1926 (16 and 17 Geo. 5. c. lvii).	Section 86	Contents of summons.
	Section 16	Power to Undertakers to repair communication pipes.

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