



CHAPTER ix.

An Act to confirm a Provisional Order of the Minister of Health relating to the Mold Gas and Water Company.

[29th July 1942.]

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 and the Board of Trade have 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 and the Board of Trade 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. Paragraph (d) of subsection (2) and subsection (4) of section one of the Emergency Powers (Defence) Act 1939 as amended by subsection (2) of section one of the Emergency Powers (Defence) Act 1940 shall have effect as if this Act had been passed before the commencement of the last mentioned Act.

Saving of
Emergency
Powers.
2 & 3 Geo. 6.
c. 62.
3 & 4 Geo. 6.
c. 20.

3. This Act may be cited as the Ministry of Health Provisional Order Confirmation (Mold Gas and Water) Act 1942.

Short title.

SCHEDULE.

MOLD GAS AND WATER.

Provisional Order under the Gas and Water Works Facilities Act 1870 and the Gas and Water Works Facilities Act 1870 Amendment Act 1873 conferring further powers on the Mold Gas and Water Company and for other purposes.

THE MINISTER OF HEALTH and the Board of Trade in pursuance of the powers given to them 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 them in that behalf hereby order as follows:—

PART I.

PRELIMINARY.

Short title.

1. This Order may be cited as the Mold Gas and Water Order 1942.

Commencement of Order.

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

Incorporation of Acts.

3.—(1) The following enactments so far as the same are applicable to the purposes and are not inconsistent with or varied by the provisions of this Order are hereby incorporated with this Order (namely):—

8 & 9 Vict.
c. 16.

(a) The Companies Clauses Consolidation Act 1845 except the provisions thereof with respect to the conversion of borrowed money into capital;

10 & 11 Vict. c. 15.
34 & 35 Vict. c. 41.
24 & 25 Geo. 5. c. 28.

(b) The Gasworks Clauses Act 1847 and the Gasworks Clauses Act 1871 as respectively amended by the Gas Undertakings Act 1934;

10 & 11 Vict.
c. 17.

(c) The Waterworks Clauses Act 1847 except the words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" in section 44;

26 & 27 Vict.
c. 93.

(d) The Waterworks Clauses Act 1863; and

(e) 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 upon lands by the promoters of the undertaking.

(2) For the purposes of such incorporation the expression "special Act" where used in the said enactments shall be construed to mean this Order and the expression "Company" shall be construed to mean the Undertakers.

8 & 9 Vict.
c. 18.

(3) Sections 127 to 132 of the Lands Clauses Consolidation Act 1845 relating to the sale of superfluous lands shall not apply to any land which is now vested in the Undertakers or is hereafter acquired by them.

4. In this Order unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith or by the Gas and Water Works Facilities Act 1870 have the same respective meanings And—

PART I.
—cont.
Interpretation.

“The Undertakers” means the Mold Gas and Water Company;

“The Act of 1867” means the Mold Gas and Water Act 1867;

“The Act of 1892” means the Mold Water Act 1892;

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

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

“The undertaking” means the gas undertaking and the water undertaking;

“The gas limits” means the limits within which the Undertakers are from time to time authorised to supply gas;

“The water limits” means the limits within which the Undertakers are from time to time authorised to supply water;

“Gas consumer” means any consumer of gas supplied by the Undertakers;

“Water consumer” means any consumer of water supplied by the Undertakers;

“The directors” means the directors of the Undertakers;

“Railway company” includes any two or more railway companies acting jointly;

“A supply of water for domestic purposes” means a sufficient supply for drinking washing cooking and sanitary purposes but not for any bath having a capacity (measured to the centre line of the overflow pipe or in such other manner as the Minister of Health may by regulations prescribe) in excess of fifty gallons and includes—

(a) a supply for the purposes of a profession carried on in any premises the greater part whereof is used as a house; and

(b) where the water is drawn from a tap inside a house and no hosepipe or similar apparatus is used a supply for watering a garden for horses kept for private use and for washing vehicles so kept:

Provided that it does not include a supply of water for the business of a laundry or a business of preparing food or beverages for consumption otherwise than on the premises.

PART II.

GAS.

5. The following provision shall be substituted for section 58 (Price of gas) of the Act of 1867:—

Maximum price
of gas.

“The maximum price of gas supplied by the Undertakers shall be sixteen pence per therm.”

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Order Confirmation (Mold Gas and Water) Act, 1942.*

PART II.

—cont.

Extension of
section 4 of Gas
Undertakings Act
1929.
19 & 20 Geo. 5.
c. 24.

Repairs of gas
piping &c. in
dangerous
condition.

Power to lay
gas pipes in
private streets.

Cutting off
service pipes
to prevent
leakage of gas.

Relief from
obligation to
supply gas.

6. In addition to the powers conferred upon them by section 4 of the Gas Undertakings Act 1929 the Undertakers may purchase and may sell liquid butane or liquid propane or any other similar liquid which is intended to be converted into gas and which is derived from a process other than the process of carbonisation or gasification of coal or coke and may also use such liquid for the enrichment of gas supplied by them.

7.—(1) If the Undertakers shall at any time serve notice upon any gas consumer to the effect that it has come to the notice of an officer or servant of the Undertakers that the internal gas piping or any gas-consuming appliances or fittings provided in connection with the gas service on such consumer's premises are in such a condition as to be dangerous to any person such consumer shall forthwith carry out such works as may be necessary to remove the cause of danger. If the consumer shall fail forthwith to carry out such works as aforesaid the Undertakers may stop the gas from entering the premises of such consumer by cutting off the service pipe or by such other means as the Undertakers shall think fit. Any expenses lawfully incurred by the Undertakers in cutting off the gas from such premises may be recovered by the Undertakers summarily as a civil debt.

(2) For the purposes of this section the Undertakers shall subject to the provisions of section 21 of the Gasworks Clauses Act 1871 have and may exercise the like powers of entry as are exercisable under that section.

8. The Undertakers may on the application of the owner or occupier of any premises within the gas limits abutting on or being erected in any street laid out but not dedicated to public use supply those premises with gas and for that purpose the Gasworks Clauses Act 1847 shall apply as if section 7 of that Act were excepted from incorporation with any Act or Order relating to the Undertakers and the authority by whom the street would be maintained or repaired if it became a highway repairable by the inhabitants at large shall be deemed to be (in addition to any other person) the persons having the control or management of any such street not being a street belonging to a railway company:

Provided that the powers of this section shall not be exercised in respect of any street belonging to a railway company except with the consent of such railway company but such consent shall not be unreasonably withheld nor shall the Undertakers in carrying out any works authorised by this section unreasonably obstruct or interfere with the access to any such street. Any question under this section whether any consent of a railway company is unreasonably withheld or whether any obstruction or interference is unreasonable shall be referred to arbitration.

9. Where any dwelling-house or other building is demolished or appears to the Undertakers to be uninhabitable and the Undertakers have reason to think that a leakage of gas is occurring or is likely to occur they may cut off the service pipe by which gas was supplied to such dwelling-house or building.

10.—(1) Unless at the date of the demand for any such new or increased supply of gas as is hereinafter referred to the capacity of the

distribution works of the Undertakers is in the opinion of an arbitrator appointed as hereinafter provided insufficient to meet (with a reasonable margin) the requirements (as existing immediately before that date) of the consumers in the portion of the area of supply of the Undertakers for which such works have been provided (so far as such requirements could reasonably have been foreseen) the Undertakers notwithstanding anything in any other enactment shall not be obliged to give for any purpose other than lighting or domestic use—

(a) a new supply of gas for the premises of any person demanding such supply at any time after the coming into operation of this Order ; or

(b) an increased supply of gas (other than an increased supply necessitated by any reduction of the declared calorific value) ;

where the giving of such new or increased supply would render necessary the laying of a new main or the making (as an alternative to the laying of a new main) of any enlargement or alteration of or addition to the distribution works of the Undertakers.

(2) The foregoing provisions of this section shall not apply in any case in which the person demanding the new or increased supply (in this section referred to as " the applicant ") shall enter into a written contract with the Undertakers—

(a) to receive and pay for a supply of gas of such minimum quantity and for such minimum period as the Undertakers may reasonably require ; or

(b) to make such payment to the Undertakers (in addition to any payments to be made from time to time for gas supplied to the applicant) as the Undertakers may reasonably require ;

(according as the Undertakers may in their discretion determine) in consideration of or by way of contribution towards the expenses to be incurred by the Undertakers in laying such new main or making such enlargement alteration or addition as aforesaid and shall give such security for the payment of all moneys which may become due under the contract as the Undertakers may reasonably demand.

(3) If any question shall arise under the provisions of this section between the Undertakers and the applicant as to the sufficiency of the distribution works of the Undertakers or as to whether such new or increased supply would necessitate the laying of a new main or the making of any such enlargement alteration or addition as aforesaid or as to the reasonableness of the minimum quantity or period or of the payments (in addition to payments for gas supplied) required by the Undertakers or as to the nature or amount of the security demanded by the Undertakers such question shall be referred to and determined by arbitration the arbitrator to be appointed (failing agreement between the Undertakers and the applicant) by the Board of Trade on the application of either party after notice in writing to the other of them and the decision of such arbitrator shall be final and binding.

(4) In determining any such question as aforesaid the arbitrator shall have regard to the following among other considerations (that is to say) :—

(a) The total annual quantity of gas required by the applicant the maximum quantity required per hour and the hours of

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the day during which the Undertakers may be called upon to supply gas to the applicant ;

- (b) The capital expenditure which the Undertakers would have to incur in the laying of a new main or the making of any enlargement or alteration of or addition to their distribution works as aforesaid in connection with the giving of such new or increased supply ; and
- (c) How far such capital expenditure may become unproductive to the Undertakers in the event of the cesser of the new or increased supply.

For prevention of improper use of gas.

11. If any person supplied with gas by the Undertakers improperly uses or deals with the same so as to interfere with the efficient supply of gas by the Undertakers to any other gas consumer the Undertakers may if they think fit cease to supply gas to such person.

Inspection and testing of gas meters.

12.—(1) The Undertakers' inspectors or servants shall at all reasonable times have access to and be at liberty to inspect take off remove test repair and replace gas meters which are the property of the Undertakers and meanwhile to fix a substituted meter on the premises such inspection taking off removal testing repairing and replacing to be done at the expense of the Undertakers.

10. & 11 Geo. 5.
c. 28.

(2) If any meter which is the property of the Undertakers shall have been tested at the request of a consumer in manner provided by regulations made by the Board of Trade under the Gas Regulation Act 1920 the expense of changing and testing such meter shall be borne by the consumer unless the meter shall have been found to register erroneously to a degree exceeding the degree permissible under the said regulations in which event such expense shall be borne by the Undertakers.

Charges for special reading of gas meters.

13. When at the request and for the convenience of any gas consumer the reading of any gas meter in any premises takes place at a time other than that of the usual periodical reading the Undertakers may levy and recover such charges as they think fit not exceeding one shilling for each such special reading.

PART III.

WATER.

Alteration of rates for supply of water for domestic purposes.

14.—(1) In lieu of the scale of charges authorised by section 83 (Rate at which water is to be supplied for domestic purposes) of the Act of 1867 the Undertakers may charge as from the first day of October 1942 in respect of a supply of water for domestic purposes a water rate not exceeding—

- (a) in the case of premises not used solely for business trade or manufacturing purposes twelve pounds ten shillings per centum per annum on the net annual value thereof ; and
- (b) in the case of premises used solely for business trade or manufacturing purposes six pounds five shillings per centum per annum on the net annual value thereof :

Provided that the Undertakers may in any case make in respect of the supply a minimum charge of thirteen shillings and fourpence per annum.

(2) For the purposes of this section where water supplied to a house within the curtilage of a factory is used solely for the domestic purposes of inhabitants of the house the house shall be deemed separate premises not forming part of the factory.

(3) For the purposes of this section the net annual value of any premises shall be taken to be that value as appearing in the valuation list in force on the first day of the period of twelve months covered by the rate:

Provided that if that value is not therein stated or if the water rate is chargeable on a part only of any hereditament entered therein the net annual value of the premises supplied shall be taken to be such sum or as the case may be such fairly apportioned part of the net annual value of the whole hereditament as in default of agreement may be determined by a court of summary jurisdiction.

(4) Subject to the provisions of subsection (2) of this section where there is communication otherwise than by a highway between buildings or parts of buildings in the occupation of the same person those buildings or parts of buildings shall if the Undertakers so decide be treated for the purpose of charging water rates as one building having a net annual value equal to the aggregate of their net annual values:

Provided that a person aggrieved by a decision of the Undertakers under this subsection may appeal to a court of summary jurisdiction.

15. In lieu of the rate of one shilling and eightpence per thousand gallons prescribed by section 84 (Company if required to supply water in bulk for other than domestic purposes) of the Act of 1867 the Undertakers may charge as from the first day of October 1942 a rate not exceeding two shillings per thousand gallons for water supplied under that section in bulk by measure for other than domestic purposes.

Alteration of rates for supply of water for non-domestic purposes.

16.—(1) The Minister of Health on an application made to him by the Undertakers or by a county council or local authority within whose county or district the Undertakers supply water may by order make such reduction or increase in the rates and charges which the Undertakers are authorised to levy and make for the supply of water as he considers reasonable:

Revision of water rates and charges.

Provided that he shall not make any reduction unless he is satisfied that it will not endanger the ability of the Undertakers so long as their undertaking is managed efficiently to provide a reasonable return upon so much of the paid up capital of the Undertakers as is properly attributable to the water undertaking (regard being had by him to any capital which the Undertakers may reasonably be expected to expend on the water undertaking during the next five years) after paying all proper expenses of and connected with the working management and maintenance of the water undertaking providing for any contributions which the Undertakers may lawfully carry to any reserve or other fund making good depreciation (in so far as provision therefor is not made by any such fund as aforesaid) and meeting all other costs charges and expenses (if any) properly chargeable to revenue.

(2) Applicants for an order under this section shall publish once at least in each of two successive weeks in one or more local newspapers circulating within the water limits a notice explaining the effect of their proposals and stating that objections thereto may be made to

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the Minister of Health within forty-two days (exclusive of any day in the month of August) after the first publication of the notice and shall transmit a copy of the notice to the council of every county and county district within the water limits and shall also publish in the London Gazette a notice stating that they are about to apply for an order under this section naming the counties and county districts within which the Undertakers are supplying water and giving the name and date of issue of a local newspaper in which the notice explaining the effect of the order applied for will be found.

(3) If before the expiration of the said forty-two days or before the expiration of thirty-nine days from the publication of the notice in the London Gazette an objection is received by the Minister of Health from any person appearing to him to be affected by the application and is not withdrawn the Minister of Health before making any order on the application shall cause a local inquiry to be held.

(4) The Minister of Health may at any time upon the application either of the Undertakers or of any council entitled to make an application under subsection (1) of this section make an order in like manner and subject to the like provisions as the original order amending any order previously made by him under this section:

Provided that unless he considers that exceptional circumstances exist he shall not make an amending order in pursuance of an application under this subsection before the expiration of five years from the date of his decision on the last preceding application.

(5) In relation to any period during which an order made under this section is in operation the enactments relating to the Undertakers shall have effect as if the rates and charges specified in the Order were substituted for the rates and charges specified in those enactments.

Amendment of
section 35 of
Waterworks Clauses
Act 1847.

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

Water rates on
certain houses
may be
demanded from
owners.

18.—(1) Where a house supplied with water by the Undertakers has a net annual value not exceeding thirteen pounds or is let to tenants holding for any period less than a quarter of a year the owner instead of the occupier shall if the Undertakers so resolve pay the rate for the supply of water.

(2) Where at the date when an instalment of a water rate in respect of any premises becomes due the owner of the premises is liable by or under some express enactment or by agreement with the Undertakers to pay the water rates for a supply of water to those premises and is not himself the occupier thereof the Undertakers shall not cut off the supply of water to the premises for a failure by him to pay that instalment but that instalment without prejudice to the right of the Undertakers to enforce payment thereof by him may be recovered by them either from the owner for the time being or subject as hereinafter provided from the occupier for the time being of the premises in the manner in which water rates are recoverable:

Provided that where the occupier of the premises is not the owner thereof—

(a) proceedings shall not be commenced under this subsection against the occupier until notice has been given to him

requiring him to pay the amount due out of any rent which is then due or which may thereafter become due from him and he has failed to comply with the notice ; and

(b) no greater sum shall be recovered at any one time from the occupier than the amount of rent which is owing by him or which has accrued since such notice as aforesaid was given to him ; and

(c) if the occupier as between himself and the owner of the premises is not liable to pay the water rates he shall be entitled to deduct from the rent payable by him any sum paid by him in compliance with the notice or so recovered from him.

(3) If any water supply is cut off by the Undertakers in contravention of the provisions of this section they shall be liable on summary conviction to a fine not exceeding five pounds for each day during which the water remains cut off.

(4) The provisions of section 73 of the Waterworks Clauses Act 1847 shall mutatis mutandis extend and apply to any payments made under the provisions of this section by the owner of any house and as if such first-mentioned provisions applied in the case of any lease or agreement whether made before or after the coming into operation of this Order.

19.—(1) The Undertakers shall not be bound to supply with water otherwise than by measure—

(a) any premises used as a house whereof a part is used by the same occupier for any business trade or manufacturing purpose for which water is required ;

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

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

(d) any premises which are used solely for business trade or manufacturing purposes and in which a supply of water for domestic purposes only is required.

Power to
require supply
to certain
premises and
for certain
purposes to be
taken by
measure.

10 Edw. 7 &
1 Geo. 5. c. 8.

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

(3) The minimum annual charge for a supply of water by measure to any of the premises in subsection (1) of this section mentioned shall be a sum equal to the annual amount which would be payable according to the scale for the time being in force for a domestic supply furnished to a dwelling-house of the same net annual value.

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—cont.

Charges where water supplied for domestic purposes is used for other purposes.

20.—(1) Where water which the Undertakers supply for domestic purposes and in respect of which they charge a water rate is used for horses washing vehicles or other purposes in stables garages or other premises where horses or vehicles are kept the Undertakers may if a hosepipe or other similar apparatus is used charge in respect of that use of the water an additional annual sum not exceeding ten shillings per annum and (where more motor vehicles than one are kept) a further additional sum not exceeding five shillings per annum for each motor vehicle beyond the first.

(2) Where in either of such cases the water used is drawn from a tap outside a house but no hosepipe or similar apparatus is used the Undertakers may charge an additional annual sum not exceeding one-half the maximum sum chargeable under the preceding subsection.

(3) Sums charged under the provisions of this section shall be paid in advance either quarterly or half-yearly as the Undertakers may determine and shall be recoverable in the manner in which water rates are recoverable.

(4) Where water supplied by the Undertakers to a person who takes a supply both for domestic purposes and by measure for trade or other purposes is used by him by means of a stand-pipe or tap or hosepipe or other similar apparatus for horses or for washing carriages or motor vehicles or for other purposes in stables garages or premises where horses carriages or motor vehicles are kept the Undertakers may if they think fit require that all water so used by means of any such stand-pipe or tap or hosepipe or other apparatus shall be taken by measure and paid for accordingly.

Charges for refrigerating apparatus &c.

21. If a person who takes a supply of water for domestic purposes from the Undertakers otherwise than by measure desires to use any of the water so supplied—

- (a) for operating a water-cooled refrigerating apparatus ;
- (b) for operating any apparatus depending while in use upon a supply of continuously running water not being an apparatus used solely for heating the water ; or
- (c) for cleaning regenerating or supplying motive power to any apparatus used for softening water ;

the Undertakers may require that all water so used shall be taken by measure and paid for accordingly or may charge for water so used on such other terms as may be agreed between such person and the Undertakers or in default of agreement on such terms as may be determined by a court of summary jurisdiction :

Provided that nothing in this section shall apply to apparatus used for softening water if one such apparatus only is used and if the water softened thereby is used solely for domestic purposes.

Supplies to swimming baths and bathing pools.

22. Where a person who takes a supply of water for domestic purposes desires to use water for a swimming bath or bathing pool the Undertakers may require that all water required for such swimming bath or bathing pool shall be taken by measure and paid for accordingly.

23.—(1) Notwithstanding anything in any Act or Order 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 habitation to which this section applies unless he has—

PART III.

—cont.

Special terms
for supplies to
caravans shacks
and huts.

(a) agreed with the Undertakers to take a supply of water by measure 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 habitation and will yield a reasonable return on the cost of the water consumed or used by him ; and

(b) 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 for water.

(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) The habitations to which this section applies are tents vans or other conveyances whether on wheels or not and sheds or similar structures not being structures to which the building byelaws of the local authority of the district apply.

24. 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 the Undertakers may for the purpose of measuring the quantity of water supplied or of preventing and detecting waste affix and maintain meters and other apparatus on the service pipes and mains of the Undertakers and stopcocks in the pipes supplying houses with water and may insert in the roads or footways (but as near as reasonably practicable to the boundary of the street) the necessary covers or boxes for giving access and protection thereto and may for that purpose temporarily break up and interfere with streets sewers rails pipes wires and apparatus :

Meters &c. to
measure water
or detect waste.

Provided that the Undertakers shall not interfere with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General except in accordance with and subject to the provisions of the said Act :

41 & 42 Vict.
c. 76.

Provided also that the powers of this section shall not be exercised in respect of any street sewer rail pipe wire or apparatus belonging to or maintainable by a railway company without the consent of such company (which consent shall not be unreasonably withheld) nor so as unreasonably to interfere with the access to any station or depot of such company.

Any question under this section whether any consent of a railway company is unreasonably withheld or whether any interference is unreasonable shall be referred to arbitration

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—cont.
Power to lay
water pipes in
private streets.

25. The Undertakers may on the application of the owner or occupier of any premises within the water limits 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 of that Act were excepted from incorporation with any Act or Order relating to the Undertakers and the authority by whom the street would be maintained or repaired if it became a highway repairable by the inhabitants at large shall be deemed to be (in addition to any other person) the persons having the control or management of any such street not being a street belonging to a railway company :

Provided that the powers of this section shall not be exercised in respect of any street belonging to a railway company except with the consent of that company but such consent shall not be unreasonably withheld nor shall the Undertakers in carrying out any works authorised by this section unreasonably obstruct or interfere with the access to any such street.

Any question under this section whether any consent of a railway company is unreasonably withheld or whether any obstruction or interference is unreasonable shall be referred to arbitration.

As to quarterly
dates for
payment of
water rate.

26. Notwithstanding anything in section 70 of the Waterworks Clauses Act 1847 the Undertakers shall be entitled to demand payment of water rates in advance by equal quarterly payments on the first day of January the first day of April the first day of July and the first day of October in each year.

Rates leviable
half-yearly.

27. Notwithstanding anything in the Waterworks Clauses Act 1847 the rates leviable by the Undertakers shall if the Undertakers so determine be paid half-yearly one quarter in arrear and one quarter in advance :

Provided that any person who shall occupy any premises during part only of any half-year shall be liable only for a part of the water rate demanded for that half-year 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.

Extension of
power to
inspect
premises.

28. 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 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 Undertakers in order to examine if there be any waste or misuse of such water.

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.

29. Where any dwelling-house or other building is demolished or appears to the Undertakers to be uninhabitable and the Undertakers have reason to think that waste of water is occurring or is likely to occur they may cut off the communication pipe by which water was supplied to such dwelling-house or building.

PART III.
—cont.
Cutting off communication pipes to prevent waste of water.

30.—(1) The Undertakers may make byelaws for preventing waste undue consumption misuse or contamination of water supplied by them.

Byelaws for preventing waste misuse or contamination of water &c.

(2) Byelaws under this section may include provisions—

- (a) prescribing the size nature materials strength and workmanship and the mode of arrangement connection disconnection alteration and repair of the water fittings to be used ; and
- (b) forbidding any arrangement and the use of any water fittings which cause or permit or are likely to cause or permit waste undue consumption misuse erroneous measurement or contamination of water or reverberation in pipes :

Provided that byelaws made for the purposes of paragraph (a) of this subsection shall not apply in relation to fittings used in connection with a supply of water by meter.

(3) All such byelaws shall be subject to the provisions contained in subsections (2) (3) (4) (6) (7) and (10) of section 250 and in sections 251 and 252 of the Local Government Act 1933 and all penalties imposed for breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of penalties and 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 were the clerk of the local authority The confirming authority for the purposes of the said section 250 shall be the Minister of Health.

23 & 24 Geo. 5.
c. 51.

(4) In addition to complying with the said requirements of section 250 of the Local Government Act 1933 the Undertakers shall—

- (a) send at least one month before application is made to the Minister of Health for confirmation of byelaws made under this section a copy of the byelaws to the local authority of every district in which the premises to which the byelaws will apply are situate ;
- (b) publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation ; and
- (c) at the request of any person interested furnish to him a copy of the byelaws before confirmation upon payment of a sum not exceeding one shilling.

In this subsection the expression "month" means a period of twenty-eight days exclusive of any day in the month of August.

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

PART III.
—cont.

the Undertakers as the water rates in respect of the premises are recoverable.

(6) 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.

(7) Subject as hereinafter provided—

(a) any byelaw made by the Undertakers under this section shall cease to have effect on the expiration of ten years from the date on which it was made; and

(b) any byelaw or regulation made by the Undertakers under any other enactment which confers power to make byelaws or regulations for purposes similar to the purposes of this section shall if made more than nine years before the date of the coming into operation of this Order cease to have effect at the expiration of one year from that date and if made not more than nine years before that date cease to have effect at the expiration of ten years from the date on which it was made but save as aforesaid shall unless revoked by a byelaw made under this section continue to have effect and to be enforceable in the same manner as if this Order had not been made:

Provided that the Minister of Health may by order extend the period during which any such byelaw or regulation is to remain in force.

Power to
require
provision of
cisterns in
certain cases.

31.—(1) The Undertakers may require that—

(a) any building the supply of water to which need not be constantly laid on under pressure; and

(b) any house the erection of which was not commenced before the coming into operation of this Order and to which water is required to be delivered at a height greater than thirty-five feet below the draw-off level of the service reservoir from which a supply of water is being or is to be furnished by them;

shall be provided with a cistern having a ball and stop-cock fitted on the pipe conveying water to it and in the case of such a house as is mentioned in paragraph (b) of this subsection may require that the cistern shall be capable of holding sufficient water to provide an adequate supply to the house for a period of twenty-four hours.

(2) If a water consumer whom the Undertakers have in accordance with the foregoing provisions required to provide a cistern fails to comply with the requirement or if a water consumer fails to keep in good repair any cistern in use in his building or the ball and stop-cock appurtenant to that cistern the Undertakers may themselves provide a cistern or execute any repairs necessary to prevent waste of water and may recover the expenses reasonably incurred by them in so doing summarily as a civil debt from the owner of the building but without prejudice to the rights and obligations as between themselves of the owner and the water consumer.

32.—(1) If the Undertakers are of opinion that by reason of drought or other cause the water supply of the Undertakers should be conserved the Undertakers may prohibit as from such date as they may determine the drawing or user through any hose or moveable pipe of water supplied by them so far as such drawing or user is for the purpose of gardens or horses or washing vehicles or any outdoor washing purpose and such prohibition shall continue until withdrawn.

PART III.
—cont.
Power to prohibit use of hosepipe temporarily.

(2) The Undertakers shall before the prohibition comes into force give public notice in two or more newspapers circulating within the water limits of the prohibition and of the date when it will come into force.

(3) Any person who shall after the date stated in the said notice fail to comply with the prohibition shall be liable to a penalty not exceeding five pounds and to a further penalty not exceeding forty shillings for each day on which such failure occurs after conviction therefor.

(4) The Undertakers shall not make any charge for the use of a hose or moveable pipe in respect of any period during which the drawing or user of water by means thereof is prohibited as aforesaid if such prohibition is complied with in relation to such hose or moveable pipe and where any water consumer has paid to the Undertakers the charge for the use of any such hose or moveable pipe during the year or part of a year which includes the said period and complies with the said prohibition in relation to such hose or moveable pipe the Undertakers shall repay to the water consumer the proportion of such charge which is attributable to that period.

33. 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 several owners or occupiers shall be liable to contribute the amount of any expenses from time to time incurred by the Undertakers in the maintenance and repair of such pipe and their respective proportions of contributions shall be settled by the officer duly authorised in that behalf by the Undertakers.

Maintenance of common pipe.

34. Notwithstanding anything in any Act or Order relating to the Undertakers the Undertakers shall have the exclusive right of executing any works on any of the water mains of the Undertakers for connecting any communication pipe therewith and the Undertakers shall at the request of any owner or occupier of any premises who is entitled to be supplied with water by the Undertakers 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 which shall be necessary to connect the communication pipe of such owner or occupier therewith and any expenses incurred by the Undertakers in so doing shall be repaid by the owner or occupier so requesting and shall be recoverable summarily as a civil debt.

Undertakers to connect communication pipes with mains.

35.—(1) In the case of all premises connected after the coming into operation of this Order with the water mains of the Undertakers the Undertakers may in cases where the communication pipes are laid by the person requiring the supply or by the Undertakers at his request require such person at the time when the pipes are laid to insert or to have inserted and thereafter to maintain a stop-cock (which

Stop-cocks &c to be fitted in communication pipes.

PART III.
—cont.

expression where used in this section shall include the necessary covers or boxes for giving access and protection thereto) in the communication pipe from the said premises (if possible and if the water consumer shall not object) in some position on the water consumer's premises as near as reasonably possible to the main of the Undertakers from which the supply is given to the said premises or (should that not be possible or the water consumer should object) in some position as near as is reasonably possible to the point at which such pipe passes the boundary of the street or to the point at which such pipe enters the said premises in or under the street whichever of those points is the nearer to the main of the Undertakers from which the supply is given to the said premises and if such person fails to comply with such requirement the Undertakers may insert and maintain a stop-cock in such communication pipe in accordance with the provisions of this section and recover the reasonable expenses incurred by them in so doing from such person summarily as a civil debt.

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

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

(4) In this section the word "street" includes any highway including a highway over any bridge and any road lane footway square court alley or passage whether a thoroughfare or not.

Power to Undertakers to repair communication pipes.

36. If in the opinion of the Undertakers 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 any stop-cock or other fitting in connection therewith which the Undertakers are not under obligation to maintain it shall be lawful for the Undertakers to execute such repairs to the communication pipe stop-cock or fitting 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 stop-cock or fitting shall have been found the 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 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 in like manner as the water rates in respect of the premises are recoverable:

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 owner and occupier of such house or premises not less than twenty-four hours' previous notice of their intention so to enter.

PART III.
—cont.

37.—(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 charge is charged and sought to be recovered by the Undertakers :

Register of
meters 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) If the meter on being tested is proved to register incorrectly to any material degree—

- (a) the meter shall be deemed to have registered incorrectly to that degree since the last occasion but one before the date of the test on which a reading of the index of the meter was taken by the Undertakers unless it is proved to have begun to register incorrectly on some later date ; and
- (b) the amount of any refund to be made to or of any extra payment to be made by the consumer shall be paid or allowed by the Undertakers or paid by the consumer as the case may be and in the case of an extra payment shall be recoverable in the manner in which water rates are recoverable.

38.—(1) Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or other instrument for measuring water or any fittings belonging to the Undertakers 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 Undertakers shall (without prejudice to any other right or remedy for the protection of the Undertakers) be liable to a fine not exceeding five pounds and the Undertakers may in addition thereto recover the amount of any damage by them sustained.

Injuring
meters &c.

(2) Where any person has been convicted of an offence under subsection (1) of this section the Undertakers may also enter upon 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 paid to the Undertakers by the person so offending and may be recovered by them as water rates are recoverable.

(3) The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Undertakers when such pipe meter instrument or fittings is or are under the custody or control of the water consumer shall be prima facie

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PART III.
—cont.

evidence that such injury alteration prevention abstraction consumption or use as the case may be has been fraudulently knowingly and wilfully caused by the water consumer using such pipe meter instrument or fittings.

Penalty for closing valves and apparatus.

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

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

Penalty for opening valves and apparatus.

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

Penalties for misuse of water.

41.—(1) An owner or occupier of premises supplied with water by the Undertakers who without their consent supplies any of that water to another person for use in other premises or wilfully permits another person to take any of that water for use in other premises shall be liable to a fine not exceeding five pounds unless that other person requires the water for the purpose of extinguishing a fire or is a person supplied with water by the Undertakers but temporarily unable through no default of his own to obtain water.

(2) If a person not supplied with water by the Undertakers wrongfully takes uses or diverts water from a reservoir watercourse conduit or pipe belonging to the Undertakers or from a pipe leading to or from any such reservoir watercourse conduit or pipe or from a cistern or other receptacle containing water belonging to the Undertakers or supplied by them for the use of a water consumer he shall be liable to a fine not exceeding five pounds.

(3) Any person who takes from the Undertakers a supply of water otherwise than by meter and uses any water so supplied to him for a purpose other than a purpose for which he is entitled to use it shall be liable to a fine not exceeding forty shillings but without prejudice to the right of the Undertakers to recover from him the value of the water misused.

Notice to be given to local authority of water supply to inhabited house being cut off.

42. Where the Undertakers cut off the supply of water to an inhabited house they shall within twenty-four hours give notice that they have done so to the local authority of the district in which the house is situate and if they fail to do so shall be liable on summary conviction to a fine not exceeding ten pounds.

43. The Undertakers before commencing to execute repairs or other work which will cause any material interference with the supply of water shall except in a case of emergency give to all water consumers likely to be affected such notice as is reasonably practicable and shall complete the work with all reasonable despatch.

PART III.
—cont.
Duty of Undertakers to give notice of certain works.

PART IV.

GAS AND WATER.

44. Any apparatus or fittings let for hire by the Undertakers and marked or impressed with a sufficient mark or brand indicating the Undertakers as the actual owners thereof—

Fittings let for hire not to be subject to distress &c.

(a) shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession the same may be; and

(b) shall not be deemed landlord's fixtures notwithstanding that they be fixed or fastened to any part of the premises in which they may be situate or to the soil under any such premises.

45. A notice to the Undertakers from a gas consumer or a water consumer for the discontinuance of a supply of gas or water shall not be of any effect unless it be given by the consumer personally at the office of the Undertakers or 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 Undertakers.

Notice to discontinue supply.

46. If any meter used by a gas consumer or water consumer ceases to register the quantity of gas or water consumed at any premises such cesser shall be deemed in the absence of evidence of any other date to have arisen immediately after the last reading of the meter:

Failure of meters to register.

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

47. If a justice is satisfied on complaint by any duly authorised collector of the Undertakers that any person is quitting or about to quit any premises to which the Undertakers supply gas or water and has failed to pay on demand any rate or charge therefor which may be due from him and intends to evade payment of the same by departing from the said premises the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the person named therein to seize forthwith and detain sufficient goods and chattels of the defaulter to meet the claim of the Undertakers until the complaint is determined upon the return of the summons.

Recovery of charges from persons removing.

PART V.

WORKS LANDS &C.

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

Limiting power of Undertakers to abstract water.

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Order Confirmation (Mold Gas and Water) Act, 1942.

PART V.
—cont.
Discharge of
water into
streams.

49.—(1) For the purpose of constructing enlarging extending repairing cleansing emptying examining testing using or operating any works forming part of the water undertaking or any plant for the treatment of water the Undertakers may cause the water in any such work or plant to be discharged into any available stream or brook :

Provided that any water so discharged shall so far as may be reasonably practicable be free from mud or solid or offensive matter and other matter injurious to fish or spawn or spawning beds or food of fish and shall be discharged in such manner as not to cause the flooding of or injury to any highway :

Provided also that except in a case of emergency and except in so far as may be otherwise agreed in writing between the Undertakers and the board or authority concerned the Undertakers shall not less than seven days before commencing to discharge any such water as aforesaid for purposes other than the emptying or cleaning of a pipe not exceeding twelve inches in diameter give notice in writing of their intentions to the catchment board of any catchment area the fishery board of any fishery district and the rivers board for any area within which any watercourse into which the water is to be discharged is situate.

(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 powers the amount of such compensation to be settled in case of difference by arbitration.

(3) The powers of this section shall not be exercised so as to damage or injuriously to affect the railways or works of any railway company.

Byelaws for
preventing
pollution of
water.

50.—(1) The Undertakers may make byelaws for preventing the pollution fouling or contamination of the water which they are authorised to take for the purposes of any of their waterworks and may by such byelaws prohibit or regulate the doing of any act specified in the byelaws within the area or areas in which the byelaws are in force.

(2) Byelaws made under this section shall be in force within the area or areas defined in the byelaws.

(3) The Undertakers may require either the owner or the occupier of any premises within the area or areas in which the byelaws are in force to construct and keep in good repair such drains sewers cesspools and other works as they deem necessary for preventing pollution of their water and if he fails to comply with any such requirement he shall be liable on summary conviction to the same penalties as if he had committed an act prohibited by the byelaws :

Provided that an owner or occupier who considers that a requirement made on him under this subsection is unreasonable may within twenty-eight days after service on him of the requirement appeal to the Minister of Health and the said Minister if he thinks fit may refer the appeal to be determined by arbitration or may himself modify or disallow the requirement.

(4) All byelaws made under this section shall be subject to the provisions contained in subsections (2) (3) (4) (6) (7) and (10) of

section 250 and in sections 251 and 252 of the Local Government Act 1933 and all penalties imposed for the breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of penalties and 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 were the clerk of the local authority. The confirming authority for the purposes of the said section 250 shall be the Minister of Health.

PART V.
—cont.

(5) In addition to complying with the said requirements of section 250 of the Local Government Act 1933 the Undertakers shall—

- (a) send at least one month before application is made to the Minister of Health for confirmation of byelaws made under this section a copy of the byelaws to the council of every county the local authority of every district and the catchment board of any catchment area any part of which is within the limits to be defined in the byelaws ;
- (b) publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation ;
- (c) exhibit during the said month in some conspicuous place in each borough urban district and rural parish any part of which is situate within the said limits a copy of the notice referred to in subsection (3) of section 250 of the said Act of 1933 ;
- (d) at the request of any owner or occupier of land within the said limits furnish to him free of charge a copy of the byelaws before confirmation and a statement of the effect of this section and at the request of any other person interested furnish to him a copy of the said byelaws upon payment of a sum not exceeding one shilling.

In this subsection the expression "month" means a period of twenty-eight days exclusive of any day in the month of August.

(6) The Undertakers shall pay compensation to the owners of and other persons interested in any lands in respect of which byelaws shall be made under this section whose legal rights shall be injuriously affected by the restrictions imposed by such byelaws or who are required by subsection (3) of this section or by such byelaws to construct any works or to do any act or thing which could not lawfully be required by the local authority of the district in which such lands are situate or by the county council otherwise than upon payment of compensation and such first-mentioned compensation shall be settled in default of agreement by arbitration and for the purposes of this subsection the expression "legal rights" shall include a user of land in respect of which the local authority or the county council might have taken proceedings under the Public Health Act 1936 or under their byelaws but have decided not to do so having regard to the character or situation of the land.

26 Geo. 5 &
1 Edw. 8. c. 49.

51.—(1) For the purpose of protecting any of their waters and waterworks against pollution nuisance encroachment or injury the Undertakers may by agreement purchase take on lease and acquire any lands (not exceeding twenty acres) in or over which any waters which the Undertakers are for the time being authorised to collect

Power to hold
lands for
protection of
waters and
waterworks.

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PART V.
—cont.

impound take use divert or appropriate arise or flow and may hold such lands so long as they shall deem it necessary or expedient for those purposes :

Provided that the Undertakers shall not create or permit the creation or continuance of any nuisance on any lands acquired under this section nor erect any buildings thereon except offices and dwellings for employees and such buildings as are required for or connected with or incident to the purposes of the water undertaking.

(2) The Undertakers may in and upon any lands referred to in subsection (1) of this section construct and lay down drains sewers watercourses and other works and conveniences necessary or proper for the purpose of intercepting or taking any foul waters arising or flowing upon such lands or necessary or proper for preventing the water which the Undertakers are empowered to take from being polluted and the Undertakers may for the purposes aforesaid carry any such drain sewer or watercourse under across or along any street or road within any area in or through which any waters which may be taken by the Undertakers arise or flow subject and according to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes :

Provided that the powers of this subsection shall not be exercised in any street or road where the same passes over under or across any railway of a railway company without the consent of such company which consent shall not be unreasonably withheld and any question whether or not such consent is unreasonably withheld shall be referred to arbitration.

Retention and disposal of lands.

52. Notwithstanding anything in the Lands Clauses Acts to the contrary the Undertakers may retain hold and use for such time as they may think fit or may sell lease exchange or otherwise dispose of to such person in such manner and 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 or any interest in any lands acquired or authorised to be held by them under the authority of any Order or Act for the time being relating to the Undertakers and may sell exchange or dispose of any rents reserved on the sale lease exchange or disposition of such lands or interests therein 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 any money for equality of exchange.

Agreements as to drainage &c. of lands.

53.—(1) The Undertakers may make and carry into effect agreements with the owners and occupiers of any lands or with a local authority with respect to the execution and maintenance by any party to the agreement of such works as the Undertakers deem necessary for the purpose of draining those lands or for more effectually collecting conveying and preserving the purity of water which the Undertakers are for the time being authorised to take :

Provided that where the execution of any such works would result in the discharge of water otherwise than through public sewers into any watercourse within a catchment area the Undertakers shall before entering into the agreement consult with the catchment board concerned.

5 & 6 GEO. 6. *Ministry of Health Provisional* Ch. ix.
Order Confirmation (Mold Gas and Water) Act, 1942.

(2) An agreement under this section with an owner of land shall if it is so expressed therein be binding upon and enforceable against his successors in title to that land.

(3) An agreement under this section with a local authority may extend to the execution and maintenance by that authority of works of sewerage and sewage disposal.

54. The Undertakers may purchase or take on lease houses cottages and other buildings for employees and offices showrooms and other buildings for the purposes of the undertaking and lands (not exceeding five acres) for the purpose of recreation of their employees and may erect fit up maintain and let any such buildings upon any lands for the time being belonging to or leased to the Undertakers:

Provided that the Undertakers shall not under the powers conferred by this section create or continue or permit the creation or continuance of any nuisance upon such lands as aforesaid or on any premises belonging to them.

55. Nothing in the Act of 1867 the Act of 1892 or this Order shall authorise the development of any land or the erection of any buildings or the execution of any works in contravention of any requirements or restrictions imposed by or under any enactment as to the erection placing or making of buildings erections or excavations or the construction formation or laying out of means of access to or from any road or as to the submission of plans and specifications or the giving of notices to any authority or in contravention of any provision contained in a scheme made under the Town Planning Act 1925 or the Town and Country Planning Act 1932 or any enactment repealed by either of those Acts.

PART VI.

FINANCE.

56.—(1) The Undertakers may subject to the provisions of this section by setting apart in any year out of revenue such sums as they think fit form and maintain—

- (a) a reserve fund for the purpose of making good any deficiency which may at any time occur in the amount of divisible profits or of meeting any extraordinary claim or demand which may at any time be made upon them;
- (b) a contingency fund for the purpose of meeting contingencies or defraying the cost of renewing repairing enlarging or improving any part of the works forming part of the undertaking.

(2) Any sums so set apart for the formation or maintenance of a reserve or contingency fund may from time to time be invested in securities in which trustees are authorised to invest trust moneys and subject to the provisions of the next but one succeeding subsection the dividends and interest arising from such securities may also be invested in the same or like securities so as to accumulate at compound interest for the credit of the fund in question.

(3) The Undertakers shall transfer to any reserve fund or contingency fund formed under the foregoing provisions any sum then standing to the credit of any existing reserve fund or contingency fund as the case may be.

PART V.
—cont.

Dwelling-houses
for Undertakers'
employees
offices &c.

Saving for
planning
schemes &c.

15 & 16 Geo. 5.
c. 16.
22 & 23 Geo. 5.
c. 48.

Reserve and
contingency
funds.

Ch. ix. *Ministry of Health Provisional* 5 & 6 GEO. 6.
Order Confirmation (Mold Gas and Water) Act, 1942.

PART VI.
—cont.

(4) Whenever and so long as the aggregate amount standing to the credit of the reserve fund and contingency fund together amounts to (or by reason of such a transfer as aforesaid exceeds) a sum equal to ten per centum of the capital expenditure theretofore incurred by the Undertakers for the purposes of their undertaking no contribution from the revenue of the undertaking shall be made to either of the funds and the interest and dividends on the funds shall not be invested but shall be treated as income of the undertaking.

(5) The aggregate amount which subject to the provisions of the last preceding subsection may be carried by the Undertakers in any year to the formation or maintenance of the reserve fund and contingency fund shall not exceed a sum equal to one per centum of the capital expenditure theretofore incurred by the Undertakers for the purposes of their undertaking.

(6) Section 122 of the Companies Clauses Consolidation Act 1845 shall cease to apply to the Undertakers.

Sale of share
capital by
auction or
tender.

57.—(1) Subject to the provisions of the Gas Undertakings Act 1934 all share capital issued by the Undertakers after the coming into operation of this Order shall be issued in accordance with the provisions of this section.

(2) All share capital 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 of the council of every borough and urban and rural district wholly or partly included within the gas limits and the water limits and to the secretary of the London Stock Exchange at least fourteen 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 gas limits and the water limits;
- (b) A reserve price shall be fixed and notice thereof shall be sent by the Undertakers in a sealed letter to be received by the Board of Trade not less than twenty-four hours before but not to be opened till after the day of auction or last day for the reception of tenders as the case may be;
- (c) In the case of a sale by auction no lot offered for sale shall comprise share capital of greater nominal value than one hundred pounds and a bid shall not be recognised unless it is in advance of the last preceding bid;
- (d) In the case of a sale by tender no preference shall be given to one of two or more persons tendering the same sum except that the offer by tender of any holder of share capital of the Undertakers may be accepted in preference to the offer of the same sum by any person not such a holder and preference may in like manner be given to the offer of any employee of the Undertakers or of any gas consumer or water consumer;
- (e) It shall be one of the conditions of sale that the total sum payable by the purchaser shall be paid to the Undertakers within three months after the date of the auction or of the acceptance of the tender as the case may be.

(3) Any share capital which has been so offered for sale and is not sold may be offered at the reserve price to the holders of share capital of the Undertakers in accordance with the provisions of sections 18 19 and 20 of the Companies Clauses Act 1863 and to employees of the Undertakers and to gas consumers and water consumers in such proportions as the directors may think fit or to one or more of those classes of persons only:

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c. 118.

Provided that in the case of an offer to holders of share capital if the aggregate amount of any class of share capital applied for shall exceed the amount thereof so offered as aforesaid 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) As soon as possible after the conclusion of the sale or sales the Undertakers shall send a report thereof to the Board of Trade stating the total amount of each class of share capital sold the total amount (if any) obtained as premium or allowed as discount in each case and the highest and lowest prices obtained for each class of share capital.

58.—(1) The Undertakers may subject to the provisions of this Order but without the certificate of a justice borrow on mortgage of the undertaking in respect of their share capital issued on the thirtieth day of June nineteen hundred and forty any sum or sums not exceeding in the whole (when added to any money borrowed on mortgage or raised by the creation and issue of debenture stock by the Undertakers before the coming into operation of this Order and outstanding at the date or respective dates on which the Undertakers exercise the powers of this subsection) fifteen thousand one hundred and twenty-nine pounds three shillings and sixpence.

Power to
borrow.

(2) The Undertakers may also subject to the provisions of this Order borrow on mortgage of the undertaking in respect of any share capital issued by them after the said thirtieth day of June any sum or sums not exceeding in the whole fifty per centum of the amount (including premiums and allowing for discounts) which at the time of borrowing has been raised by the issue of such share capital. But no sum shall be borrowed in respect of any such share capital 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 amounts payable in respect of such share capital at the time issued together with the premiums (if any) realised on the issue thereof has been fully paid up.

59. All money to be raised by the Undertakers on mortgage or by the 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 coming into operation of this Order:

Priority of
mortgages and
debenture stock
over other
debts.

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 or vested in the Undertakers which is entitled to rank in priority to or pari passu with the interest on their mortgages or debenture stock.

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Priority of principal moneys secured by existing mortgages.

60. The principal moneys secured by all mortgages granted by the Undertakers in pursuance of the powers of any Act before and subsisting at the coming into operation of this Order shall during the continuance of such mortgages have priority over the principal moneys secured by any mortgage granted by the Undertakers after the coming into operation of this Order.

Appointment of receiver.

61. 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 one-tenth of the amount for the time being borrowed by the Undertakers.

Debenture stock.

62. The Undertakers may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863 and of section 32 (Debenture stock) of the Act of 1892.

Application of money.

63. All money raised under this Order including premiums shall be applied only to purposes to which capital is properly applicable.

Limit of interest on borrowed money.

64. The Undertakers shall not without the consent of the Minister of Health and of the Board of Trade pay interest at a higher rate than five per centum per annum in respect of any money borrowed after the coming into operation of this Order on mortgage of the undertaking or in respect of any debenture stock issued after the coming into operation of this Order.

Limitation on balance carried forward at end of year.

65.—(1) It shall not be lawful for the Undertakers 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 (that is to say):—

- (a) the amount required for paying any dividend or interest which they are entitled or required to pay but have not paid in respect of that year;
- (b) an amount equal to the total sum which they might lawfully distribute as dividends on the preference and ordinary capital of the undertaking in respect of the next following year; and
- (c) an amount equal to the total sum which they will be required to pay during the next following year as interest on any mortgages or debenture stock.

(2) Any sum which but for the provisions of this section might at the end of any year have been so carried forward as aforesaid shall be applied towards the reduction of charges in future years.

PART VII.

ADMINISTRATIVE.

Meetings of Undertakers.

66. Notwithstanding anything in the Companies Clauses Consolidation Act 1845 or in any Act or Order relating to the Undertakers the Undertakers may by a resolution of a general meeting at any time determine that the future ordinary meetings of the Undertakers shall be held once only in each year in such month as the directors may from time to time determine and the Undertakers may from time to time in like manner alter or rescind any such resolution.

67. 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 letter sent by ordinary letter post to each shareholder instead of by public advertisement :

PART VII.
—cont.
Notices of meetings.

Provided that the letters giving the notice shall be directed according to the registered address or other known address of each shareholder and posted not later than seven clear days before the date of the meeting. 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.

68.—(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 may remove or dismiss him from office and appoint another in his place.

As to appointment of managing director.

(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 a managing director such of the powers exercisable by the directors subject to such conditions as they think fit and may from time to time withdraw or vary that delegation.

69. 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 directly or indirectly 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 directly or indirectly interested in any such contract :

Directors holding office under or contracting with the Undertakers.

Provided that—

(a) in the case of his being or becoming directly or indirectly interested in any contract with the Undertakers whether such interest arises before or after his appointment as a director the nature of his interest in the contract shall be disclosed by him at the meeting of the directors at which the contract is determined or 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

(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.

For the purposes of proviso (a) to this section a general notice given to the directors by one of them to the effect that he is a member of a

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specified company or firm and is to be regarded as directly or indirectly 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.

Vacation of
office of
director.

70. If any director shall be made bankrupt or shall become of unsound mind or shall neglect to attend the meetings of directors for a period of twelve months (unless such neglect be occasioned by illness or other reasonable cause allowed by the directors) the office of such director shall become vacant and thenceforth he shall cease from voting or acting as a director.

Auditors.

71.—(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 capital of the Undertakers.

(2) No person not being a retiring auditor of the Undertakers shall be eligible to be elected at any general meeting of the Undertakers 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 die or resign the directors may appoint another auditor in his place and any auditor so appointed shall hold office until the next ordinary meeting of the Undertakers.

Directors may
determine
remuneration
of secretary.

72. In addition to the powers which the directors may exercise under the Companies Clauses Acts 1845 to 1889 they may determine the remuneration of the secretary.

Undertakers
not bound to
regard trusts.

73. The Undertakers shall not be bound to see to the execution of any trust whether express implied or constructive to which any stock mortgages debentures or debenture stock issued or granted by 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 such stock mortgages debentures or debenture stock as if such stock mortgages debentures or debenture stock were shares to which that section applies.

PART VIII.

MISCELLANEOUS.

Authentication
and service of
notices by
Undertakers.

74. Any notice to be served by the Undertakers shall be sufficiently authenticated by the signature of the secretary or other officer of the Undertakers for the time being authorised for the purpose in writing by the directors being affixed thereto in writing or in print or by a stamp and any such notice may be served on such person either personally or by sending the same through the post by a prepaid letter addressed to him by name at his last known or usual place of abode or of business or by delivering the same to some inmate at his last known 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.

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—cont.

75. If the Undertakers commence proceedings for the summary recovery of any sum due for a supply of gas or water any other sum due or payable to the Undertakers by the same consumer in respect of the sale or hire of any apparatus or fittings supplied or provided by them for or in connection with the consumption or use of gas or water or in respect of the provision of materials and work in connection therewith or the fixing setting up repairing altering maintaining or removal thereof may be included in the same summons and may be recovered summarily as a civil debt together with the sum due for the supply of gas or water provided that the sum so included as aforesaid does not exceed twenty pounds in any one summons.

As to recovery of sums due for fittings &c.

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

Penalties not cumulative.

77. 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 Undertakers by reason of his being liable to the payment of any rent meter rent rate or charge.

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

78. Proceedings for the recovery of any demand made under the authority of any Act or Order from time to time relating to the Undertakers 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.

79. Where the payment of more than one sum by any person is due under the provisions of any Act or Order from time to time relating to the Undertakers any summons or warrant issued for the purposes of that Act or Order 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.

80. Save as otherwise expressly provided by any Act or Order from time to time relating to the Undertakers all offences against any such Act or Order and all penalties forfeitures costs and expenses imposed or recoverable thereunder or under any byelaw made in pursuance thereof may be prosecuted and recovered in a summary manner :

Recovery of penalties.

Provided that the 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.

81. Where under this Order any question or dispute is to be referred to or determined by an arbitrator or arbitration then unless other provision is made the reference shall be to a single arbitrator to be agreed upon between the parties or failing agreement appointed by the President of the Institution of Civil Engineers on the application of any party to the dispute (after notice in writing to the other or

Arbitration.

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others of them) and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to the reference.

Repeal.

82.—(1) On and from the coming into operation of this Order the following enactments are hereby repealed :—

Act of 1867—

- Section 30 (Power to borrow) ;
- Section 31 (Arrears may be enforced by appointment of a receiver) ;
- Section 48 (No gasworks to be erected except on lands in schedule) ;
- Section 53 (Quality of company's gas) ;
- Section 54 (Company to erect a meter to test quality of gas) ;
- Section 55 (Power for local board to test) ;
- Section 56 (As to testing the quality of gas) ;
- Section 57 (Costs of experiment to be paid according to events) ;
- Section 61 (Obligations on company as to supply) ;
- Section 62 (Consumers may be required to consume by meter) ;
- Section 64 (Power to remove meters and fittings) ;
- Section 65 (Notice to company of putting up meters &c.) ;
- Section 67 (Register of meter to be prima facie evidence) ;
- Section 68 (Fraudulently injuring meters &c.) ;
- Section 69 (Company's officers to enter buildings) ;
- Section 70 (For preventing frauds and waste of gas) ;
- Section 88 (Water for other than domestic purposes) ;
- Section 90 (Regulations for preventing waste of water) ;
- Section 94 (Recovery of sums due) ;
- Section 96 (Liability to gas rent not to disqualify justice &c.) ;
- Section 97 (Contents of summons &c.) ;
- Section 99 (Penalties not cumulative) ;

Act of 1892—

- Section 11 (Provision for compensation water) ;
- Section 12 (Penalty) ;
- Section 13 (Gauges) ;
- Section 14 (Repair of gauges) ;
- Section 24 (New shares or stock to be offered by auction or tender) ;
- Section 25 (Purchase money of capital sold by auction to be paid within three months) ;
- Section 26 (Notice to be given as to sale &c. of shares or stock) ;
- Section 27 (Shares or stock not sold by auction or tender to be offered to shareholders) ;
- Section 29 (Power to borrow) ;
- Section 31 (For appointment of a receiver) ;

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- Section 37 (Company not bound to supply water in certain cases) ; PART VIII.
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- Section 40 (Register of meter to be prima facie evidence) ;
- Section 45 (Supply of water to tenements in a row) ;
- Section 46 (For preventing waste of water) ;
- Section 48 (Form and service of notices by company) ;
- Section 50 (Notice of discontinuance) ;
- Section 51 (Penalties not cumulative).

(2) Section 86 (Rates for water-closets and baths) of the Act of 1867 is hereby repealed with effect from the first day of October 1942.

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

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