

[25 & 26 GEO. 5.] *Ministry of Health* [Ch. lxxiii.]
Provisional Order Confirmation (Rainham Water)
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CHAPTER lxxiii.

An Act to confirm a Provisional Order of the Minister of Health relating to the Rainham Waterworks Company Limited. A.D. 1935.

[2nd August 1935.]

WHEREAS under the provisions of the Gas and Water Works Facilities Act 1870 and the Gas and Water Works Facilities Act 1870 Amendment Act 1873 the Minister of Health has made a provisional order which needs confirmation by Parliament :

33 & 34 Vict.
c. 70.
36 & 37 Vict.
c. 89.

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

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

2. This Act may be cited as the Ministry of Health Provisional Order Confirmation (Rainham Water) Act 1935. Short title.

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SCHEDULE.

Rainham
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RAINHAM WATER.

Provisional order under the Gas and Water Works Facilities Act 1870 and the Gas and Water Works Facilities Act 1870 Amendment Act 1873 for empowering the Rainham Waterworks Company Limited to construct additional waterworks to extend their limits of supply to raise additional capital and for other purposes.

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

PART I.

PRELIMINARY.

Short and collective titles.

1. This order may be cited as the Rainham Water Order 1935 and the Rainham Water Orders 1904 and 1922 and this order may be cited together as the Rainham Water Orders 1904 to 1935.

Commencement of order.

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

Incorporation of Acts.

3. So far as the same relate to the powers conferred by this order the provisions of the Lands Clauses Acts (except with respect to the purchase and taking of lands otherwise than by agreement and with respect to the entry upon lands by the promoters of the undertaking) and of the Waterworks Clauses Acts 1847 and 1863 are except where the same are inconsistent with or expressly varied by this order hereby incorporated with and form part of this order:

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

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

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

Inter-
pretation.

"the commencement of this order" means the date upon which this order comes into operation;

"deposited plans" means the plans deposited for the purposes of this order;

"the Undertakers" means the Rainham Waterworks Company Limited;

"the county council" means the county council of the administrative county of Kent;

"the undertaking" means the water undertaking of the Undertakers as from time to time authorised;

"the Minister" means the Minister of Health;

"the existing limits" means the limits within which the Undertakers were immediately prior to the commencement of this order authorised to supply water;

"employee" means any workman servant or officer of the Undertakers other than a director;

"the added limits" means the area added by this order to the existing limits;

"the limits of supply" means the limits within which the Undertakers are from time to time authorised to supply water;

"the order of 1904" means the Rainham Water Order 1904 as confirmed by the Gas and Water Orders Confirmation Act 1904;

"the order of 1922" means the Rainham Water Order 1922 as confirmed by the Ministry of Health Provisional Order Confirmation (Water) Act 1922;

"the existing orders" means the order of 1904 and the order of 1922;

"the directors" means the directors of the Undertakers; and

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

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

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PART II.

EXTENSION OF LIMITS.

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Extension
of limits
of supply.

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

So much of the borough of Gillingham as prior to the coming into operation of the Kent Review Order 1934 formed part of the parish of Bredhurst in the rural district of Hollingbourn.

In the rural district of Hollingbourn—

The parish of Bredhurst.

(2) Subject to the provisions of this order the Undertakers shall have and may exercise within the added limits all and the like powers rights privileges and authorities for and in relation to the supply of water and be subject to all and the like duties and obligations in respect thereto as they now have and are subject to within the existing limits.

Power to
councils to
supply water
in case
Undertakers
fail to
supply.

6.—(1) If after the expiration of five years from the commencement of this order the Undertakers are not furnishing or prepared on demand to furnish a sufficient supply of water in accordance with the provisions of this order throughout the added limits the council of the borough of Gillingham or the rural district council of Hollingbourn may provide a supply in accordance with the provisions of the Public Health Act 1875 in any part of the added limits or those councils or any company body or person may apply for an Act of Parliament or provisional order for the purpose of supplying water in any part of the added limits not sufficiently supplied by the Undertakers and for the repeal of the powers of the Undertakers in that behalf.

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

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

7. Where the limits of supply are bounded by or abut upon any street or road or part of a street or road outside such limits the Undertakers may for the purpose of supplying water to the owner or occupier of any premises abutting upon such street or road or part of a street or road and being within such limits exercise with respect to such street or road or part of a street or road the like powers of breaking up the same for the purpose of laying maintaining inspecting repairing and renewing pipes as are exerciseable by them with respect to streets or roads within

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the said limits subject nevertheless to the observance of the conditions imposed on the exercise of those powers and the owner or occupier of any such premises may for the purpose of laying any communication pipes or of complying with any obligation to maintain any pipe or apparatus which he is liable to maintain exercise the like power of opening the ground between any main or pipe of the Undertakers and his premises and of opening and breaking up so much of the pavement of the street and any sewer or drain therein as shall be between such main or pipe and his premises as if such street or road or part of a street or road were within the limits of supply :

Provided that nothing in this section shall entitle or require the Undertakers to supply water to the owner or occupier of any premises abutting upon any such street or road as aforesaid and being outside the limits of supply.

PART III.

FINANCIAL.

8. Notwithstanding the limitation prescribed by the order of 1904 as amended by the order of 1922 with respect to the amount of share capital of the Undertakers for the purposes of the undertaking the Undertakers may raise for those purposes further share capital (in this order referred to as "additional capital") not exceeding twenty thousand pounds after taking into account the premiums or discounts (if any) which may be obtained or allowed respectively on the issue thereof :

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Water Order.
Additional
capital.

Provided that the share capital of the Undertakers for the purposes of the undertaking shall not exceed in the whole sixty-eight thousand pounds.

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

Limits of
dividend on
capital.

10. If in any year or half-year (if the Undertakers declare a dividend half-yearly) the funds of the Undertakers in respect of the undertaking applicable to dividend shall be insufficient to pay the full amount of the prescribed maximum rate of dividend on each class of ordinary shares in the capital of the Undertakers issued for the purposes of the undertaking a proportionate reduction shall be made in the dividend of each class.

Dividend on
different
classes of
shares to
be paid
propor-
tionately.

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New capital
to be sold
by auction
or tender.

11.—(1) All ordinary and preference shares issued by the Undertakers for the purposes of the undertaking after the commencement of this order shall be issued in accordance with the provisions of this section.

(2) All shares 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 town clerk of every borough and the clerk to the local authority of every urban and rural district in whole or in part within the limits of supply 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 said limits;
- (b) A reserve price shall be fixed and notice thereof shall be sent by the directors in a sealed letter to be received by the Minister not less than twenty-four hours before but not to be opened till after the day of auction or last day for the receipt of tenders as the case may be;
- (c) No lot offered for sale shall comprise shares of greater nominal value than one hundred pounds;
- (d) In the case of a sale by tender no preference shall be given to one of two or more persons tendering the same sum except that the offer by tender of any holder of shares of the Undertakers may be accepted in preference to the offer of the same sum by any person not such a holder as aforesaid and preference may in like manner be given to the offer of an employee or consumers of water supplied by the Undertakers;
- (e) In the case of a sale by auction a bid shall not be recognised unless it is in advance of the last preceding bid;
- (f) 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 after the acceptance of the tender as the case may be.

(3) Any shares which have been so offered for sale and are not sold may be offered at the reserve price in manner prescribed by a resolution passed by the directors to the holders of shares of the Undertakers and to the employees and to the consumers of water supplied by the Undertakers in such proportions as the

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directors may think fit or to one or more of these classes of persons only : A.D. 1935.

Provided that in case of an offer to holders of shares if the aggregate amount of shares applied for shall exceed the aggregate amount so offered as aforesaid the same shall be allotted to and distributed amongst the applicants as nearly as may be in the proportion to the amounts applied for by them respectively.

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(4) Any shares which have been offered for sale in accordance with the provisions of subsection (2) or of subsections (2) and (3) of this section and are not sold may be disposed of for the purpose of realising the best price obtainable at such price and in such manner as the directors may determine.

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

(6) Nothing in this order shall be deemed to authorise the issue of any shares at a discount except as provided by the Companies Act 1929.

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

Application
of moneys.

13. The amount of all moneys borrowed by the Undertakers and secured by mortgage of the undertaking shall not at any time exceed in the whole one-half of the amount of the capital of the Undertakers at the time actually raised in respect of the undertaking by the issue of shares including any premium that may have been or may be obtained on the sale of any such shares and no higher rate of interest than six per centum per annum shall be paid by the Undertakers without the consent of the Minister in respect of any moneys borrowed by the Undertakers after the commencement of this order and secured as aforesaid.

Limits of
borrowing
powers.

PART IV.

LANDS.

14.—(1) The Undertakers in addition to any lands which they are authorised by the existing orders to acquire may subject to the limitation mentioned in subsection (2) of this section from time to time purchase take on lease or otherwise acquire by agreement and use and hold for the purposes of the undertaking any lands and any easements rights or privileges (not being an

Purchase of
lands by
agreement.

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A.D. 1935. *Rainham Water Order.* easement right or privilege of water in which persons other than the parties to the agreement have an interest) in over or affecting any lands which they may from time to time require and the Undertakers may on any lands acquired by them under this section make maintain alter or discontinue such cisterns tanks aqueducts drains cuts sluices pipes culverts engines buildings offices and dwellings and other works (other than works for taking or intercepting water) as may be required for the purposes of or in connection with the undertaking :

Provided that the Undertakers shall not on any lands so acquired so long as the same are held by them create or permit a nuisance or erect or authorise the erection thereon of any houses or similar buildings except offices and dwellings for persons in their employ and such buildings as may be required for the purposes of or in connection with the undertaking.

(2) The total quantity of land held by the Undertakers at any one time under this section shall not exceed twenty acres in the whole.

PART V.

WORKS.

Power to
construct
waterworks.

15. Subject to the provisions of this order the Undertakers may in upon or under the lands delineated on the deposited plans so long as they are possessed of the same or any necessary rights or easements therein make and maintain in the lines or situation shown on the deposited plans the following work and other works and conveniences connected therewith and may enlarge renew and improve the same The work authorised by this order will be wholly situate within the county of Kent—

Work No. 1 A well and pumping station in the parish of Hartlip in the rural district of Milton in the enclosure numbered 13 in that parish on the 1/2500 ordnance map Kent sheet No. XXXII.2 (edition of 1908);

together with all necessary cuts shafts adits culverts drains sluices wells boreholes tanks embankments dams buildings machinery filters filter beds mains pipes apparatus approaches works appliances and conveniences of whatever character as may be necessary or convenient in connection with or subsidiary to the said work or necessary or expedient for the purposes of obtaining raising collecting storing and distributing water :

Provided that any electrical works or apparatus made or maintained under the provisions of this section shall be so constructed maintained and used as not to interfere with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

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16. In constructing the work shown on the deposited plans the Undertakers may deviate laterally to any extent within the limits of deviation shown on the deposited plans :

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Provided that the Undertakers may in constructing such work in or upon the lands shown on the deposited plans which for the time being belong to or are leased to or have been acquired by them under the provisions of this order deviate beyond such limits laterally to such extent as they may think necessary.

Limits of
deviation.

17. The work shown on the deposited plans shall be commenced constructed and completed within the time and subject to the conditions prescribed by section 11 of the Gas and Water Works Facilities Act 1870 :

Completion
of work.

Provided that subject to the restrictions and provisions of this order the Undertakers may alter enlarge renew deepen improve and extend their engines machinery tanks wells filters pipes mains connections and other works in such way and manner as may be requisite or advisable for supplying water within the limits of supply.

18. The Undertakers may subject to the provisions of this order pump collect impound take use divert and appropriate for the purposes of the undertaking all such springs streams or waters as may be intercepted by the work by this order authorised.

Power to
take waters.

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

Discharge of
water into
streams.

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

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

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Application
of Water-
works
Clauses Act
1847.

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

20. The provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall apply with the necessary modifications to the construction laying down erection and maintenance in any street or road of any discharge pipes telephone or telegraph posts wires conductors or apparatus which the Undertakers may and which they are hereby authorised to construct lay down or erect for the purposes of the undertaking :

Provided that any telephone or telegraph posts wires conductors or apparatus laid down or erected by the Undertakers under the provisions of this section shall not be used in contravention of the exclusive privilege conferred upon the Postmaster-General by the Telegraph Act 1869 and shall be so constructed maintained and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line :

Provided that nothing in this section shall authorise the breaking up of any streets repairable by the Southern Railway Company without the consent of such company which consent shall not be unreasonably withheld.

Power to
lay mains
beyond
limits of
supply.

21. The Undertakers may for the purposes of laying pipes for supplying water exercise as regards any street or road in the parish of Detling in the rural district of Hollingbourn the powers conferred upon them by the Waterworks Clauses Act 1847 with reference to the breaking up of streets for the purpose of laying pipes as if such street or road were within the limits of supply but nothing in this section shall authorise the Undertakers to supply water beyond such limits.

PART VI.

WATER SUPPLY.

Cisterns to
be provided
for high-level
supplies.

22. The Undertakers may require that any premises the erection of which is commenced after the commencement of this order situate on land at a higher level than fifty feet below the top water level of the service reservoir or tank from which a supply of water is furnished or to be furnished by them to such premises shall be provided with a cistern or cisterns capable of containing a total quantity of water sufficient to provide an adequate supply to such premises for a period of twenty-four hours and the Undertakers shall not be required to supply any such premises until the same are provided with a cistern or cisterns in conformity with the requirements of this section.

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23.—(1) The Undertakers shall not be bound to supply with water otherwise than by meter— A.D. 1935.

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Supply to
certain
premises.
- (a) any building used by an occupier as a dwelling-house whereof any part is used by the same occupier for any trade or manufacturing purpose for which water is required; or
 - (b) any mental or other hospital (whether public or private) sanatorium nursing home school club hotel assembly hall restaurant public-house or inn; or
 - (c) any boarding-house or public institution capable of accommodating at least twelve or more persons including the persons usually resident therein; or
 - (d) any other institution which is habitually occupied by at least twelve persons.

(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 meter 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 calculated on the net annual value thereof.

(3) The minimum quarterly charge for a supply of water by meter to any of the premises in this section mentioned (exclusive of meter rent) shall be one-fourth of 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.

24.—(1) Where a person who takes a supply of water for domestic purposes from the Undertakers desires to use the water for horses or washing carriages or motor-cars or for other purposes in stables garages or premises where horses carriages or motor-cars are kept the Undertakers may if a hosepipe or other similar apparatus is used charge (except where the water so used is taken by meter) such sum not exceeding twenty-five shillings per annum as they may prescribe and (where more motor-cars than one are kept) a further sum not exceeding ten shillings per annum for each motor-car beyond the first. Charges for horses and washing vehicles.

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

(3) Where water supplied by the Undertakers to a person who takes a supply both for domestic purposes and by meter for trade or other purposes is used by him by means of a hosepipe or other similar apparatus for horses or for washing carriages or motor-cars or for other purposes in stables garages or premises

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where horses carriages or motor-cars are kept the Undertakers may if they think fit require that all water so used by means of any such hosepipe or other apparatus shall be taken by meter and paid for at the rates for the time being in force for the supply of water by meter.

Charges for
supplies for
refrigerating
apparatus
&c.

25.—(1) Where a person who takes a supply of water for domestic purposes from the Undertakers otherwise than by meter desires to use any of the water so supplied for—

- (a) a water-cooled refrigerating apparatus; or
- (b) any apparatus depending while in use upon a supply of continuously running water; or
- (c) any apparatus used for softening water which requires water for cleaning regenerating motive power or similar purposes;

the Undertakers may if they think fit require that all water so used shall—

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

(2) No charge shall be made under this section in respect of an apparatus used within the premises for which the supply of water is taken for softening water if one such apparatus only is used and the water softened thereby can be drawn off into a receptacle at one point only and is used solely for purposes for which the domestic rate is paid.

Rates
payable by
owners of
small houses.

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

Provided that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him or which shall have accrued due from him subsequent to the service upon him of a notice to pay the rate.

(2) The provisions of section 73 of the Waterworks Clauses Act 1847 shall mutatis mutandis extend and apply to any payments made under this section by the owner of any house and as if that section applied in the case of any lease or agreement whether made before or after the commencement of this order.

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

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Special
terms for
supplies to
caravans &c.

(2) The sum to be so paid and the security to be so given shall be determined in default of agreement by a court of summary jurisdiction who may also order by whom the costs of the proceedings before them shall be paid and the decision of the justices shall be final and binding on all parties.

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

(4) For the purpose of ascertaining whether or not the local authority of the district in which the structure is situate objects to such supply being given the Undertakers shall before affording such supply give to such local authority not less than fourteen days’ notice in writing of their intention to do so.

28.—(1) In addition to the powers conferred by section 32 (Undertakers may make regulations for preventing waste &c. of water) of the order of 1904 the Undertakers may make regulations as to the testing and stamping of taps cocks ferrules valves flushing cisterns flushing apparatus and other similar fittings and apparatus and prescribing the charge to be made for such testing and stamping.

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

(2) All such regulations shall be subject to the provisions contained in subsections (2) (3) (4) (5) (6) (7) and (10) of section 250 and in sections 251 and 252 of the Local Government Act 1933 and those sections shall for the purposes of this section be construed as if the Undertakers were a local authority within the meaning of those sections and the secretary of the Under-

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takers were the clerk of the local authority The confirming authority for the purposes of the said section 250 shall be the Minister.

(3) Nothing in subsection (1) of this section or in any regulations made thereunder shall apply to any pipes or fittings used on any premises (not being or being used as a hotel or dwelling-house) which form part of the railway of a railway company so long as such fittings do not cause waste undue consumption misuse or contamination of water which is supplied by the Undertakers.

(4) 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.

Amendment
of section 10
of order of
1922.

29. From and after the commencement of this order section 10 (Company not bound to supply several houses by one pipe) of the order of 1922 shall be read and have effect as if the following subsection had been added at the end of that section namely :—

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

Notice to
Undertakers
of connecting
or dis-
connecting
meters &c.

30. Before any person connects or disconnects any meter or other instrument by means of which any of the water of the Undertakers is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Undertakers of his intention to do so and all alterations or repairs to and the connecting and disconnecting of meters or other instruments shall be done at his cost and under the due superintendence of any officer of or person authorised by the Undertakers and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings.

Register of a
meter to be
prima facie
evidence.

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

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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.

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—
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Water Order.

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

32. Notwithstanding anything contained in any Act or order relating to the Undertakers the Undertakers shall have the exclusive right of executing any works on any of their water mains for connecting any communication or service pipes therewith and the Undertakers shall on 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 and supply all fittings and materials which shall be necessary to connect the communication or service pipe of such owner or occupier therewith and any reasonable 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
communica-
tion pipes
with mains.

33. 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 which the Undertakers are not under any obligation to maintain it shall be lawful for the Undertakers subject to the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes to execute such repairs to the communication pipe as they may think necessary or expedient in the circumstances of the case without being requested so to do and if any injury to or defect in the communication pipe shall have been found the reasonable expenses incurred by the Undertakers for the purpose of ascertaining the cause of injury or defect and executing the repairs (including the expenses of breaking up filling in reinstating and

Power to
Undertakers
to repair
communica-
tion pipes.

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A.D. 1935. making good any road pavement or soil for those purposes) shall
— be recoverable by the Undertakers from the owner of the premises
Rainham supplied or in cases where the communication pipe is repairable
Water Order. by the occupier of such premises from the occupier in like manner
as water rates are recoverable by the Undertakers :

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

Stop-cocks
&c. to be
fitted in
communica-
tion pipes.

34.—(1) In the case of all buildings the erection of which is commenced after the commencement of this order connected with the 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 expression where used in this section shall include the necessary covers or boxes for giving access and protection thereto) in the communication or service pipe from the said premises in some position on the said premises or should that not be reasonably practicable 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 any premises in or under the street whichever of those points is 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 or service pipe in accordance with the provisions of this section and recover the reasonable expenses incurred by them in so doing from such person 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 or to maintain in a street any existing stop-cock in a communication or service pipe from any premises within the limits of supply the person liable shall have the like power to open the ground as is conferred upon him by and subject to the conditions of sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes.

(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 limits of supply execute such works on behalf of such person and any expenses reasonably incurred by the Undertakers in so doing

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shall be repaid by the person with whom the agreement is made and shall be recoverable summarily as a civil debt. A.D. 1935.

(4) Save as in this section provided no street for the time being vested in the county council shall under the provisions of this section be broken up or interfered with and the Undertakers shall indemnify the county council against any expense incurred by them in consequence of or arising out of the exercise of the powers of this section. *Rainham Water Order.*

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

36. In addition to the powers conferred by section 57 of the Waterworks Clauses Act 1847 any duly authorised officer of the Undertakers may at all reasonable times between the hours of seven and nine in the morning and also between the hour of four in the afternoon and one hour after sunset enter into any house or premises supplied with water by the Undertakers in order to examine if there be any waste or misuse of such water and if any such person hinder any such officer from entering under the said section 57 or under this section or from making such examination as aforesaid he shall for every such offence be liable to a penalty not exceeding five pounds : *Extension of power to inspect premises.*

Provided that no person shall for the same offence have the water supplied to him turned off in pursuance of the said section 57 and also be liable to a penalty under this section.

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

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For protec-
tion of Kent
county
council.

PART VII.

SUPPLEMENTAL.

38. Unless and except so far as may be from time to time otherwise agreed in writing between the county council and the Undertakers the following provisions shall have effect and apply to the exercise of the powers of the Undertakers under the Rainham Water Orders 1904 to 1935 so far as any of such powers affect any highway or bridge :—

(1) In this section—

“ highway ” means a county road vested in or repairable by the county council ;

“ bridge ” means a bridge vested in or repairable by the county council ; and

“ the surveyor ” means the surveyor to the county council :

(2) All mains pipes and works of the Undertakers (not being replacements of existing mains pipes and works or service pipes) to be laid in under along or across any highway or bridge shall be laid in such position as the county council in writing under the hand of the surveyor may direct :

(3) In the application of the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes the notice required by section 30 of that Act shall (save in cases of leakage bursting or other emergency when as long notice shall be given as is reasonably practicable) in the case of a bridge be fourteen clear days instead of three days and in the case of a highway be seven clear days instead of three days :

(4) The plan required by section 31 of the Waterworks Clauses Act 1847 shall in the case of any highway or bridge be accompanied (where applicable) by a section of the proposed works and shall be delivered to the surveyor by the Undertakers not less than in the case of a bridge fourteen clear days and in the case of a highway seven clear days before the Undertakers commence to interfere with any such bridge or highway for the purpose of executing the works and any difference as to any such plan or section or as to the temporary or other works referred to in the said section 31 shall be determined by arbitration under this section instead of in the manner prescribed by the said section 31 :

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(5) Nothing in this order shall interfere with the right of the county council at any time to alter the levels of or deviate or improve any highway or to remove alter rebuild widen or repair any bridge in over or attached to which any mains pipes or works of the Undertakers are carried in the same manner as the county council might have altered improved removed rebuilt or repaired any such highway or bridge if this order had not been made or confirmed And in the event of any highway or bridge in over or attached to which any such mains pipes or other works are carried being diverted widened altered improved removed rebuilt or repaired as aforesaid in such manner as to require the removal or alteration of any such mains pipes or works the Undertakers shall as and when requested by the surveyor remove or alter the position of the said mains pipes and works and the works by which the same are carried in over or attached to any such highway or bridge as aforesaid and replace the same to the satisfaction of the surveyor :

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Water Order.

Provided that—

(a) the cost of carrying out any works necessary for the purpose of complying with any requirement of the surveyor pursuant to the provisions of this subsection—

(i) in the case of the diversion widening alteration of the levels of or other alteration or improvement of any highway shall be repaid to the Undertakers by the county council;

(ii) in the case of the removal alteration rebuilding widening or reparation of any bridge shall be borne and paid by the Undertakers; and

(b) during any such diversion widening alteration improvement removal rebuilding or reparation of such highway or bridge as aforesaid the county council shall allow the Undertakers all reasonable facilities for temporarily carrying such mains pipes and works along the highway or across any stream or river so as not to interrupt the continuous supply of water or to diminish the pressure of such supply through such mains or pipes and the Undertakers may carry such mains pipes and works accordingly :

(6) All works shall be so executed by the Undertakers as not to stop the traffic and so far as reasonably practicable as not in any way to impede or interfere with the traffic on any highway or bridge and the Undertakers shall not without the consent of the surveyor (which consent shall not be unreasonably withheld) open or break up

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—
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at any one time a greater length than two hundred yards of any highway and shall leave an interval of at least one hundred yards between any two places at which they may open or break up such highway :

- (7) The county council shall not be liable for or in respect of any damage or injury done to any mains pipes or other works of the Undertakers by reason of such mains pipes or other works being laid fixed and executed at a depth below the surface of any highway or bridge insufficient for their protection in under along or across any highway or bridge arising from the reasonable use by the county council of any steam or other roller not exceeding fifteen tons in weight for the repair of any highway or bridge or of any traction engine not exceeding that weight :
- (8) All costs charges sums and expenses payable by the Undertakers to the county council or by the county council to the Undertakers under the provisions of this section shall be recoverable as a debt due from the Undertakers to the county council or from the county council to the Undertakers as the case may require :
- (9) If any difference at any time arises between the county council and the Undertakers touching this section or anything to be done or not to be done thereunder such difference shall be referred to and determined by an arbitrator to be agreed upon between them or failing such agreement to be appointed on the application of either party after notice in writing to the other of them by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to any such reference to arbitration as aforesaid.

Copy of
confirmation
Act to be
registered.

39.—(1) The Undertakers shall deliver to the Registrar of Companies a printed copy of the Act passed for the confirmation of this order and he shall retain and register the same and if such copy is not so delivered within three months from the passing of that Act the Undertakers shall incur a penalty not exceeding two pounds for every day after the expiration of those three months during which the default continues and any director or manager of the Undertakers who knowingly and wilfully authorises such default shall incur a like penalty Every penalty under this section shall be recoverable summarily.

(2) There shall be paid to the Registrar by the Undertakers on such copy being registered the like fee as is for the time being payable under the Companies Act 1929 on registration of any document other than a memorandum of association or the abstract

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required to be delivered to the Registrar by a receiver or manager or the statement required to be sent to the Registrar by the liquidator in a winding-up in England. A.D. 1935.
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40. 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.

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

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

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

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

45. The orders mentioned in the schedule to this order are hereby repealed to the extent shown in the second column of that schedule. Repeal.

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

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SCHEDULE.

PROVISIONS REPEALED.

1	2	3
Order.	Extent of repeal.	Subject matter of repealed provision.
The Rainham Water Order 1904 as confirmed by the Gas and Water Orders Confirmation Act 1904 (4 Edw. 7. c. clxxxii).	Section 10	Additional capital to be offered by auction or tender.
	Section 11	Purchase money of capital sold to be paid within three months.
	Section 12	Notice to be given as to sale of shares.
	Section 13	Shares not sold by auction or tender to be offered to shareholders.
	Section 21	For protection of Kent county council.
	Section 30	Undertakers not bound to supply water to water-closets or baths unless apparatus and pipes are constructed to prevent contamination.
	Section 36	Register of meters &c. to be evidence.
	Section 37	Penalty for connecting or disconnecting meter without notice to Undertakers.
	Section 39	When several houses supplied by one pipe each to pay.
	Section 40	Supply of water to tenements in a row.
Section 42	Misuser where supply to several houses is by a pipe common to all.	

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SCHEDULE—*continued.*

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1	2	3
Order.	Extent of repeal.	Subject matter of repealed provision.
The Rainham Water Order 1904— <i>continued.</i>	Section 45	Liability to water rent &c. not to disqualify justices &c.
	Section 46	Contents of summons.
	Section 47	Costs of distress.
	Section 48	Penalties not cumulative.
The Rainham Water Order 1922 as confirmed by the Ministry of Health Provisional Order Confirmation (Water) Act 1922 (12 & 13 Geo. 5. c. xliii).	Section 20	New capital to be sold by auction or tender.
	Section 24	Prescribed rates to be paid proportionately.

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Water Order.

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