STATUTORY INSTRUMENTS

1974 No. 195

WATER SUPPLY, ENGLAND AND WALES

The Manchester (Shap Aqueduct) Water Order 1973

Made - - - -	*22nd November* 1973
Laid before Parliament	*4th December* 1973
Coming into Operation	*5th February* 1974

ARRANGEMENT OF SECTIONS

1. Citation.
2. Interpretation.
3. Application of provisions of Third Schedule.
4. Application of enactments.
5. Power to purchase lands.
6. Power to construct works.
7. Works to form part of undertaking.
8. Temporary stoppage of highways, etc.
9. For preservation of scenery and amenities.
10. Execution of works through farms.
11. For protection of Cumberland River Authority.
12. Power to borrow.
13. Amendment of section 118 of the Manchester Corporation Act 1919.
14. Arbitration.

SCHEDULES.

Whereas the Secretary of State for the Environment is empowered to make an order under 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) for the purposes hereinafter appearing, but by virtue of the provisions of Part III of the First Schedule to the Acquisition of

(a) 1945 c. 42. (b) 1948 c. 22. (c) 1965 c. 56.

Land (Authorisation Procedure) Act 1946(a), as applied by paragraph 5 of the Schedule to the said Act of 1948 (which Part, among other things, makes special provision with respect to the purchase of land which includes part of a common) the order is to be subject to special parliamentary procedure and will become operative only as provided by the Statutory Orders (Special Procedure) Act 1945(b):

Now therefore the Secretary of State for the Environment, in exercise of the powers hereinbefore recited, and now vested in him(c), and of all other powers enabling him in that behalf, hereby orders as follows:—

Citation.

1.—(1) This order may be cited as the Manchester (Shap Aqueduct) Water Order 1973.

(2) The Manchester Corporation Acts and Orders 1844 to 1970 and this order may be cited together as the Manchester Corporation Acts and Orders 1844 to 1973.

Interpretation.

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

"the city" means the city of Manchester;

"the Corporation" means the lord mayor, aldermen and citizens of the city, acting by the council of the city;

"deposited plans", "deposited sections" and "deposited book of reference" mean respectively the plans, sections and book of reference prepared in duplicate, signed by an Under Secretary in the Department of the Environment which plans and sections are marked "Plans and sections referred to in the Manchester (Shap Aqueduct) Water Order 1973" and which book is marked "Book of reference referred to in the Manchester (Shap Aqueduct) Water Order 1973" and of which plans, sections and book of reference one set has been deposited and is available for inspection at the offices of the town clerk and the other at the offices of the Secretary of State for the Environment;

"highway authority" has the same meaning as in the Highways Act 1959(d);

"the Secretary of State" means the Secretary of State for the Environment;

"Third Schedule" means the Third Schedule to the Water Act 1945;

"the town clerk" means the town clerk of the city;

"the undertaking" means the water undertaking of the Corporation as from time to time authorised by any enactment;

"the works" means the works authorised by this order and includes the subsidiary works authorised by section 4 of the Third Schedule, as amended and applied by this order;

and any expression not hereinbefore defined to which a meaning is assigned by the Third Schedule shall have the meaning so assigned.

(2) Except where the context otherwise requires, references in this order to any enactment shall be construed as references to that enactment as amended by any subsequent enactment including this order.

(a) 1946 c. 49. (b) 1945 c. 18.
(c) S.I. 1951/142, 1900, 1970/1681 (1951 I, pp. 1348, 1347; 1970 III, p. 5551).
(d) 1959 c. 25.

(3) Unless the 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 of provisions of Third Schedule.

3. For the purposes of this order the provisions of the Third Schedule which are specified in column (1) of Schedule 1 to this order shall apply to the undertaking and are hereby incorporated with this order subject to the modifications specified in column (2) thereof.

Application of enactment.

4.—(1) (*a*) The provisions of sections 30 to 44 of the Railway Clauses Consolidation Act 1845(**a**) (which relate to the temporary occupation of lands near the railway during the construction thereof) are hereby incorporated with this order subject to the provisions of paragraph (*b*) of this subsection and to the modification that 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 from the commencement of the construction of any of the works authorised by the special Act".

(*b*) In the construction of the provisions of the Railway Clauses Consolidation Act 1845, incorporated with this order—

"the railway" shall mean the works authorised by section 6 of this order;

"the centre of the railway" shall mean the centre of any such works respectively;

"the company" shall mean the Corporation; and

"the special Act" shall mean this order.

(2) In its application in relation to this order Part I of the Compulsory Purchase Act 1965 shall have effect subject to the following exception and modification:—

(*a*) section 27 (Acquiring authority to make good deficiencies in rates) shall be omitted; and

(*b*) subsection (2) of section 11 (Powers of entry) shall have effect as if at the end of the first paragraph thereof there were inserted the words "(other than paragraph 3(3) thereof)".

Power to purchase lands.

5.—(1) The Corporation may purchase compulsorily such of the lands shown on the deposited plans within the limits of deviation and of lands to be acquired delineated on the deposited plans as they may require for the purposes of the construction of the works.

(2) Notwithstanding the provisions of subsection (1) of this section the Corporation shall not purchase compulsorily any land which is required by the Corporation solely for the construction of Work No. 1 or of so much of Work No. 5 as comprises an aqueduct or line or lines of pipes if the owner of such land is able and willing to grant or sell to the Corporation (at a price to be agreed or failing agreement to be determined in accordance with the provisions of the Land Compensation Act 1961(**b**)) such easements and rights over and in that land as the Corporation may in the circumstances require for the purpose of constructing and maintaining the said work.

(**a**) 1845 c. 20. (**b**) 1961 c. 33.

Power to construct works.

6. Subject to the provisions of this order, the Corporation may construct, maintain, alter and renew in the lines and situations shown on the deposited plans and according to the levels shown on the deposited sections the following works in the county of Westmorland:—

In the rural districts of North Westmorland and South Westmorland—

WORK NO. 1.—An aqueduct or line or lines of pipes in the parishes of Bampton, Shap Rural, Shap, and Orton in the rural district of North Westmorland and the parishes of Fawcett Forest, Whitwell and Selside and Skelsmergh in the rural district of South Westmorland commencing in the said parish of Bampton by a junction with the existing pipes at the Haweswater dam of the Corporation and terminating at the Watchgate Treatment Works of the Corporation in the parish of Skelsmergh.

In the rural district of North Westmorland—

WORK NO. 2.—A pumping station and recorder house in the parish of Shap Rural in the enclosures numbered 462 and 463 on the 1/2500 ordnance map of Westmorland sheets nos. XIII.11 and XIII.12 (1915 edition).

WORK NO. 3.—An access road in the parishes of Bampton and Shap Rural commencing at the public road from Bampton to Burn Banks and terminating at the pumping station and recorder house (Work No. 2).

WORK NO. 4.—A measuring gauge and river improvement and protection works in the parishes of Bampton and Shap Rural situated in the Haweswater Beck commencing at the dam of the Haweswater Reservoir and terminating approximately one hundred yards upstream of the confluence with the Naddle Beck.

In the rural district of South Westmorland—

WORK NO. 5.—An overflow pipe in the parish of Fawcett Forest commencing at a junction with Work No. 1 and terminating in the Crookdale Beck.

WORK NO. 6.—A primary treatment and control works in the parish of Skelsmergh situated adjacent to the Watchgate Treatment Works of the Corporation.

Works to form part of undertaking.

7. The works shall for all purposes form part of the undertaking.

Temporary stoppage of highways, etc.

8.—(1) The Corporation during, and for the purposes of, the execution of any of the works may temporarily stop up, alter, divert or otherwise interfere with, any highway or stream or drain or any private right of way and, in the case of any highway or right of way, may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going with or without animals to or from any land, house or building abutting on the highway or right of way from passing along and using the same.

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

(3) (*a*) The powers of subsection (1) of this section in relation to a highway shall not be exercised by the Corporation:—

(i) in the case of any trunk road, without the consent of the Secretary of State;

(ii) in the case of any other highway, without the consent of the highway authority, which consent shall not be unreasonably withheld but, without prejudice to the right of the highway authority to require monetary payment under section 63 of the Highways Act 1959 or any other enactment, may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority may require, and any question whether such consent is unreasonably withheld, or any conditions so imposed are unreasonable, shall be determined by the Secretary of State.

(*b*) The powers of subsection (1) of this section shall not be exercised by the Corporation in relation to any stream or drain without providing a proper substitute before interrupting the passage of water in or through such stream or drain and the Corporation shall make compensation for any damage caused to any person by the exercise of such powers in relation to any stream or drain, the amount of such compensation being in case of dispute determined by the Lands Tribunal.

(4) The Corporation shall, as soon as is reasonably practicable and to the reasonable satisfaction of the highway authority, make good and reinstate any highway stopped up, altered, diverted or otherwise interfered with under the powers conferred by subsection (1) of this section, and (subject to obtaining any necessary consent from the owners and occupiers of any private land affected) shall replace any fence or wall adjoining or adjacent to any such highway which has been interfered with in the course of the exercise of those powers in such manner as shall be agreed between the local planning authority and the Corporation or in default of agreement as may be determined by the Secretary of State.

(5) The exercise of the powers conferred by this section in relation to a highway shall not affect the powers of the Post Office under the Telegraph Acts 1863 to 1916 to maintain, inspect, repair, renew, or remove telegraphic lines or to open or break up that highway for any of those purposes.

For preservation of scenery and amenities.

9.—(1) In the construction and maintenance of the works the Corporation shall have regard to—

(*a*) the preservation for the public of the natural beauty of the area in which the works are situate and the enjoyment thereof by the public; and

(*b*) the conservation of flora and fauna and geological or physiographical features of special scientific interest therein.

(2) For the purpose of securing the foregoing provisions of this section but without prejudice to the generality thereof, the Corporation shall—

(*a*) after consultation with the Countryside Commission appoint a landscape consultant whom the Corporation shall consult generally in connection with their duties under subsection (1)(*a*) 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 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;

(*b*) consult with the Countryside Commission in regard to such of the works as are situated in the Lake District National Park with respect to the situation, form and external appearance of any aqueduct, building, bridge, measuring gauge or weir constructed in connection with the works or any wall, embankment or fence forming part of or constructed in connection with any such aqueduct, building or bridge;

(*c*) send to the Countryside Commission copies of any recommendations of the said landscape consultant made to the Corporation in pursuance of his functions under paragraph (*a*) of this subsection, and which relate to any of the works which are situated in the Lake District National Park; and

(*d*) consult with the Nature Conservancy Council on questions affecting the conservation of flora and fauna and geological or physiographical features of special scientific interest.

(3) For the purpose aforesaid the Corporation shall—

(*a*) without prejudice to anything in the Town and Country Planning Act 1971(a) submit to the local planning authority for their approval (which shall not be unreasonably withheld)—

(i) plans, sections and particulars relating to the situation, form and external appearance of any aqueduct, building, bridge, measuring gauge, weir, wall, embankment, road or fence to be constructed under this order; and

(ii) particulars of the proposed manner and method of disposing of any spoil or waste material resulting from the carrying out of any operation in connection with such works;

(*b*) send to the local planning authority copies of any recommendations of the said landscape consultant made to them with regard to any of the matters referred to in paragraph (*a*) of this subsection and shall comply with such reasonable requirements as the local planning authority shall make—

(i) for the purpose of rendering any such aqueduct, building, bridge, measuring gauge, weir, wall, embankment, road, fence, spoil or waste material as inconspicuous as possible; or

(ii) with regard to the disposal of any such spoil or waste material;

including as respects any purpose mentioned in the foregoing subparagraph (*b*)(i) requirements as to the laying of turf, the sowing of grass seed and the planting of trees, bushes or plants:

(a) 1971 c. 78.

Provided that before making any requirement with regard to the disposal of spoil or waste material the local planning authority shall consult with the Minister of Agriculture, Fisheries and Food and shall not consent to or require the deposit of any spoil or waste material along or within one hundred feet of the bank of any watercourse other than any aqueduct or other work authorised by this order without first consulting with any river authority in whose area such watercourse is situated.

(4) Within six months after the completion of any of the works or such longer period as the local planning authority may agree the Corporation shall remove or, to the reasonable satisfaction of the local planning authority, demolish or otherwise dispose of all temporary buildings and structures erected for the purposes of or in connection with the construction of such works which are not required for the purposes of or in connection with the construction of other such works and shall remove all surplus materials, plant, machinery and appliances provided or erected in connection therewith which are not so required and shall so far as is reasonably practicable to the like satisfaction restore and make good the surface of the ground on which any such temporary buildings and structures or any such surplus materials, plant, machinery and appliances as aforesaid have been placed.

(5) As soon as is reasonably practicable, and in any event within twelve months after the completion of the works, the Corporation shall (subject to obtaining any necessary consent from the owners and occupiers of any private land affected) make good any walls adjoining or adjacent to roads which have been used for or in connection with the works in such manner as shall be agreed between the local planning authority and the Corporation or in default as may be determined by the Secretary of State.

(6) For the purposes of this section the expression "spoil and waste material" includes any rock, sand, mud and other materials removed by the Corporation under the powers of this order.

(7) If any question shall arise as to the reasonableness of the action of the local planning authority in withholding any approval, or the reasonableness of any requirements which the local planning authority may make, under subsection (3) or subsection (4) of this section, the question shall be referred to and determined by the Secretary of State whose decision shall be final and if any such question relates to the deposit of spoil or waste material along or within one hundred feet from the bank of any watercourse (other than an aqueduct or other work authorised by this order) any river authority in whose area such watercourse is situate may make representations to the Secretary of State with regard to such deposit and shall be entitled to be heard by the Secretary of State at any inquiry with reference thereto.

Execution of works through farms.

10. In the construction of the works, the Corporation shall have regard to and, so far as is practicable, comply with the provisions of Schedule 2 to this order (which embodies a code of practice agreed between the Corporation and the National Farmers Union in relation to the execution of works through farms).

For protection of Cumberland River Authority.

11. Notwithstanding anything in this order the following provisions for the protection of the Cumberland River Authority (hereinafter in this section referred to as "the river authority") shall unless otherwise agreed

in writing between the Corporation and the river authority apply and have effect:—

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

"alter" includes extend or enlarge;

"apparatus" includes any structure or appliance for controlling or regulating the flow of water in, into or out of any watercourse and any machinery under the control of the river authority;

"authorised work" means:—

(*a*) so much of Work No. 1 and any work connected therewith as is to be constructed on, over or under any of the following watercourses in the area of the river authority (that is to say):—

Haweswater Beck, Naddle Beck, Woodnook Gill, Swindale Beck, Tailbert Gill, Lanshaw Sike, Keld Gill, Thornship Gill, River Lowther, or

(*b*) so much of Work No. 3 and any work connected therewith as is to be constructed over, under or so as in any way to affect Haweswater Beck;

"banks" has the meaning assigned to that expression by the Land Drainage Act 1930(a);

"specified watercourse" means a watercourse named in paragraph (*a*) of the definition of "authorised work" above;

"specified work" means:—

(*a*) an authorised work;

(*b*) Work No. 4 and any work to be constructed in connection therewith; or

(*c*) any pipes and float wells constructed in connection with Work No. 2 for the measurement of the flow in Haweswater Beck;

"watercourse" includes the banks thereof.

(2) In the construction or alteration of an authorised work the Corporation shall not diminish the width between the banks of any watercourse except with the consent of the river authority but such consent shall not be unreasonably withheld.

(3) Except with the consent of the river authority which shall not be unreasonably withheld the Corporation shall not construct or alter so much of Work No. 1 as is described in paragraph (*a*) of the definition of "authorised work" above otherwise than—

(*a*) in such manner as not to obstruct or interfere with the free flow of water in, into or out of any specified watercourse;

(*b*) in such manner—
either—

(i) as to allow the free passage of flood waters under such work; or

(ii) that the top or upper surface of such work shall be situate at such reasonable depth below any specified watercourse as to allow of the proper cleansing and scouring of such

(a) 1930 c. 44.

specified watercourse and of the deepening of the bed thereof to such extent as may be reasonably necessary for the improvement of such specified watercourse;

(*c*) in such manner as to allow of the widening of any specified watercourse to such extent as may be reasonably necessary for the improvement of such specified watercourse.

(4) (*a*) Before commencing to construct or alter any specified work the Corporation shall submit to the river authority plans and sections and (when reasonably required by the river authority) working drawings thereof and of any temporary works for their reasonable approval. If the river authority do not within forty days after the submission to them of any such plans and sections and drawings (if any) signify to the Corporation in writing their approval thereof or their disapproval thereof and the grounds of their disapproval they shall be deemed to have approved thereof;

(*b*) A specified work shall not be constructed or altered otherwise than in accordance with such plans and sections and drawings (if any) as may be approved (or are to be deemed to be approved) by the river authority or if such approval be withheld as may be settled by arbitration as hereinafter provided and shall be constructed or altered to the reasonable satisfaction of the river authority.

(5) The Corporation shall at all reasonable times afford to the engineer of the river authority or his duly authorised representatives access to any specified work during the construction or alteration thereof for the purpose of inspection.

(6) The construction or alteration of a specified work shall, when commenced, be completed with all reasonable despatch.

(7) The Corporation shall at all times keep the river authority indemnified against all damages, losses, costs and expenses which they may sustain or be liable for or reasonably and properly incur by reason or in consequence of any injury or damage which may be caused or result to any watercourse or apparatus or any obstruction which may be caused or result in any watercourse by or in consequence of or in connection with the construction or alteration of a specified work.

(8) Any question, difference or dispute arising between the river authority and the Corporation under this section (save as to the construction of this section) shall be determined by arbitration.

Power to borrow.

12.—(1) The Corporation may borrow without the consent of any sanctioning authority, for any of the purposes specified in column (1) of the following table, the sum required for that purpose:

TABLE

Purpose for which money may be borrowed (1)	Maximum period for repayment of loan (2)
(*a*) The purchase of lands and easements	Sixty years
(*b*) The construction of Work No. 1 (Tunnel)	Sixty years
(*c*) The construction of Work No. 1 (pipelines) and Works Nos. 3, 4 and 5	Forty years

Purpose for which money may be borrowed (1)	Maximum period for repayment of loan (2)
(*d*) The construction of Work No. 2 (except pumping plant and machinery)	Forty years
(*e*) The provision of pumping plant and machinery (Work No. 2)	Twenty years
(*f*) The construction of Work No. 6	Twenty years
(*g*) The payment out of capital of interest on moneys borrowed for purposes (*a*) to (*f*) above	In relation to purposes (*a*) and (*b*) sixty years, in relation to purposes (*c*) and (*d*) forty years and in relation to purposes (*e*) and (*f*) twenty years
(*h*) The payment of the costs, charges and expenses of this order	Ten years

(2) Every sum borrowed under subsection (1) of this section shall be repaid within such period from the date of borrowing as the Corporation, without the consent of any sanctioning authority, may determine, not exceeding the period specified in relation thereto in column (2) of the said table.

(3) Subject to the provisions of this section Part IX of the Local Government Act 1933(a) shall have effect as if money borrowed under this section were borrowed under that Part.

Amendment of section 118 of the Manchester Corporation Act 1919.

13. Section 118 (Supply in bulk) of the Manchester Corporation Act 1919(b), as amended by the Manchester Corporation Act 1956(c) and the Manchester (Ullswater and Windermere) Water Order 1966(d), shall have effect subject to the amendments specified in Schedule 3 to this order.

Arbitration.

14.—(1) Where under or for the purposes of this order any question, difference or dispute is to be referred to or determined by arbitration (other than questions, differences or disputes to which the provisions of the Compulsory Purchase Act 1965 apply) then except where other provision is expressly made by this order the question, difference or dispute shall be referred to a single arbitrator to be appointed by agreement between the parties or failing agreement appointed on the application of any party to the question, difference or dispute (after notice to the other or others of them) by the President of the Institution of Civil Engineers.

(2) Where any question, difference or dispute referred to arbitration under this order involves matters relating to fisheries, the arbitrator shall, if either or any of the parties so desire, be assisted by an assessor, who shall be a person having special knowledge of that subject matter, and such person shall be appointed in the same manner as the arbitrator.

(a) 1933 c. 51.
(b) 1919 c. cxix.
(c) 1956 c. lxxxiii.
(d) S.I. 1967/283.

SCHEDULE 1

PROVISIONS OF THE THIRD SCHEDULE APPLIED

(1) Provisions applied	(2) Modifications
Part II (Works and Lands)	In section 2 for the words "the plans submitted to the Minister" there shall be substituted the words "the deposited plans" and for the words "the said plans" wherever they occur there shall be substituted the words "the deposited sections". In section 4 after the word "plant" there shall be inserted the words "chambers, lagoons, washouts, basins, shafts, pressure vessels, valves, gauges, strainers, devices for excluding fish, coffer-dams, generating plant, transformers, electric lines, cables, retaining walls, roads, fences, embankments, piers, bridges". In subsection (1) of section 7 after the words "underground works" there shall be inserted the words "or of providing means of access".
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.
Part VI (Breaking Open Streets, &c.)	In section 22 after the words "authorised to lay" there shall be inserted the words "and of laying or constructing any electric lines, cables and other works which they are authorised by the special Act to lay or construct"; and after the words "or removing mains" there shall be inserted the words "electric lines, cables and other works".

(1) Provisions applied	(2) Modifications
Section 83 (Penalty for obstructing execution of special Act)	—
Section 85 (Summary proceedings for offences)	—
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)	—

SCHEDULE 2

Section 10

CODE OF PRACTICE FOR THE EXECUTION OF WORKS THROUGH FARMS

This Code of Practice relates to the construction of works in farmland other than unenclosed land and in this Code—

"the Corporation" means the lord mayor, aldermen and citizens of the city of Manchester, acting by the council of the city;

"the order" means the Manchester (Shap Aqueduct) Water Order 1973;

"the pipeline" means the aqueduct or line or lines of pipes and any line or lines of electrical cables, or any parts thereof, authorised by the order and the ancillary works or apparatus constructed in connection therewith comprising the work described in the order as Work No. 1;

"the Divisional Veterinary Officer" means the Divisional Veterinary Officer of the Ministry of Agriculture, Fisheries and Food.

1. The Corporation will endeavour so to arrange the laying of the pipeline as to avoid repeated disturbance of the occupation of any land within a short space of time.

2. A working width of 25 metres (approximately 82 feet) will normally be required by the Corporation for the construction of the pipeline, but extra width will be required at points where it is necessary to stack topsoil and where the Corporation are required under this code to provide double fencing, the working width shall be calculated as the distance between the inner fences.

3. The pipeline will be constructed so that there shall normally be not less than 900 millimetres (approximately three feet) and in any case not less than 750 millimetres (approximately 2 feet 6 inches) between the surface of the ground and the top of any pipe forming part of the pipeline except where a vertical deviation is required;

(*a*) for the purpose of crossing a watercourse, railway, road or buried service; or

(*b*) for the purpose of providing apparatus and structures ancillary to the pipeline.

4. Where the pipeline crosses a ditch it will unless otherwise agreed be laid beneath the true cleared bottom of the ditch; protective concrete not less than 150 millimetres (approximately six inches) in thickness will be laid above the pipe and unless otherwise agreed there will be not less than 300 millimetres (approximately one foot) between the true cleared bottom of the ditch and the top of the protective concrete.

5. The Corporation will not, save in the case of above ground works ancillary to the pipeline where it is necessary to acquire a freehold interest or where the Corporation agree to acquire the freehold of land, acquire more than an easement in the land in which the pipeline will be laid; and in all cases the Corporation will endeavour to agree the compensation payable for the interest acquired as quickly as possible.

6. All professional charges reasonably and properly incurred by a person with an interest in the land in connection with the acquisition by the Corporation of any easement or interest in his land or in relation to any claim for compensation arising from the construction of the pipeline will be borne by the Corporation.

7. Where it is not reasonably possible finally to determine the precise amount of compensation for surface damage payable by the Corporation to a person with an interest in the land within three months of the making of the claim, the Corporation will forthwith thereafter and without prejudice to the final settlement of the matter, make such payment on account to that person as shall represent the amount of compensation which the Corporation consider to be the proper amount payable to him or as may be otherwise agreed between the parties.

8. In any case where a difference arises as to the amount of any payment, other than a payment made for the acquisition by the Corporation of an interest or easement in the land, the same shall be referred to a single arbitrator to be agreed between the parties or in default of agreement to be determined by a person appointed by the President of the Royal Institution of Chartered Surveyors.

9. Subject to the provisions of paragraphs 13 and 14 of this Code the Corporation will provide all facilities reasonably required for maintaining and affording means of communication and access between any parts of a farm temporarily severed by reason of the construction of any works by the Corporation, the facilities being such as will enable the farm to be properly worked having regard to the purposes for which communication and access may be required and the period for which and the time of the year at which it may be expected to be used and the facilities so provided shall be taken into account in determining any claim for compensation in respect of that farm.

10. The Corporation will ensure that the efficiency of any land drainage system interfered with during the construction or maintenance of the pipeline is not impaired and will in particular either—

(*a*) carry existing land drains across the trench in which the pipeline is laid by means of suitable pipes or in some other manner equally satisfactory to the occupier; or

(*b*) replace the land drains temporarily and, after settlement of the land, be responsible for reinstatement of the land drainage to their former state and condition.

11. All trial borings required to be made by the Corporation prior to the commencement of constructional work will be carried out only after consultation with the occupier and with as little disturbance as is reasonably practicable.

12. Subject to the provisions of paragraphs 13 and 14 hereof, where stock is kept or is likely to be kept on adjoining land, all wayleave strips and working space required to be used by the Corporation will, unless otherwise agreed with the occupier, be fenced with a stock proof fence adequate for the purpose of

excluding any stock kept on the adjoining land, and where no such stock is kept the outer limit of the land to be used will, if required by the occupier, be delimited by a post and wire fence or otherwise as may be agreed with the occupier. All such stock proof fences shall be maintained in position during constructional work and thereafter (unless otherwise agreed with the occupier) until reinstatement of the land is complete or for such period as the Divisional Veterinary Officer may determine.

13. If the Corporation propose to enter upon farmland for the purpose of surveying, making trial borings, constructing the pipeline or using farmland as a working space and the farmland is adjacent to land on which is kept a herd of cattle which is, or in the opinion of the Divisional Veterinary Officer may shortly become, an accredited brucellosis-free herd the Corporation shall comply with the requirements of the Divisional Veterinary Officer. For this purpose the Corporation shall prior to entry on to any such farm discuss fully with the occupier and with the Divisional Veterinary Officer the particular circumstances pertaining to that farm. Unless otherwise agreed or determined by the Divisional Veterinary Officer the Corporation shall comply with the provisions of the following paragraph.

14. The provisions referred to in the preceding paragraph are as follows:—

(i) the accesses to the working strip shall be agreed and a prominent notice or notices of adequate size shall be erected by the Corporation at the commencement of the agreed access route, and along the line of the strip and these notices shall be erected before any other work is done on the farm. The notices shall draw attention to the Animal Health precautions required by the Code and shall prohibit vehicles or employees of the Corporation or their contractors from going outside the proposed working strip other than by means of an agreed access route; the notice or notices shall not be removed until all work, including reinstatement and reseeding, has been completed.

(ii) the Corporation shall ensure that all constructional works are completed on farms which have herds which are accredited brucellosis-free before moving on to a farm where the herd is not accredited, and shall maintain an adequate double fence across the working strip to prevent access from the farm on which there is a non accredited brucellosis-free herd to a farm on which there is an accredited brucellosis-free herd.

(iii) each side of the working strip and access routes shall be fenced off with a double stock proof fence unless an existing stock proof fence is available to form one boundary. The inner fence shall be suitably stock proofed; the outer fence shall be an electric or other stock proof fence situated not less than 1·8 metres from the inner fence. All such stock proof fences shall be maintained in position and in good condition so that their effectiveness is unimpaired during constructional work and thereafter until reinstatement of the land and reseeding is completed or until such a period as the Divisional Veterinary Officer determines. The ends of the working strip for the time being in use shall also be adequately fenced.

(iv) during the period of construction on any farm and until reinstatement is completed the Corporation shall ensure that drains, ditches, streams, burns and becks shall not be diverted from their existing courses so as to flow on to farmland in other occupation.

(v) all work (other than fence erection) shall be carried out between the lines of the inner fences. All topsoil and excavated material must be stored within the working strip on the land from which it was obtained and no soil or other spoilage shall be transported across farm boundaries except by means of the agreed fenced accesses.

(vi) any servant or agent of the Corporation or any other person and equipment entering upon the working strip and access routes shall comply with such disinfection procedures, if any, as may be prescribed by the Divisional Veterinary Officer before entering, and upon leaving, the said land, and shall have regard to all relevant provisions of the Brucellosis (Area Eradication) (England and Wales) Order 1971(a).

(vii) the Corporation and their contractors shall not obtain access to the proposed working strip through land forming part of a farm (except as aforesaid) save in exceptional circumstances or extreme emergency when the Corporation shall have obtained either the approval of the occupier or the local Divisional Veterinary Officer. The Corporation will observe any conditions imposed as a term of such approval.

(viii) no dogs belonging to employees or contractors will be permitted on access routes or the working strip.

(ix) where the works have been completed and the land restored and until reseeding operations take place, the Corporation will at the reasonable request of the occupier provide an access across the working strip or access route to enable the farm to be worked with the minimum of inconvenience in such position as may be agreed, the access to be constructed of pre-disinfected wooden railway sleepers or similar structure raised above the ground and which shall extend the full width of the working strip and be fenced on either side.

(x) all employees or contractors erecting or dismantling notices or fences or structures across the working strip or access routes on farmland shall observe the prescribed disinfection procedure.

(xi) all fencing material and posts, unless new, shall be disinfected in a suitable manner prior to delivery to the relevant farm.

(xii) within the working strip adequate latrine facilities shall be provided, together with adequate facilities for the storage and prompt disposal of all food residues, food containers and food wrappings. Such facilities shall have no possible contact with animals and should be bird and vermin proof. Such waste to be removed daily. Personnel working on the strip and access routes shall use these facilities only.

(xiii) where the working strip cuts across the access to the farmhouse from the highway and there is no alternative means of access to a highway the Corporation will provide alternative access facilities in such manner as may be agreed with the occupier or as may be required by the Divisional Veterinary Officer.

15. The Corporation will give the occupier of land affected as long notice of intention to commence the construction of the pipeline or other works as may be reasonably practicable with a view to enabling the occupier to make suitable arrangements with respect to the working of the land. The period of notice shall be not less than 21 days (except in emergency). All movements of pipes, vehicles and machinery for constructional purposes will be carried out so far as is reasonably possible in accordance with a known programme of which the occupier shall be made aware.

16. Before commencing any constructional work a record of the state of condition of any property proposed to be affected thereby shall be prepared by and at the expense of the Corporation in consultation with the owner and occupier and the particulars thereof shall be made available by the Corporation to all the parties concerned.

(a) S.I. 1971/1717 (1971 III, p. 4673).

17. Where additional or improved access reasonably required for or in connection with agricultural purposes after construction is rendered more difficult due to presence of the pipeline, the Corporation will give such reasonable facilities as may be required in order to permit the provision of such additional or improved access or the laying of any water supply pipe or drain or other services across any land which is the subject of an easement acquired by the Corporation.

18. Topsoil excavated from any trench will be kept apart from all other excavated material; all trenches will be backfilled as soon as reasonably possible after the laying of the pipeline and the backfilled material consolidated, the excavated material being replaced with top soil uppermost. All loose stones produced by the excavation and backfilling of trenches will be cleared from the surface as soon as may be practicable. All surplus spoil will be removed or spread and levelled over the site of the works as may be desired by the owner and occupier.

19. The Corporation will use every endeavour to ensure that existing water supplies and drainage systems are not interrupted or detrimentally affected and in the event of any such supplies or systems being so interrupted or affected by reason of the construction or use of the pipeline the Corporation will forthwith make good all damage caused or make available an alternative supply or system as the case may require.

20. The Corporation will take all reasonably practicable steps to prevent the pollution of water supplies or water courses.

21. All hedges destroyed or rendered ineffective by the operations of the Corporation shall be replaced by agreed types of fencing including gates; and in such cases the occupier, if he so elects, shall be entitled at the expense of the Corporation to replant the hedge so destroyed or rendered ineffective and to require protective fencing to be maintained until the replanted hedge is again effective.

22. The Corporation will take all reasonably practicable steps to prevent trespass or the straying of animals during such time as constructional work is in progress.

23. All ditches, open drains and watercourses interfered with by the pipeline will be maintained by the Corporation in effective condition during such period as constructional work is in progress and thereafter will be left in as good condition as before the commencement of constructional work.

24. Except in relation to rights compulsorily acquired, any above ground equipment on the lines of the pipeline will be placed, after consultation with the owner and occupier of the land in question, so as to cause as little obstruction or inconvenience as may be possible in the working of the land.

25. The Corporation will ensure that the arrangements made for compliance with the provisions of this Code are directly supervised by the General Manager and Engineer of the waterworks undertaking of the Corporation, who will be responsible for appointing a sufficient number of local representatives to whom any complaints arising may be addressed and for notifying the occupiers of land of the identity, address and telephone number of the appropriate representatives.

26. Where cathodic protection for the pipeline is provided by the Corporation adequate steps will be taken to safeguard buildings, structures and other installations nearby.

27. Except in case of emergency the Corporation will give to all occupiers on the route of the pipeline prior notice in writing of intended entry for the purpose of executing any work or repairs; all servants and agents walking over the route of the pipeline will carry and produce upon request adequate means of identification and will observe such disinfection procedures between farms as may previously have been prescribed by the Divisional Veterinary Officer.

28. Whenever an area in which this pipeline is situated has been declared an infected area on account of foot and mouth disease, fowl pest, swine fever or other notifiable disease the Corporation agree that entry on land which is the subject of an easement for the purpose of inspection shall be suspended unless there are exceptional circumstances in which case the approval of the Divisional Veterinary Officer shall be obtained and any entry on the easement strip will be subject to such conditions as he considers necessary.

29. Where under the terms of this Code a matter is to be referred to or determined by arbitration or in the event of any dispute or any difference arising between the Corporation and an owner or occupier of land in which works are carried out the question shall be settled by arbitration in accordance with section 14 of the order provided that in relation to matters specified in paragraphs 13 and 14 of this Code the arbitrator shall be a person appointed by the President of the Royal College of Veterinary Surgeons.

SCHEDULE 3 Section 13

AMENDMENT OF SECTION 118 (SUPPLY IN BULK) OF MANCHESTER CORPORATION ACT 1919 (AS AMENDED BY SECTION 14 OF MANCHESTER CORPORATION ACT 1956 AND SECTION 23 OF MANCHESTER (ULLSWATER AND WINDERMERE) WATER ORDER 1966)

1. In subsection (1) after the words "the Manchester (Ullswater and Windermere) Water Order 1966" there shall be inserted the words "or Works Nos. 1 to 6 (inclusive) authorised by the Manchester (Shap Aqueduct) Water Order 1973".

2. In subsection (4)—

(*a*) in paragraph (I) for the words "Provided also" to the end of the said paragraph (I) substitute "Provided also that in calculating for the purposes of this subsection the expenditure (whether capital or revenue) of the Haweswater undertaking there shall be deducted thirteen-twentieths of the expenditure on the Windermere works and thirteen-one hundred and seventeenths of any expenditure on the Watchgate works.";

(*b*) in paragraph (III) for the words "such quantity of water (not being less than thirty-six million gallons a day) as the Minister of Housing and Local Government shall approve" there shall be substituted the words "forty-eight million gallons a day".

3. In subsection (17)—

(*a*) in the definition of "the estimated average daily yield"—

(1) for the words "the relevant fraction" where they first occur there shall be substituted the words "seven-twentieths";

(2) the following shall be substituted for sub-paragraph (iii):—

"(iii) the quantity which it is estimated can be delivered by so much of the Windermere works as may have been constructed at the material time not exceeding seven-twentieths of the quantity which it is estimated can be delivered from the Windermere works when completed,"; and

(3) sub-paragraph (B) defining the expression "the relevant fraction" shall be omitted;

(*b*) at the end of the definition of "the Ullswater works" there shall be inserted the words "and Works Nos. 1 to 5 (inclusive) authorised by the Manchester (Shap Aqueduct) Water Order 1973 together with any ancillary and subsidiary works in connection therewith authorised by the said order";

(*c*) at the end of the definition of "the Watchgate works" there shall be inserted the words "and Work No. 6 authorised by the Manchester (Shap Aqueduct) Water Order 1973 together with any ancillary and subsidiary works in connection therewith authorised by the said order".

4. At the end of subsection (18) there shall be inserted the words "and the Manchester (Shap Aqueduct) Water Order 1973".

Signed by authority of
the Secretary of State.

Eldon Griffiths,
A Parliamentary Under-Secretary of State
in the Department of the Environment.

22nd November 1973.

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