
STATUTORY INSTRUMENTS

1974 No. 699

WATER SUPPLY, ENGLAND AND WALES

The Colchester and District Water Order 1974

Made - - - - - 29th March 1974

Coming into Operation 2nd May 1974

ARRANGEMENT OF SECTIONS

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SCHEDULE

[DOE 15925]

The Secretary of State for the Environment in exercise of the powers conferred by section 23 of the Water Act 1945(a) as extended by section 3 of the Water Act 1948(b) and section 33(2) of the Compulsory Purchase Act 1965(c), and now vested in him(d), and of all other powers enabling him in that behalf, hereby orders as follows:—

PART I

PRELIMINARY

Citation

1.—(1) This order may be cited as the Colchester and District Water Order 1974.

(2) The Colchester and District Water Board Orders 1960 to 1973 and this order may be cited together as the Colchester and District Water Board Orders 1960 to 1974.

Inter-pretation.

2.—(1) In this order, unless the context otherwise requires—

“the Board” means the Colchester and District Water Board;

“the county council” means the council of the administrative county of Essex;

“the deposited plans” and “the deposited sections” mean respectively the plans and sections prepared in duplicate, signed by an Under Secretary in the Department of the Environment and marked “Plans and sections referred to in the Colchester and District Water Order 1974”, one duplicate of each of which has been deposited and is available for inspection at the office of the General Manager of the Board, Balcerne Hill, Colchester, and the other at the office of the Secretary of State for the Environment;

“the works” means the works authorised by section 6 (Power to construct works) of this order;

“the Third Schedule” means the Third Schedule to the Water Act 1945;

“the undertaking” means the water undertaking of the Board as from time to time authorised by any enactment;

and any expression to which a meaning is assigned by the Third Schedule shall have the meaning so assigned.

(2) Unless the context otherwise requires any reference in this order to any enactment shall be construed as a reference to that enactment as extended or amended by any subsequent enactment, including this order.

(3) Unless the subject or context otherwise requires any reference in this order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this order.

Application and incorporation of enactments.

3.—(1) In its application in relation to this order Part I of the Compulsory Purchase Act 1965 shall have effect as if section 27 thereof were omitted.

(2) The provisions of the Railways Clauses Consolidation Act 1845(e),

(a) 1945 c. 42.

(b) 1948 c. 22.

(c) 1965 c. 56.

(d) S.I. 1951/142, 1900, 1970/1681 (1951 I, pp. 1348, 1347; 1970 IIII, p. 5551).

(e) 1845 c. 20.

with respect to the temporary occupation of lands near the railway during the construction thereof are hereby incorporated with this order:

Provided that in the construction of the provisions as so incorporated—

- (a) "the special Act" shall mean this order;
- (b) "the company" shall mean the Board;
- (c) "the undertaking" shall mean the works authorised by this order;
- (d) "the railway" shall mean the works authorised by this order and references to the centre line of the railway shall—
 - (i) in relation to the Reservoir (Work No. 3), mean any part of the embankment of that reservoir;
 - (ii) in relation to any conduit, culvert, line of pipes, road or access authorised by this order, mean the centre line thereof as shown on the deposited plans;
 - (iii) in relation to any other work, mean any building, structure or excavation forming part of that work;
- (e) for the words "the period by the special Act limited for the completion of the railway" there shall be substituted the words "the period of five years beginning with the commencement of the special Act."

4. For the purposes of this order the provisions of the Third Schedule which are set out in column (1) of the Schedule to this order shall, subject to the modifications set out in column (2) of that Schedule, apply to the undertaking and are hereby incorporated with this order.

Incorporation of provisions of Third Schedule.

PART II

LANDS

5. Subject to the provisions of this order, the Board may purchase compulsorily such of the lands to be acquired delineated on the deposited plans as may be required for the purposes of the construction of the works authorised by this order.

Power to take lands.

PART III

THE WORKS

6.—(1) Subject to the provisions of this order, the Board may construct and maintain, in the lines and situations shown on the deposited plans and upon over or under the lands delineated on those plans, the following works in the county of Essex—

Power to construct works.

Work No. 1—An intake in the river Pant situated near to Iron Bridge Farm in the parishes of Shalford and Wethersfield in the rural district of Braintree in the enclosures numbered 1588, 2684, 1973, 1768, 1471, 1884, 1474, 8452, 1265, 1466, 1259 and 0154 on the 1/2500 Ordnance Map, Sheet TL 7328 (Edition of 1968) and a pound, pumping station and access road in the said enclosures near to the said intake.

Work No. 2—A conduit or line or lines of pipes and a line or lines of electrical cable in the said parish of Shalford commencing at Work No. 1 and terminating at Work No. 3 or Work No. 4.

Work No. 3—A reservoir to be formed by means of an embankment in the said parishes of Shalford and Wethersfield in the enclosures

numbered 7816, 7023, 0423, 7934, 8452, 0006, 1588, 2684, 1973, 1768, 1471, 1884, 1474, 1265, 1466, 1259 and 0154 on the 1/2500 Ordnance Maps, Sheets TL 7328 and 7228 (Edition of 1968) and a water quality monitoring station and access near the river in the said enclosures.

Work No. 4—A conduit or line or lines of pipes and a line or lines of electrical cables in the said parishes of Shalford and Wethersfield commencing at Work No. 3 and terminating at Work No. 5.

Work No. 5—A low lift pumping station, treatment works, and a high-lift pumping station in the said parish of Shalford in the enclosures numbered 3700, 3890, 4800, 4995 and 5396 on the 1/2500 Ordnance Maps, sheets TL 7328 and 7327 (editions of 1968 and 1953 respectively) at or adjoining the existing Codham Waterworks.

Work No. 6—A conduit or line or lines of pipes, for the transmission of sludge and a line or lines of electrical cable in the said parishes of Shalford and Wethersfield commencing at the treatment works forming part of Work No. 5 and terminating at Work No. 7.

Work No. 7—Sludge beds adjoining Codham Little Park Farm in the said parish of Wethersfield in enclosure No. 5300, together with an access thereto in enclosures Nos. 0663 and 5300, all on the 1/2500 Ordnance Maps, Sheets TL 7328 and 7428 (Editions of 1968 and 1954 respectively).

Work No. 8—A conduit or line or lines of pipes and a line or lines of electrical cable in the said parishes of Shalford and Wethersfield in the enclosures numbered 1884, 5300, 4679 and 2684 on the 1/2500 Ordnance Maps, Sheet No. TL 7328 (Edition of 1968).

(2) Any electrical works or equipment constructed and maintained under this order shall be so constructed and maintained that any electricity generated or conveyed by or used in or in connection with any such works or equipment does not cause interference (whether by induction or otherwise) with any telegraphic line belonging to or used by the Post Office or with telecommunications by means of any such line.

Stopping up
and diversion
of
footpaths,
etc.

7. The Board may stop up and extinguish all rights of way over so much of any footpath as is shown on the deposited plans as intended to be stopped up and thereupon all rights over and along so much of such footpath shall be extinguished and the Board may appropriate and use for the purposes of the undertaking the site of the portion of the footpath so stopped up:

Provided that—

(a) no portion of any footpath shall be stopped up under the powers of this section until the Board are in possession of all the lands abutting the same on each side, save so far as the owners, lessees and occupiers of those lands may otherwise agree;

(b) no part of any public footpath shall be stopped up under the powers of this section until the Board has constructed to the reasonable satisfaction of the county council a substituted footpath for the section to be stopped up.

Temporary
stoppage of
highways,
etc.

8.—(1) During, and for the purpose of, the execution of the works the Board may temporarily stop up and divert, and interfere with, any highway, or drain or culvert and, in the case of any highway, may for any reasonable time divert the traffic therefrom and prevent all persons other than those

bona fide going to or from any land, house or building abutting on the highway from passing along and using the same.

(2) The Board shall provide reasonable access for foot-passengers with or without animals bona fide going to or from any such land, house or building.

(3) The Board shall not exercise the powers of this section in relation to a highway without the consent of the highway authority, but such consent shall not be unreasonably withheld and any question whether such consent is, or is not, unreasonably withheld shall be determined by the Secretary of State for the Environment.

(4) The Board shall not exercise the powers of this section in relation to a drain or culvert without providing a proper substitute before interrupting the passage of water in or through such drain or culvert, and shall make compensation for any damage caused to any person by the exercise of such powers in relation to a drain or culvert, the amount of such compensation being, in case of dispute, determined in accordance with the provisions of the Land Compensation Act 1961(a).

9. The works authorised by this order shall for all purposes form part of the undertaking. Works to form part of undertaking.

PART IV

PROTECTIVE PROVISIONS

10. For the protection of the Eastern Electricity Board (hereinafter referred to as "the Electricity Board") the following provisions shall, unless in any case it is otherwise agreed between the Board and the Electricity Board, apply and have effect— For protection of Eastern Electricity Board.

(1) In this section—

"apparatus" means any electric lines or works (as respectively defined in the Electric Lighting Act 1882(b) belonging to or maintained by the Electricity Board and includes any structure for the lodging therein of apparatus;

"adequate alternative apparatus" means alternative apparatus adequate to enable the Electricity Board to fulfil their statutory functions in a manner not less efficient than previously;

"in" in a context referring to apparatus includes under, over, across, along or upon.

(2) Notwithstanding anything shown on the deposited plans the Board shall not acquire any apparatus otherwise than by agreement.

(3) If the Board in the exercise of the powers of this order acquire any interest in any lands in which any apparatus is placed, they shall not seek to remove that apparatus, or to extinguish any right of the Electricity Board to maintain that apparatus in those lands, until any necessary adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the Electricity Board.

(4) If the Board for the purpose of exercising the powers of this order require the removal of any apparatus and give to the Electricity Board

(a) 1961 c. 33.

(b) 1882 c. 56.

notice in writing of their requirement, or if in consequence of the exercise of the powers of this order the Electricity Board reasonably require to remove any apparatus, the Board shall if practicable afford to the Electricity Board the necessary facilities and rights for the construction of adequate alternative apparatus in other land of the Board and thereafter for the maintenance, repair, renewal and inspection of such apparatus upon terms and conditions settled by agreement between the parties or, in default of agreement, by arbitration:

Provided that if the Board are unable to afford facilities and rights as aforesaid the Electricity Board shall upon receipt of a written notice to that effect from the Board forthwith use their best endeavours to obtain the necessary facilities and rights in other land.

(5) (a) Any alternative apparatus to be constructed in lands of the Board in pursuance of paragraph (4) of this section shall be constructed in such manner and in such line or situation as may be agreed between the Board and the Electricity Board or, in default of agreement, settled by arbitration;

(b) The Electricity Board shall, after the manner of construction and the line and situation of any necessary alternative apparatus has been agreed or settled by arbitration as aforesaid and after the grant to the Electricity Board of any such facilities and rights as are referred to in paragraph (4) of this section, proceed with all reasonable dispatch to construct and bring into operation the alternative apparatus and thereafter to remove any apparatus required by the Board to be removed under the provisions of this section; and in default the Board may remove that apparatus.

(6) The Board shall pay to the Electricity Board the amount by which the costs, charges and expenses reasonably incurred by the Electricity Board in connection with any removal or alteration of any apparatus or the construction of any new apparatus that may be required in consequence of the exercise of the powers of this order shall exceed the value (such value being calculated after removal) of any apparatus removed in consequence of alternative apparatus being provided, and shall also make compensation to the Electricity Board for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) in consequence of the exercise of the said powers:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act 1950(a) (which imposes limitations on undertakers' rights to payment), shall so far as applicable extend and apply to any payment to be made by the Board under this paragraph as if the Board were the promoting authority and the works hereinbefore mentioned in this paragraph were such undertakers' works as are referred to in the said sub-section (3) and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or settled by arbitration under the Colchester and District Water Order 1974".

(7) The Board shall, except in a case of emergency, give to the Electricity Board not less than fourteen days' notice in writing before commencing any work to which section 18 of the Schedule to the Electric Lighting (Clauses) Act 1899(b) applies.

(a) 1950 c. 39.

(b) 1899 c. 19.

(8) Where any footpath in which any apparatus is situated has been permanently stopped up or diverted by the Board under the powers of section 7 of this order the Electricity Board shall notwithstanding such stopping up or diversion continue to have the same rights in respect of the apparatus so long as it remains in the land which by reason of the stopping up or diversion has ceased to be a footpath as they would have had if that land had remained a footpath but nothing in this paragraph shall prejudice or affect any right of the Board or the Electricity Board to require removal of such apparatus under this section.

(9) The temporary stopping up or diversion of any highway under the powers of section 8 of this order shall not prevent the Electricity Board from obtaining access to any apparatus nor prejudice or affect any right of the Electricity Board—

(a) to lay, erect, maintain, inspect, repair, renew or remove any apparatus in the highway, or

(b) for the purpose of such laying, erection, maintenance, inspection, repair, renewal or removal to enter upon or break up that highway.

(10) Section 5(4) of the Third Schedule to the Water Act 1945 shall apply in relation to any lines of electrical cable laid under the powers of this order for the purpose of transmitting electricity to the same extent as it applies to wires, posts, conductors or other apparatus laid for the purpose of establishing telegraphic, telephonic or other electrical communication.

(11) In settling any difference under this section an arbitrator may, if he thinks fit, require the Board to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

11.—(1) Where in pursuance of the powers conferred by section 7 (Stopping up and diversion of footpaths, etc.) of this order the whole or any portion of a footpath is stopped up the following provisions of this subsection shall unless otherwise agreed in writing between the Board and the Post Office have effect in relation to so much of any telegraphic line belonging to or used by the Post Office as is under, in, upon, over, along or across the land which by reason of the stopping up ceases to be a footpath (in this subsection referred to as "the affected line"), that is to say—

For pro-
tection of
Post Office.

(a) the power of the Post Office to remove the affected line shall be exercisable notwithstanding the stopping up of the footpath or portion of the footpath so however that the said power shall not be exercisable as respects the whole or any part of the affected line after the expiration of a period of three months from the date of the sending of the notice referred to in the next following subsection unless before the expiration of that period the Post Office have given notice to the Board of their intention to remove the affected line or that part thereof, as the case may be;

(b) The Post Office may by notice in that behalf to the Board abandon the affected line or any part thereof and shall be deemed, as respects the affected line or any part thereof to have abandoned it at the expiration of the said period of three months unless before the expiration of that period they have removed it or given notice of their intention to remove it;

(c) The Post Office shall be entitled to recover from the Board the reasonable expense of providing in substitution for the affected line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line a telegraphic line in such other place as they may reasonably require;

(d) where under paragraph (b) of this subsection the Post Office have abandoned the whole or any part of the affected line it shall vest in the Board in equal shares and the provisions of the Telegraph Acts 1863 to 1962 shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

(2) As soon as practicable after the whole or any portion of a footpath has been stopped up in pursuance of the powers referred to in subsection (1) of this section the Board shall send by post to the Post Office a notice informing them of such stopping up.

(3) The temporary stopping up or diversion of any highway under the powers conferred by section 8 (Temporary stoppage of highways, etc.) of this order shall not prejudice or affect the right of the Post Office—

(a) to maintain, inspect, repair, renew, or remove any telegraphic line belonging to or used by them which at the time of the stopping up or diversion was under, in, upon, over, along or across that highway; or

(b) for the purpose of such maintenance, inspection, repair, renewal or removal to enter upon or break open that highway.

For Preservation of amenities.

12.—(1) In the construction and maintenance of the works authorised by this order the Board shall have regard to the preservation for the public of the natural beauty of the area in which the works are situate and the enjoyment of the area by the public.

(2) For the purpose of securing the foregoing provisions of this section but without prejudice to the generality thereof, the Board shall consult the local planning authority who will advise them in connection with their duties under subsection (1) of this section and on questions affecting amenity in or in connection with or arising out of the carrying out or doing under the powers of this order of any operations or things in connection with the works authorised by this order including the following—

(i) the disposal of spoil or waste material;

(ii) the reinstatement or restoration of land;

(iii) the planting and felling of trees and the planting of bushes and other plants.

(3) In this section “spoil or waste material” means any rock, sand, mud or other materials removed by the Board under the powers of this order and not required for the purpose of the construction of the works authorised by this order.

SCHEDULE

PROVISIONS OF THE THIRD SCHEDULE APPLIED

Provisions applied (1)	Modifications (2)
Section 1 (Definitions, etc.)	—
Section 2 (Permissible limits of deviation)	For the words "the plans submitted to the Minister" there shall be substituted "the deposited plans".
Section 4 (General power to construct subsidiary works).	The words "and to any other provisions of the special Act limiting the powers of the undertakers to abstract water" shall be omitted; for the words "any land for the time being held by them in connection with their water undertaking" there shall be substituted the words "the lands delineated on the deposited plans"; and after the word "buildings" there shall be inserted the word "roads".
Section 5 (Power of undertakers to lay or erect telephone wires, etc.)	—
Section 7 (Power to acquire easements for underground works)	—
Section 8 (Persons under disability may grant easements, etc.)	—
Section 9 (Extinction of private rights of way)	—
Part IV (Minerals Underlying Waterworks)	In section 12 for the words "after this section is incorporated with their enactments" there shall be substituted the words "under the special Act"; for the words "all existing pipes or other conduits for the collection, passage or distribution of water and underground works belonging to them" there shall be substituted the words "all such pipes or other conduits or underground works"; and the words "for the time being belonging to them" shall be omitted.

Provisions applied—(contd.) (1)	Modifications—(contd.) (2)
Section 19 (Power to lay mains)	<p>In subsection (1) for paragraph (b) substitute “(b) in, on or over any land not forming part of a street after giving not less than twenty-one days’ notice to every owner and occupier of that land and with the consent of—</p> <ul style="list-style-type: none"> (i) the local authority of the district in which the main or any part of the main will be laid; (ii) the highway authority concerned, where the main or any part thereof will be laid within two hundred and twenty feet of a highway; (iii) any electricity or gas board, if the land in, on or over which the main will be laid is operational land of that board within the meaning of the Town and Country Planning Act 1971; (iv) the Post Office, if the main will be laid in, on or over any land of the Post Office being operational land within the meaning of paragraph 93(4) of Schedule 4 to the Post Office Act 1969(a).”.
Section 83 (Penalty for obstructing execution of special Act)	—
Section 84 (Power to require occupier to permit works to be executed by owner)	—
Section 85 (Summary proceedings for offences)	—
Section 86 (Continuing offences and penalties)	—
Section 87 (Restriction on right to prosecute)	—
Section 91 (Mode of reference to arbitration)	—
Section 92 (Liability of undertakers to pay compensation)	—
Section 93 (Protection for works of navigation authorities and for catchment boards and railways)	—
Section 94 (Copies of special Act to be kept by undertakers in their office, and deposited with certain officers)	—

(a) 1969 c. 48.

Signed by authority of
the Secretary of State.
29th March 1974.

J. E. Beddoe,
An Under Secretary in the
Department of the Environment.