STATUTORY INSTRUMENTS

1985 No. 513

WATER, ENGLAND AND WALES

The Mid-Sussex Water Order 1985

Made - - - - - - 25*th March* 1985
Coming into Operation 29*th March* 1985

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The Secretary of State for the Environment, in exercise of the powers conferred by sections 23, 32 and 33 of the Water Act 1945(a), as extended by section 14(2) of the Water Act 1948(b), and now vested in him(c), and of all other powers enabling him in that behalf, hereby orders as follows:—

PART I—PRELIMINARY

Citation and commencement

1. This order may be cited as the Mid-Sussex Water Order 1985 and shall come into operation on 29th March 1985.

(a) 1945 c. 42.
(b) 1948 c. 22.
(c) S.I. 1951/142, 1900, 1970/1681.

Interpretation

2. In this order, except where the context otherwise requires—

"the 1845 Act" means the Companies Clauses Consolidation Act 1845(**a**);

"the 1945 Act" means the Water Act 1945;

"the Company" means the Company established under the name of the Mid-Sussex Water Company by the Mid-Sussex Water Order 1960(**b**) (now repealed);

"the secretary" means the secretary for the time being of the Company;

"share" means a share in the capital of the Company and includes stock except where a distinction between stock and shares is expressed or implied, and "share capital" shall be construed accordingly;

"shareholder" includes stockholder but not a holder of debenture stock;

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

"the undertaking" means the undertaking of the Company as for the time being authorised.

Incorporation of public Acts

3.— (1) The following provisions, so far as they are applicable to and not inconsistent with this order, are hereby incorporated with this order, that is to say—

(a) the 1845 Act, except—

sections 56 to 60 (provisions with respect to the conversion of borrowed money into capital),

section 145 (which relates to the publication of offences),

sections 161 and 162 (which provide for affording access to the special Act); and

(b) the Companies Clauses Act 1863(**c**) except section 13 thereof to the extent that it limits the rate of dividend on preference capital:

Provided that of the enactments so incorporated—

(i) section 98 (which requires proceedings to be entered in books) of the 1845 Act shall have effect as if after the words "chairman of such meeting" there were inserted the words "or of the next succeeding meeting";

(ii) section 14 (dividends on preference capital) of the Act of 1863 shall in relation to capital raised after the 1st June 1972 have effect with the insertion, after the words "each year", of the words "or out of the unappropriated profits from previous years, or partly out of the one and partly out of the other", and the insertion before the words "profits available" of the word "such";

(iii) section 22 (creation and issue of debenture stock) of the Act of

(**a**) 1845 c. 16.
(**b**) S.I. 1960/623.
(**c**) 1863 c. 118.

1863 shall have effect as if the words "and to the same amount as" were omitted.

(2) Nothing in subsection (1) above shall affect the rights of holders of stock issued pursuant to the Newhaven and Seaford Water Order 1955(a) (now repealed).

(3) Subject to the provisions of section 11 of the Water Act 1973(b), the Third Schedule (except Parts VII and IX, section 64 and subsections (1) and (2) of section 74 thereof) shall apply to the undertaking and is hereby incorporated with this order:

Provided that the provisions of the Third Schedule specified in the first column of Schedule 1 to this order shall so apply subject to the modifications specified in the second column of that Schedule.

(4) Subsection (3) above shall not apply to a provision of the Third Schedule to the extent to which that provision applies to the undertaking for the purposes of the enactment by which it is applied, with or without modification, otherwise than by virtue of this section.

(5) In the construction of the enactments so incorporated with this order the expression "the special Act" shall mean this order, and the expression "the company" shall mean the Company.

PART II—MID-SUSSEX WATER COMPANY

Continuation of Company

4. The Company shall continue to be a body corporate with perpetual succession and a common seal, and to be established for the purposes of supplying water and for the other purposes of this order.

Meetings of Company

5.— (1) The Company may by resolution at a general meeting at any time determine that the ordinary meetings of the Company shall be held once only in each year, in such month as the directors may from time to time determine, and the Company may from time to time in like manner alter or rescind any such resolution.

(2) Notice of all meetings of the Company, whether ordinary or extraordinary, may (if the directors so determine) be given by letter sent by ordinary letter post to each shareholder instead of by public advertisement:

Provided that the letters shall be directed according to the registered or other known address of each shareholder, pre-paid and posted not later than 7 clear days before the date of the meeting.

(3) In proving that any such notice has been given it shall be sufficient to

(a) S.I. 1955/857.
(b) 1973 c. 37.

show that the letter containing the notice was properly addressed and posted as a pre-paid letter not later than the time hereby prescribed.

(4) For the purpose of constituting a meeting of the Company, whether ordinary or extraordinary, the prescribed quorum referred to in section 72 of the 1845 Act (as incorporated with this order) shall be six holders of stock or shares of the Company.

Register of shareholders and shareholders' address book

6. Notwithstanding anything in the 1845 Act it shall not be obligatory upon the Company—

(a) to keep separately a register of shareholders and a shareholders' address book, but in lieu thereof the Company may if they think fit keep one register only containing such particulars as are required by that Act to be entered in the said register and address book; or

(b) to authenticate by the affixing of their common seal or otherwise the register of shareholders or any register which the Company may keep in lieu thereof under the powers of this section.

Joint holders

7.— (1) Where several persons are jointly entitled to and registered as holders of any shares or stock, any one of those persons may vote at a meeting at which holders of shares or stock of the same class are entitled to vote, and may do so personally or by proxy in respect of the shares or stock as if he were solely entitled thereto.

(2) If more than one of the joint holders be present at a meeting personally or by proxy that one of the said holders so present whose name stands first on the register in respect of the shares or stock shall alone be entitled to vote in respect thereof.

(3) For the purposes of this section, several executors or administrators of a deceased member in whose name any shares or stock stands shall be deemed joint holders thereof.

Proxy appointment by attorney

8. The attorney of any shareholder or stockholder duly authorised in writing may appoint a proxy to vote for and on behalf of the shareholder or stockholder, and for that purpose, providing the instrument appointing the attorney is transmitted to the secretary (if not already registered by him) at the same time as the instrument appointing the proxy, the attorney may execute on behalf of the shareholder or stockholder the necessary form of proxy.

Voting rights of preference capital

9. No person shall be entitled to vote at any general meeting of the Company in respect of shares or stock to which a preferential dividend shall be assigned except as otherwise expressly provided by the resolution creating the shares or stock.

Directors

10.— (1) The number of directors of the Company shall be 7, but the Company may at any time reduce or increase this number so that it be not less than 3 nor more than 7.

(2) The qualification of a director shall be the possession in his own right of not less than 25 shares or £250 of share capital or of stock (not being debenture stock).

(3) The quorum of a meeting of directors shall be three.

(4) Except in the case of a director retiring by rotation and offering himself or being proposed for re-election no person shall be capable of being elected at a general meeting a director of the Company unless notice in writing that such person intends to offer himself or will be proposed for the office of director shall have been given to the secretary or left at the office of the Company 10 days at least before the day of election.

(5) The continuing directors may act notwithstanding any vacancy in their number, but if at any time the number of directors of the Company holding office shall be less than 3 the directors shall not, except for the purpose of filling vacancies and alloting shares or stock to any proposed director, act so long as the number is below that minimum.

(6) Notwithstanding anything in the 1845 Act no person shall be disqualified from being a director of the Company by reason of his holding any office or place of trust or profit under the Company or of his being interested in any contract with the Company, nor shall a director be required to cease from voting or acting as a director by reason of his accepting any such office or place of trust or profit, or becoming interested in any such contract:

Provided that—

(i) in the case of his being or becoming interested in any contract with the Company, whether the interest arises before or after his appointment as a director, the nature of his interest in the contract shall be disclosed by him at the meeting of the directors at which the contract is determined on if his interest then exists, or in any other case at the first meeting of the directors after the acquisition of his interest or after his appointment, and also in the next annual report of the Company;

(ii) no director shall as a director vote in respect of any such contract and if he does so vote his vote shall not be counted, save in the case of any contract by or on behalf of the Company to give to the directors or any of them any security by way of indemnity.

Managing director

11.— (1) The directors may appoint one of their body to be managing director, either for a fixed term or without any limitation as to time, and may remove him from office and appoint another in his place.

(2) The managing director shall not while holding that office be subject to retirement by rotation, but if he ceases to hold the office of director from any other cause he shall thereupon cease to be managing director.

(3) The remuneration of the managing director shall from time to time be fixed by the directors, and may be by way of salary or commission or participation in profits, or by all or any of those modes.

(4) The directors may entrust to and confer upon the managing director such of the powers exercisable by the directors and subject to such conditions as they think fit, and may from time to time revoke or vary any or all of such powers.

Dwellinghouses for employees

12. The Company may purchase or take on lease dwellinghouses for persons employed by them, and may erect and maintain such dwellinghouses upon any lands for the time being belonging to them for the purposes of the undertaking and (subject to the terms of the lease) upon any lands for the time being leased to the Company for such purposes.

PART III—FINANCIAL

Capital and borrowing powers

13.— (1) Subject to and in accordance with the provisions of this order the Company may from time to time raise by the creation and issue of share capital or by borrowing on mortgage of the undertaking or by the creation and issue of debenture stock, or wholly or partly by any one or more of those modes, such sums as, when added to any money raised by the issue of share capital before the commencement of this order or borrowed by the issue of loan capital before the commencement of this order and in either case outstanding at the date or respective dates on which the Company exercise the powers of this section, shall be sufficient to produce in the aggregate thirty million pounds:

Provided that the aggregate of any sums so borrowed shall not, when added to other sums so borrowed by the Company and still outstanding at the date or respective dates on which the Company exercise the powers of this section, and to any sums borrowed temporarily under section 24 of this order, exceed in the whole three times the amount (including premiums and allowing for discounts) which for the time being has been raised by the Company by the issue of share capital.

(2) For the purposes of the proviso to subsection (1) above the nominal amount of any ordinary or preference shares which have been or shall hereafter be issued for a consideration other than cash shall be deemed to have been raised by the Company by the issue of such ordinary or preference shares, as the case may be.

(3) The Company may raise share capital under this section by the creation and issue of ordinary or preference shares, or wholly or partly by one or more of those modes.

(4) For the purposes of this section the amount raised or to be raised by the issue of share capital shall be taken to be the amount which has been or will be raised, as the case may be, after taking into account any premiums or discounts which may be obtained or allowed on the issue or reissue thereof.

(5) The power to borrow money under this section on mortgage of the

undertaking may be exercised without obtaining any certificate of a justice under section 40 of the 1845 Act.

Debenture stock

14.— (1) The Company may create and issue debenture stock subject to the provisions of Part III of the Companies Clauses Act 1863, but notwithstanding anything therein contained the interest of all debenture stock and of all mortgages created, issued, or granted by the Company shall, subject to the provisions of any subsequent enactment, rank pari passu (without respect to the dates of the securities or of the enactments or resolutions by which the stock or mortgages were authorised) and shall have priority over all principal monies secured by such mortgages and charged upon the undertaking.

(2) Notice of the effect of this section shall be endorsed on all mortgages and certificates of debenture stock issued by the Company.

Application of monies raised

15. Monies raised under this order, or under the Acts and orders repealed by this order, whether by stock, shares or borrowing (other than monies temporarily borrowed under the powers conferred by section 24 of this order), shall be applied only to the purposes of this order to which capital is properly applicable.

Interim dividends and annual accounts

16. If and so long as the ordinary meetings of the Company shall be held only once in every year—

(a) it shall be lawful for the directors to declare and pay in any year an interim half-yearly dividend out of the profits of the Company without the sanction or direction of a general meeting;

(b) the Company and the directors shall not be required to make up a half-yearly balance sheet and accounts, and the balance sheet and accounts made up by them in accordance with section 116 of the 1845 Act shall relate to the transactions of the Company in the course of the preceding year.

Maximum rates of dividend

17.— (1) The Company shall not in respect of any year pay dividends on their paid-up share capital at rates greater than the following rates, that is to say—

(a) on capital subscribed before the commencement of this order, the rates which they were entitled to pay thereon immediately before that commencement;

(b) on capital subscribed on or after the commencement of this order, seven per cent or such higher rate not exceeding twelve per cent as the Secretary of State may in respect of any subscription allow.

(2) Nothing in subsection (1)*(b)* above shall prevent the payment of a greater dividend on any capital referred to therein which is issued as ordinary

capital in order to make up deficiencies in previous dividends thereon arising during the last five years before the year in respect of which a dividend is being paid.

Maximum rates of interest

18. The Company shall not pay interest on any monies borrowed on mortgage or debenture stock issued under section 13 (Capital and borrowing powers) of this order at a higher rate than seven per cent per annum or such higher rate as the Secretary of State may from time to time allow:

Provided that the consent of the Secretary of State shall not be required to the payment of interest on monies borrowed by the Company on mortgage of the undertaking or by the issue of debenture stock at a rate higher than seven per cent per annum if the rate is a fixed rate and is certified to the Company as being appropriate in the circumstances of the case by—

(a) the firm of stockholders, being members of a recognised stock exchange (as defined in the Prevention of Fraud (Investments) Act 1958(a)), or the bankers who placed the mortgage or placed or underwrote the issue of debenture stock; or

(b) in the case of the raising of money on mortgage an accountant or firm of accountants being either the duly appointed auditor or auditors of the Company or a person qualified to be so appointed.

Proportionate payments of dividends

19. If in any half year the funds of the Company applicable to dividend are insufficient to pay the full amount of the dividend in respect of each class of ordinary shares or stock in the capital of the Company applicable thereto at the time of issue, a proportionate diminution shall be made in the rate of dividend then to be paid in respect of each class.

Priority of mortgages and debenture stock

20.— (1) All monies raised on mortgage by the Company under this order and the interest due thereon and the interest due on debenture stock created and issued under this order shall have priority against the Company and the property from time to time of the Company over all other claims on account of debts incurred or engagements entered into by the Company after the commencement of this order, but such priority shall not affect any claim against the Company in respect of—

(a) any rentcharge to be granted by them pursuant to the Lands Clauses Acts; or

(b) any rent or sum reserved by or payable under any lease to be granted or made to the Company by a person, in pursuance of any enactment relating to the Company, which is entitled to rank in priority to or pari passu with the interest or dividends on the mortgage or debenture stock.

(a) 1958 c. 45.

(2) Nothing in this order shall diminish or otherwise prejudice the rights of any mortgagee or holder of debenture stock, or any obligations or conditions to which any mortgage or debenture stock is subject, as such rights, obligations or conditions existed immediately before the commencement of this order.

Purchase of debenture stock

21.— (1) The Company may at any time apply monies for the time being in their hands, which they are entitled to apply to capital purposes, to the purchase by agreement of any debenture stock of the Company at a price not exceeding the market value thereof.

(2) Debenture stock purchased under this section may at any time be cancelled and extinguished by the Company, and the amount of any stock so cancelled shall be deemed to be money borrowed and paid off by the Company within the meaning of section 39 of the 1845 Act, and the provisions of that section as to reborrowing by the Company shall apply accordingly.

Company not bound to regard trusts

22. The Company shall not be bound to see to the execution of any trust, whether express, implied or constructive, to which any of their stock (including debenture stock) mortgages or bonds may be subject, and section 20 of the 1845 Act shall apply in respect of any such stock, mortgage or bond as it applies in respect of shares in the capital of the Company.

Appointment of receiver

23. Any mortgagees of the undertaking may by the appointment of a receiver enforce the payment of arrears of principal or interest, or both, due on their mortgages, if the aggregate of the amounts owing to the mortgagees by whom the appointment is made is not less than £10,000.

Temporary borrowing

24. In addition to the powers for the time being exercisable by the Company to borrow money on mortgage of the undertaking or to raise money by the creation and issue of share capital or of debenture stock, the Company may for the purposes of or in connection with the undertaking borrow by way of temporary loans or overdrafts from banks or otherwise any sums which they may temporarily require—

(a) for the purpose of defraying expenses pending the receipt of revenues receivable by them in respect of the period of account in which those expenses are chargeable, but so that the aggregate amount outstanding at any one time of the monies so borrowed shall not exceed one million pounds; and

(b) for the purpose of defraying, pending the issue of shares or stock of any description or the borrowing of money in pursuance in either case of an authorisation in that behalf, expenses intended to be defrayed by means of such issue or borrowing, as the case may be.

Limits of supply

25. Without prejudice to the operation of section 13 of the Water Act 1973, the limits within which the Company are authorised to supply water shall comprise the areas described in Schedule 2 to this order.

Continuation and maintenance of works

26. The company may continue and maintain all waterworks and works connected therewith from time to time forming part of the undertaking.

Waste, etc., of water by non-repair of fittings

27.— (1) If the owner of any premises wilfully or negligently causes or suffers any water fitting, not being a fitting which some person other than the owner is liable to maintain, or if the occupier of any premises wilfully or negligently causes or suffers any water fitting, not being a fitting which some person other than the occupier is liable to maintain—

(a) to be or remain so out of order, or so in need of repair; or

(b) to be or remain so constructed or adapted, or be so used,

that the water supplied to those premises by the Company is, or is likely to be, wasted, misused or unduly consumed or contaminated before use, or that foul air or any impure matter is likely to return into any pipe belonging to, or connected with a pipe belonging to, the Company, he shall be liable to a fine not exceeding £50.

(2) If any water fitting on any premises, not being a fitting which the Company are liable to maintain, is in such a condition, or so constructed or adapted as aforesaid, the Company, without prejudice to their right to institute proceedings under subsection (1) above, may require the owner of the premises to carry out any necessary repairs or alterations, and if he fails to do so within 48 hours may themselves carry out the work and recover from him summarily as a civil debt the expenses reasonably incurred by them in so doing, but without prejudice to the rights and obligations, as between themselves, of the owner and the occupier of the premises:

Provided that if the Company are of the opinion that the premises are unoccupied and after diligent enquiry they are unable readily to communicate with the owner of the premises for the purpose of taking action under this section, the Company may as a preliminary to such action turn off the water supplied by them to the premises and in such case, without prejudice to the foregoing provisions of this section, shall restore the supply at the request of the owner or (if the premises become occupied) the occupier.

Power to take waters

28. Subject to the provisions of this order and of Part IV of the Water Resources Act 1963(a) the Company may collect, divert, take, pump, use and

(a) 1963 c. 38.

appropriate all or any of the waters which will or may be intercepted by or collected in the works forming part of the undertaking.

Supplies to vessels

29. The Company may by agreement supply with water vessels resorting to the port of Newhaven and for that purpose may lay and erect such pipes and other works as they think necessary, but no works shall be laid or erected under this section on a pier, quay or wharf except with the consent of the owner or person having the control and management thereof.

Underground works map

30. Where after the commencement of this order any pipes, conduits or underground works become vested in the Company by virtue of an order made under section 9 (Combination of undertakers and transfer of undertakers by agreement or compulsorily) of the 1945 Act the obligation imposed on the Company by section 12 of the Third Schedule as applied to the undertaking by this order, to cause a map of underground works kept under that section to be corrected, shall not apply in relation to such pipes, conduits or works during the period of two years beginning on the date on which they so vest.

Collection of charges for water supply

31.— (1) Section 55 of the Third Schedule (Making and dates for payment of water rates) as it applies to the undertaking shall have effect as if—

(a) in subsection (1), from the words "by equal quarterly instalments" to the end of the subsection there were substituted the words—

"*(a)* by equal half-yearly instalments on that one of those dates which is the first day of the rate period and on the first day of the seventh month comprised in that period; or

(b) if the directors of the undertakers so resolve and the person who is liable to pay the water rate payable in respect of any premises so elects by making payment, then by a single payment on that one of those dates which is the first day of the rate period,

(subject in the case of *(a)* or *(b)* to such discount as may be allowed by the undertakers under section 57 of this Schedule); or

(c) if the directors of the undertakers so resolve and, not later than one month after the beginning of the rate period, the person who is liable to pay the water rate payable in respect of any premises gives notice in writing to the undertakers of his election to pay the rate payable in respect of any rate period by four or more equal payments, then on such dates (at intervals of not less than one month within the rate period) and by such equal payments (being not less than four) as may be specified in a statement sent to that person by the undertakers.";

(b) after subsection (2) there were inserted the following subsection—

"(2A) If, and so long as, the water rates are payable in advance by a single payment, if the person who is, or who, but for the provisions of the last foregoing section, would be, liable to pay the water rate payable in respect of any premises is in occupation of those premises

during a portion only of the rate period, he, or, as the case may be, the owner of the premises, shall be liable to pay so much only of the payment as bears to the whole payment the same proportion as the number of days within the rate period during which the first-mentioned person is in occupation bears to the number of days in the rate period, and, if any greater proportion of the payment has been paid, the person by whom it was paid shall be entitled to recover the excess from the undertakers, except in so far as he has previously recovered it from an incoming occupier:
Provided that nothing in this paragraph shall exempt the owner of any premises from liability in respect of any subsequent portion of the rate period during which the premises may again become occupied.";

(c) in subsection (4) for the words "foregoing subsection" there were substituted the words "two foregoing subsections", in paragraph *(a)* thereof, for the word "instalment" there were substituted the words "amount due in respect" and, in paragraph *(b)* thereof, for the words "an instalment" there were substituted the words "any sum in respect" and for the words "the instalment" there were substituted the words "the sum"; and

(d) after subsection (4) there were inserted the following subsection—

"(4A) Where a person gives notice of his election to pay the water rate by four or more equal payments—

(a) that notice shall remain in force in respect of each successive rate period until—

(i) the person by whom it was given withdraws it by a further notice in writing to the undertakers; or

(ii) if any payment is not made on or before the date when it is due, the undertakers give notice to the person by whom the first-mentioned notice was given that, by reason of the default, that notice is being treated as cancelled; or

(iii) where the directors of the undertakers resolve to vary the number of equal payments by which the water rate may be paid in the rate period next following the date of the resolution, upon the expiry (not later than the last day of the rate period during which the resolution is passed) of not less than three months' notice in writing given by the undertakers to the person by whom the first-mentioned notice was given and stating the number of equal payments (being not less than four) by which the rate may be paid in accordance with the resolution;

and upon the giving of any notice under sub-paragraph (i) or (ii) above or (in the absence of a further notice of election given under subsection (1)*(c)* above in respect of the number of equal payments as varied in accordance with sub-paragraph (iii) above) upon the commencement of the rate period next following the date of the resolution referred to in sub-paragraph (iii) above, any amount due by way of water rate in respect of any premises shall be recoverable as if no such first-mentioned notice had been given; and

(b) the amounts of the payments specified in any statement sent to that person by the undertakers shall be equal except that the undertakers may round off the amount of any such payment (other than the first or the last) to the nearest five pence and adjust the amount of the first or, as the case may be, last of those payments accordingly.".

(2) Section 57 of the Third Schedule (Discount for prompt payment of water rates and charges) as it applies to the Company shall have effect as if after the words "prompt payment of water rates and charges" in subsection (1) there were inserted the words "(including in the case of payment by half-yearly instalments, payment of any such instalment in advance on or before the first day of the half-year in respect of which the payment is made or, if the directors of the undertakers have resolved to accept, and the person who is liable to pay the water rate in respect of any premises has elected to pay, a single annual payment, such a payment in advance on or before the first day of the rate period in respect of which the payment is made)".

PART V—PROTECTIVE PROVISIONS

For protection of Water Authority

32. In laying, under the powers of this order, any pipes or conduits or executing any works under or through the sewers, banks, ditches or works belonging to or under the jurisdiction of the Southern Water Authority (in this section referred to respectively as "the property and interests of the Authority" and "the Authority") the following provisions shall, except as may be otherwise agreed in writing between the Company and the Authority, apply and have effect:—

(1) All such pipes, conduits or works shall be so laid to the reasonable satisfaction of the Authority and none of them shall be laid or constructed so as to diminish or impede the free flow and access of water in or through the property and interests of the Authority or so as to affect prejudicially the drainage of such property or allow salt water to penetrate into the fresh water ditches, and no such pipes or conduits shall be laid or works executed until notice in writing has been given to the Authority and the mode of such laying and executing submitted to and approved by the Authority, such approval not to be unreasonably withheld;

(2) All pipes and conduits laid and works executed under paragraph (1) above shall be maintained by the Company in good repair and condition and so as in no way to cause injury to the property and interests of the Authority, and the Company shall as soon as is practicable after receiving notice of any defect in such pipes, conduits or works make good the defect and in default the Authority may carry out the necessary works and recover the reasonable expense thereof from the Company as a debt due by them to the Authority;

(3) Any dispute or difference which may arise between the Company and the Authority with reference to the provisions of this section or to any works to be carried out in pursuance thereof shall be referred to and determined by an engineer to be agreed upon between the parties 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.

For protection of British Railways Board

33. For the protection of the British Railways Board and, as respects any harbour works situated within Newhaven Harbour, Sealink Harbours Limited

(hereafter in this section called "Sealink", which expression includes any subsidiary (within the meaning of section 736 of the Companies Act 1985(a) of Sealink in which the said harbour is for the time being vested), the following provisions shall, except so far as may be otherwise agreed in writing between the Company and the Board, apply and have effect:—

(1) In this section—

"the Board" means the British Railways Board or, so far as relevant, Sealink;

"the works" means any works of maintenance, repair, renewal or removal of the following works, that is to say—

(a) the mains, pipes, conduits and other works laid down or constructed under the powers conferred by the Mid-Sussex Water Act 1890(b) (now repealed) in the parishes of Balcombe, Cuckfield Rural and Slaugham;

(b) the reservoir, road and conduits or pipes constructed pursuant to the Newhaven and Seaford Water Act 1898(c) (now repealed) in the parishes of Piddinghoe and Newhaven and the former parish of Denton;

(c) the mains, pipes or conduits forming part of the reservoir and other works authorised by section 6 of the Crowborough District Water Act 1899(d) (now repealed) in the parishes of Rotherfield and Mayfield;

(d) the mains, pipes and other works laid down or constructed in the new limits referred to in section 8 of the Burgess Hill Water Order 1908(e) (now repealed) comprising the parishes of Albourne and Westmeston and part of the parish of Wivelsfield;

(e) the wells, pumping stations, reservoir, water tower, aqueducts and other works sanctioned and authorised by sections 4 and 5 of the East Grinstead Gas and Water Act 1910(f), in the parishes of Forest Row and East Grinstead;

(f) the adits or headings constructed pursuant to section 13 of the Burgess Hill Water Act 1925(g), in the parishes of Clayton, Ditchling and Keymer;

(g) the mains, pipes and culverts laid down under the powers of the Newhaven and Seaford Water Order 1927(h) (now repealed) in the parishes of South Heighton, Tarring Neville and Beddingham;

(h) the pumping station and well authorised by section 5 of the Crowborough District Water Act 1929(i) (now repealed), in the parish of Withyham;

(a) 1985 c. 6.
(b) 1890 c. lxv.
(c) 1898 c. ccxviii.
(d) 1899 c. xlvi.
(e) Confirmed by 1908 c. cxxxiii.
(f) 1910 c. xxxvii.
(g) 1925 c. xxvii.
(h) 1927 c. xxxv.
(i) 1929 c. xli.

(i) any works of the Company that may affect the level crossing adjacent to Newhaven Station.

(2) Any of the works upon, across, over, under or in any way affecting the Board's railways or any bridge maintained by them or any approaches to such bridge within the Board's boundaries (in this section called "railway works") shall be done under the superintendence and to the reasonable satisfaction of the Board's engineer and (except in an emergency or with his agreement) according to plans, sections and specifications and at such times as shall have been reasonably approved by him in writing, or in the event of disapproval in such manner and at such times as shall be determined by arbitration in manner hereinafter specified:

Provided that if the engineer does not express his approval or disapproval within 28 days after the plans, sections and specifications have been submitted to him he shall be deemed to have approved them, and if he shall refuse or neglect to superintend any operations the Company may execute the works without his superintendence.

(3) The works shall be executed so as not to cause injury to the railway works, and the Company shall within the Board's boundaries so execute the works as to interfere with or impede as little as possible any improvement or widening of the railway which may be carried out by the Board.

(4) The Company shall if required so to do by the said engineer provide and maintain such stopcocks as may be necessary on any mains or pipes to be laid by the Company on, over or under or in any way affecting the Board's property.

(5) The Company shall bear and on demand pay to the Board all costs of the superintendence by their engineer of the works upon, across, over, under or in any way affecting the railway works, and all proper costs of watching, lighting and protecting the Board's railways during the execution of the works, but such superintendence shall not relieve the Company from liability for any accident which may be occasioned by or through the works or by their contractors, agents and workmen.

(6) The Company shall maintain the works in good repair, and in default thereof the Board may by notice in writing signed by their engineer and delivered at the principal office for the time being of the Company require the Company forthwith to remedy the default, and if the Company for 28 days after the receipt of such notice refuse or neglect to proceed with the repair and do not dispute the necessity thereof the Board may without further notice to the Company carry out the repair and all expenses properly incurred by them in or about such repair shall be repaid to them by the Company:

Provided that in case of accident or if immediate danger is apprehended to railway works by reason of such want of repair the Board may, without giving such notice, make such repairs as may be necessary, the reasonable expenses thereof to be repaid as hereinbefore provided.

(7) The Company may acquire such easements across, over or under any of the railways, roads and property of the Board as may be necessary for the purposes of the works.

(8) The Board may at any time, upon giving the Company 28 days' notice in

writing signed by their engineer and delivered at the principal office of the Company, require the Company at the Company's expense to divert or alter the level of any of the works passing in, over, upon, across or under or in any way affecting the railway works, so as to admit of any repair, removal, alteration or extension of the railway works which the Board think necessary:

Provided that any such diversion or alteration shall be so effected as to cause the least possible interference with the Company's works or inconvenience to the Company and to the reasonable satisfaction of the Company's engineer, and so as not to interrupt the supply of water by the Company.

(9) If any injury to the railway works or interruption of traffic thereon shall arise from or be in any way caused by the works, or by the bursting, leakage or failure of any works of the Company, the Company shall make full compensation to the Board in respect thereof.

(10) The Company shall from time to time pay to the Board any additional expense incurred by the Board in effecting any repair, removal, widening or alteration of the Board's railways by reason of the existence of any conduits, pipes or works of the Company in, upon, across or under the Board's railways.

(11) No provision of this order relating to the works shall deprive the Board of any right to lateral support for their railways, embankments and works.

(12) Any dispute or difference which may arise between the Company and the Board as to the implementation of the provisions of this section shall be referred to and determined by an arbitrator to be appointed by agreement between the parties 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.

Pipe-laying at Newhaven harbour

34.— (1) The Company shall not execute work which may in any way interfere with the Newhaven harbour or the traffic thereon except under the superintendence of the engineer of Sealink Harbours Limited (hereafter in this section called "Sealink", which expression includes any subsidiary (within the meaning of section 736 of the Companies Act 1985) of Sealink in which the said harbour is for the time being vested) and in such manner as shall be reasonably approved by him.

(2) The costs and expenses reasonably incurred by Sealink in such supervision and in watching or signalling so as to prevent injury to the harbour or danger or impediment to the traffic of the railway shall be repaid by the Company.

(3) If at any time after a line of pipes has (whether before or after the coming into operation of this order) been laid across and under the bed of Newhaven harbour, Sealink serve written notice on the Company requiring them to alter the line in such manner and to such extent as may be reasonably specified in the notice, the Company shall without unnecessary delay give effect to the notice and may recover the costs of so doing from Sealink.

(4) If the Company fail to comply with the provisions of subsection (3) above Sealink may themselves effect the alterations subject to the reasonable directions, if any, of the Company.

(5) Any dispute between the Company and Sealink as to the reasonableness of a requirement under the foregoing provisions of this section or of any act or omission relative to such a requirement shall, at the written request of either party, be referred to and determined by an arbitrator to be appointed by the Secretary of State.

(6) All pipes and conduits laid and works executed by the former Newhaven and Seaford Water Company under the Newhaven and Seaford Water Act 1898 (now repealed) shall be maintained by the Company in good repair and condition and so as in no way to cause any injury to the banks or bed of the River Ouse, and the Company shall immediately on receiving notice of any defect in such pipes, conduits or works, make good every such defect, and in default it shall be lawful for Sealink to carry out the necessary works to make good every such defect and to recover the expense thereof from the Company as a debt due by them to Sealink.

Telecommunication apparatus

35. Any electrical works or equipment constructed, placed or used pursuant to this order shall be so constructed, placed and used and so maintained that electricity generated, conveyed or used in or in connection with such works or equipment does not cause interference (whether by induction or otherwise) with any telecommunication apparatus (as defined in paragraph 1 of Schedule 2 to the Telecommunications Act 1984(**a**)) belonging to or used by British Telecommunications plc or with the successor company (as defined by section 60 of the Telecommunications Act 1984) or with telecommunication by means of any such apparatus.

Chailey waterworks

36.— (1) In this section "the Chailey works" means the waterworks constructed by the then Rural District Council of Chailey under section 18 of the Chailey Rural District Council Act 1934(**b**)

(2) Nothing done under this order in relation to the Chailey works shall extend to or authorise any interference with or endangering of works, apparatus or rights of the Central Electricity Generating Board without the consent in writing of that Board, but such consent shall not be unreasonably withheld.

(3) For the protection of the River Ouse (Sussex) Internal Drainage Board (in this section referred to as "the drainage board") the following provisions shall, unless otherwise agreed in writing between the drainage board and the Company, apply and have effect with respect to the exercise by the Company

(**a**) 1984 c. 12.
(**b**) 1934 c. lxxiii.

of the powers conferred upon them by this order in relation to the Chailey works—

(a) if in consequence of the exercise by the Company of the powers of section 28 (Power to take waters) of this order but not otherwise the level of the water in any watercourse or ditch for which the drainage board are responsible and which is utilised as a drinking place for cattle or for the purpose of preventing the passage of cattle from lands on one side of such watercourse or ditch to lands on the other side thereof shall be lowered to such an extent as to render the watercourse or ditch useless for the purposes aforesaid, the Company shall repay to the drainage board the expense (if any) to which the drainage board may be liable in consequence of such lowering for the purpose of providing drinking places for such cattle or erecting fences:

Provided that no liability shall attach to the Company under this paragraph if such lowering could have been avoided by the exercise by the drainage board of their powers and duties in relation to any watercourse or ditch or by the reasonable operation by them of any sluices or tide-flaps;

(b) if the Company in the exercise of the powers of this order shall cause water to be discharged into any ditches on land within the district of the drainage board so as to cause flooding or other injury to that land in the neighbourhood of or affected by the pumping station comprised in the Chailey works the Company shall pay compensation for all damage sustained by the drainage board by reason or in consequence of the operations of the Company, and the amount of such compensation shall be settled in case of dispute by arbitration as hereinafter provided.

(4) Any question or dispute which may arise between the Company and the Central Electricity Generating Board or the drainage board (as the case may be) under the foregoing provisions shall be referred to and determined by a single arbitrator to be agreed by the parties 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.

For protection of Fox Ash Poynings premises

37. In compensation for any diminution or cesser of the supply of water formerly given from certain springs to the premises known as Fox Ash Poynings the Company shall, unless prevented by frost, unusual drought or other unavoidable cause or accident, afford to those premises free of charge a supply of water amounting to 350 gallons per day.

For protection of stream near Poynings

38.— (1) For the purpose of measuring the water flowing down the stream from the pond to the north of the Poynings pumping station the Company shall maintain a proper and sufficient measuring gauge and indicating apparatus in the said stream at or near the point at Poynings where the stream passes under the road near the smithy and the said gauge and apparatus shall, subject to all necessary consents of the owners, lessees and occupiers of the land over which

access is required for the purpose, be open at all reasonable times to the inspection and examination of the Mid-Sussex District Council and of the Southern Water Authority and of all other persons interested in the flow of the said stream.

(2) If it shall be proved to an arbitrator (to be appointed as hereinafter mentioned) by the said Council or Authority or by any other person interested in the flow of the said stream that the pumping by the Company at the Poynings pumping station has caused the flow of water in the said stream over the said gauge to be diminished below the rate of 40,000 gallons per day of 24 hours the Company shall from time to time discharge from that pumping station the amount of such diminution not exceeding 10,000 gallons per day of 24 hours into the said pond, and also such further quantity of water into the said pond or the said stream as is required to ensure that the flow of water in the said stream over the said gauge is not less than 40,000 gallons per day of 24 hours.

(3) The Company shall as soon as reasonably practicable after such proof as aforesaid and after obtaining the grant to them without payment of all such easements and facilities as may be necessary (which grant the Company shall use their best endeavours to obtain) construct all such works (in this section referred to as "the discharge works") as may be necessary to enable them to discharge water into the said pond or stream as aforesaid.

(4) Notwithstanding the foregoing provisions of this section the Company shall not be liable to discharge water into the said pond or stream under this section if the owner, lessee or occupier of any such land adjoining the said pond or stream shall after reasonable demand refuse to afford to the officers, servants or other representatives of the Company at all reasonable times access to the said gauge and apparatus and to the discharge works.

(5) The Company shall not be subject to the obligation contained in subsection (2) above if prevented from discharging water thereunder in consequence of frost, unusual drought or other unavoidable cause or accident.

(6) In case of any neglect on the part of the Company to maintain the said gauge and apparatus in a state of efficiency, and in case of any other neglect by or in consequence of which the said quantity of water shall not be discharged in accordance with this section, the Company shall pay to the said Council and to the said Authority and to any person who shall sustain loss, damage or injury by such diminution of flow the sum of £2 for every day on which such neglect occurs.

(7) Any question, dispute or difference which may arise between the Company and the said Council or the said Authority or any other person interested in the flow of the said stream with respect to the effect of the pumping by the Company as aforesaid, or with respect to the state of efficiency or condition of the said gauge or apparatus, shall be referred to and determined by a single arbitrator appointed (unless otherwise agreed) by the President of the Institution of Civil Engineers.

Marriott Estates

39.— (1) For the protection of the owners of the estates known as the Marriott estates in the parish of East Grinstead the provisions of subsection (2)

below shall, unless otherwise agreed in writing between the Company and the said owners or their respective successors in title, apply and have effect.

(2) The rights and powers vested by the East Grinstead Gas and Water Act 1910 (now repealed) in the East Grinstead Gas and Water Company and now in the Company with respect to Work No. 3 the construction of which was sanctioned and confirmed by that Act shall notwithstanding the repeal of that Act be subject in all respects to the provisions so far as applicable of an agreement dated the 29th day of April 1909 and made between Randolph Charles Marriott and Arthur Hepburn Hastie of the first part, the Reverend George Herbert Marriott of the second part, Cordelia Isabella Marriott of the third part, and the East Grinstead Gas and Water Company of the fourth part, except the provision thereof restricting the use of the said work for the distribution of water derived from sources therein specified.

Continuing payments in respect of transfer of Uckfield undertaking

40.— (1) Notwithstanding the repeal by this order of section 17 of the Newhaven Seaford and Ouse Valley Water (No. 2) Order 1959(a) the Company shall continue to pay to the Wealden District Council such sums as shall be necessary to meet payments of principal and interest and sinking fund payments in respect of loans raised by that council for the purposes of the Uckfield undertaking as defined in that order when such payments fall due (after giving credit for grants if any receivable by the council towards such payment).

(2) Any payment made under this section by way of loan redemption shall be deemed to be a capital payment and any other such payment shall be deemed to be an annual payment.

(3) The sums to be paid under this section shall, unless otherwise agreed between the Company and the council, become due and shall be paid 14 days before the date upon which the said interest and payments become payable by the council.

(4) The Company shall not be liable under subsection (1) above in respect of any payments fairly attributable to a period before 1st October 1960, and for the purpose of this subsection payments shall be calculated as if any amount due in respect of interest accrued from day to day.

(5) The Wealden District Council shall at the expense in all respects of the Company take such steps for the repayment of the loans to which the said interest and sinking fund payments relate and execute such deeds and documents and give such notices for repayment or reborrowing and make such repayment or reborrowing of the said loans or any of them, as the Company may from time to time require and as the Council may lawfully be able to make, and the liability of the Company under this section in respect of any loan shall extend to any loan substituted therefor.

Tidal works

41.— (1) A tidal work shall not be constructed, renewed or altered except in

(a) S.I. 1960/494.

accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by him before the work is begun.

(2) If a tidal work is constructed, renewed or altered in contravention of this section or of any condition or restriction imposed under this section—

(a) the said Secretary of State may by notice in writing require the Company at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if, on the expiration of thirty days from the date when the notice is served upon the Company they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be recoverable from the Company.

Crown rights

42. Nothing in this order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown, and in particular and without prejudice to the generality of the foregoing, nothing herein contained shall authorise the Company to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose.

Repeals and partial saving

43.— (1) Subject to the provisions of subsection (2) below, the Mid-Sussex Water Acts and Orders 1881 to 1983 are hereby repealed.

(2) Notwithstanding the repeals effected by this section, the provisions of section 68 of and the Second Schedule to the Mid-Sussex Water Act 1890(**a**) (as set out in Schedule B to the Mid-Sussex Joint Water Order 1907(**b**) and repeated in Schedule 3 to this order) and the provisions of section 11 of the North West Sussex (Weir Wood) Order 1960(**c**) (as set out in Schedule 4 to this order) shall continue to have such effect (if any) as they had prior to the date of the coming into operation of this order.

(3) Without prejudice to the operation of section 16(1) of the Interpretation Act 1978(**d**)—

(a) all agreements and other instruments entered into or made before the commencement of this order under any enactment repealed by this

(**a**) 1890 c. lxv.
(**b**) Confirmed by 7 Edw. 7. c. clxi.
(**c**) S.I. 1960/644.
(**d**) 1978 c. 30.

order by or with the Company or by or with any other person to whose rights or liabilities the Company have succeeded, and in force immediately before the commencement of this order, shall be as binding and of as full force and effect in every respect against or in favour of the Company, and be enforceable as fully and effectually, as if the enactments under which they were made had not been repealed;

(b) all notices and demands given or made under any enactment repealed by this order and in force immediately before the commencement of this order shall continue in force in like manner and to the like extent as if the enactment had not been so repealed.

(4) The repeal of enactments under this section shall in no way derogate from the restrictions imposed (by reference to any of those enactments) by any licence granted under Part IV of the Water Resources Act 1963 and for the time being in force, and all such restrictions shall, so far as they are consistent with any such licence, continue to be enforceable as if the enactments had not been so repealed.

SCHEDULE 1

Section 3

MODIFICATIONS OF PROVISIONS OF THIRD SCHEDULE

Section (1)	Modification (2)
Section 12 (Map of underground works to be prepared and kept up-to-date)	For the words "after this section is incorporated with their enactments" there shall be substituted the words "for the purposes of 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.
Section 20 (Conditions as to laying mains outside limits of supply)	After subsection (3) there shall be inserted the following subsection:— "(4) The foregoing provisions of this section shall not apply in any case where the undertakers are laying mains in streets forming the boundary of their limits of supply in exercise of the powers conferred by section 43 of this Schedule as modified by section 3 of, and Schedule 1 to, the Mid-Sussex Water Order 1985".
Section 41 (Laying of communication pipes, &c.)	For the proviso to subsection (1) there shall be substituted the following proviso:— "Provided that the undertakers may elect to lay a main in lieu of any part of a service pipe which is to be laid in a highway and in that case shall lay a communication pipe from that main and connect it with the supply pipe"; For the proviso to subsection (3) there shall be substituted the following proviso:— "Provided that if under the provisions of this section the undertakers lay a main in lieu of part of a service pipe the additional cost incurred of laying a main instead of that part of the service pipe shall be borne by them".

Section 43 (Power to break open streets forming boundary of limits of supply)	After the words "and removing" there shall be inserted the words "mains and".
Section 54 (Water rates on certain houses may be demanded from the owners)	In subsection (1) for the words "thirteen pounds" there shall be substituted the words "fifty-six pounds or such other value as may, in the area in which that house or other building is situate, be the limit of value for the time being in force for the purposes of the proviso to section 55(1) of the General Rate Act 1967(a)", and the proviso shall be omitted.
Section 55 (Making and dates for payment of water rates)	For subsection (2) there shall be substituted the following subsection:—

"*(a)* A water rate made under this section shall not be operative for any period after the expiry of the period of twelve months in respect of which it was made unless no new rate is made in respect of the immediately succeeding period of twelve months, in which event the said rate shall continue to operate for successive periods of six months until a new rate (of which prior notice has been given in accordance with paragraph *(b)* of this subsection) has been made and becomes operative in respect of a period of twelve months from the expiry of one of such periods of six months.

(b) The notice for the purposes of the last foregoing paragraph shall be a notice published, not later than one month before the new rate becomes operative, in one or more local newspapers circulating in the limits of supply of the undertakers, stating the amount of the new rate and the period in respect of which it has been made".

(a) 1967 c. 9.

Section 75 (Sale of stock by auction or tender)	After subsection (4) there shall be inserted the following subsection:— "(5) In this section 'stock' includes shares".
Section 76 (Reserve and contingency funds)	In subsection (4) after the words "contingency fund" there shall be inserted the words "and depreciation" and for the words "twelve and a half" there shall be substituted the word "forty". In subsection (5) after the words "contingency fund" there shall be inserted the words "and annual provision for depreciation" and for the words "one and a quarter" there shall be substituted the word "four".
Section 77 (Limitation on balance carried forward at end of year)	Subsection (1) shall have effect as if— *(a)* in paragraph *(a)*, after the word "interest", there were inserted the words "(including any tax payable in respect of any such dividend)"; and *(b)* at the end of paragraph *(c)* there were added the words "(including any tax payable in respect of any such dividends)".
Section 82 (Power to enter premises)	After paragraph *(d)* of subsection (1) there shall be inserted the following paragraph:— "*(e)* for the purpose of cutting off the supply of water to those premises in any case in which the undertakers are authorised to cut off that supply".

SCHEDULE 2 — Section 25

LIMITS OF SUPPLY

In the county of Kent

In the district of Tunbridge Wells, the parish of Speldhurst excluding—

(a) all parts thereof within a radius of 3 miles drawn from the centre of the western door of the Church of the Holy Trinity, Tunbridge Wells; and

(b) so much thereof as lies to the north and northwest of a boundary described as follows—

commencing at the junction of the Ashhurst Road (B2110) with the road B2188;

thence in a westerly direction along the southern boundary of the Ashhurst Road to a point on the north-eastern boundary of Newpark Wood at grid reference TQ 5293/3883;

thence by an imaginary straight line to the point at grid reference TQ 5216/3856;

thence by an imaginary straight line to the point at grid reference TQ 5170/3805;

thence by an imaginary straight line to a point on the county boundary at grid reference TQ 5150/3748.

In the county of East Sussex

In the district of Wealden, the parishes of Forest Row, Hartfield, Withyham, Rotherfield, Wadhurst, Mayfield, Crowborough, Buxted, Maresfield, Danehill, Fletching, Hadlow Down, Uckfield, Isfield, Little Horsted and Framfield; the parish of Frant excluding all parts thereof within a radius of 3 miles drawn from the centre of the western door of the Church of the Holy Trinity, Tunbridge Wells.

In the district of Lewes—

The parishes of Peacehaven, Newhaven, Piddinghoe, South Heighton, Tarring Neville, Southease, Rodmell, Beddingham, Firle, Glynde, Ringmer, Barcombe, Newick, Chailey, Wivelsfield, St. John (Without), East Chiltington, Plumpton, Streat, Westmeston and Ditchling. The parish of Hamsey, excluding the part thereof lying to the south of a boundary described as follows—

commencing at a point where the Chalkpit Cut meets the River Ouse at grid reference TQ 4060/1165;

thence in a westerly direction by an imaginary straight line to a point at grid reference TQ 4002/1160 (at Offham Hill);

thence by an imaginary straight line to a point on the parish boundary north-east of Lewes Race Course at grid reference TQ 3923/1126.

In the parish of Falmer, that part thereof lying to the west of a boundary described as follows—

commencing at a point where the northern boundary of the parish meets the south-eastern corner of the parish of Streat at the Mound, Horseshoe Plantation (at grid reference TQ 3493/1116;

thence by an imaginary straight line to a point at grid reference TQ 3469/1068 near the south-western boundary of St. Mary's Farm;

thence by an imaginary straight line to a point at grid reference TQ 3506/1050;

thence by an imaginary straight line to a point on the southern boundary of the parish at grid reference TQ 3484/0993.

The Seaford area, being that part of the district lying to the south-east of the parishes of Newhaven and South Heighton.

In the county of West Sussex

The district of Mid-Sussex excluding the parish of Pyecombe. That part of the parish of Pyecombe lying to the north and north west of a boundary described as follows—

commencing at a point where the road leading from the Clayton Windmills to the main London road leaves the western boundary of the parish of Clayton at grid reference TQ 3009/1339;

thence westward along the southern boundary of the first-mentioned road to its junction with the main London Road;

thence by an imaginary straight line to a point on the eastern boundary of the parish of Newtimber at grid reference TQ 2790/1380.

SCHEDULE 3 Section 43

PROVISIONS OF THE MID-SUSSEX WATER ACT 1890 SAVED FROM REPEAL

Section 68.

Confirmation of agreement in Second Schedule

The agreement whereof a copy is contained in the Second Schedule to this Act is hereby confirmed and made binding and shall be carried into effect by the Company and Robert Whitehead party thereto his heirs and assigns under and with and subject to the same obligations rights powers and liabilities with respect to the supply of water to be furnished by the Company and the laying of communication pipes by the inhabitants and otherwise as if the stipulations thereof had been enacted by this Act and the property or premises to be supplied were a dwelling-house within the limits thereof and the said Robert Whitehead his heirs and assigns were owners or occupiers entitled to demand a supply of water for domestic purposes and the provisions of this Act and of the Waterworks Clauses Act 1847(a) shall apply thereto except so far as the same may be expressly varied by or inconsistent with the terms of the said agreement.

The Second Schedule to the Mid-Sussex Water Act 1890.

AN AGREEMENT made the second day of May one thousand eight hundred and ninety between the MID-SUSSEX WATER COMPANY LIMITED (herein-after referred to as "the Limited Company") of the one part and ROBERT WHITEHEAD of Paddockhurst in the Parish of Worth in the county of Sussex esquire of the other part.

(a) 1847 c. 17.

WHEREAS a Bill is now pending in Parliament intituled an Act for dissolving the Mid-Sussex Water Company Limited and re-incorporating the members thereof with others and for enabling them to construct and maintain additional waterworks and supply water and for other purposes;

And whereas the said Robert Whitehead petitioned the House of Lords against the passing of the said Bill but he has agreed to withdraw his opposition to the said Bill in consideration of the Limited Company entering into this agreement:

Now the Limited Company in consideration of the said Robert Whitehead having withdrawn his opposition to the said Bill do hereby agree with the said Robert Whitehead as follows (that is to say):—

1. If the said Bill pass into a law in the present session of Parliament the Mid-Sussex Water Company incorporated thereby (herein-after referred to as "the Company") shall within two years from the time when the said Bill passes into a law at their own expense lay down and maintain the requisite mains or pipes for conducting and shall conduct and furnish to a meter connected with a reservoir such meter and reservoir to be provided and fixed by and at the expense of the said Robert Whitehead his heirs and assigns (but to the satisfaction of the Company) within fifty yards of the point where Stoney Lane joins Balcombe Lane a sufficient supply of water for the farm called Yew Tree Farm in the said Balcombe Lane and the cottages of the said Robert Whitehead situate in or fronting on the said Balcombe Lane between its commencement and the point where it joins Stoney Lane and the said Robert Whitehead his heirs and assigns may by communication pipes and other necessary and proper apparatus to be laid and maintained by and at his and their expense furnish a sufficient supply of water from the said reservoir to the said farm and cottages for the use of the said farm and cottages or at the option of the said Robert Whitehead his heirs and assigns in case he or they shall signify in writing to the Company within two years from the time when the said Bill passes into a law his or their desire to have a supply of water to the said farm and cottages direct from the Company without the intervention of a separate reservoir the Company shall conduct and furnish as aforesaid to a meter to be fixed by and at the expense of the said Robert Whitehead his heirs and assigns at the said point near Stoney Lane a constant supply of water under pressure for the use of the said farm and cottages as aforesaid and the Company shall charge the said Robert Whitehead his heirs and assigns for such yearly supply not exceeding the following rates namely:—

One shilling per one thousand gallons up to one hundred thousand gallons;

One shilling and threepence per one thousand gallons of the excess beyond one hundred thousand gallons up to one hundred and fifty thousand gallons;

And one shilling per one thousand gallons of the excess beyond one hundred and fifty thousand gallons:

Provided always that the Company shall be bound if the said Robert Whitehead his heirs and assigns so require to supply to the said reservoir a daily quantity of water of not less than five thousand gallons if such supply be taken by means of a reservoir instead of a constant supply:

Provided also that if the said Robert Whitehead his heirs and assigns so require the Company shall provide and fix the said meter and charge him

or them with an annual rent for the use and maintenance thereof not exceeding ten per centum of the cost price of such meter.

2. The yearly payment to be made on the fourth of the quarter days on which other water rates are payable to the Company happening next after the supply begins and on the same quarter day yearly thereafter and the yearly supply to be considered as ending on that day.

3. This agreement is made subject to such alterations as Parliament may think fit to make therein but if the Committee of either House of Parliament make any material alteration therein it shall be competent for either the Limited Company or the said Robert Whitehead upon giving notice in writing to the other of them to determine this agreement and in case it shall be so determined the Limited Company shall cause all reference to this agreement to be struck out of the said Bill.

4. If the said Bill does not pass into law in the present session of Parliament but the Limited Company introduce the same or a similar Bill in any future session the provisions in this agreement contained shall (subject to the provisions contained in the last preceding clause) be mutatis mutandis confirmed by such subsequent Bill.

In Witness whereof the Limited Company have caused their common seal to be hereunto affixed and the said Robert Whitehead hath hereunto set his hand and seal the day and year first above written.

J. STOKES) Directors of the
R. B. EVERED) Limited Company.

L.S.

W. H. HARDY Secretary.

ROBERT WHITEHEAD.

L.S.

SCHEDULE 4 Section 43

PROVISIONS OF THE NORTH WEST SUSSEX WATER (WEIR WOOD) ORDER 1960 SAVED FROM REPEAL

Section 11

Payments by Company to Board in respect of Newhaven works.

(1) The Company shall in the year commencing on the day of transfer and in every year thereafter repay to the Board the amount which falls to be debited in the accounts of the Board for that year for the redemption of loans and the payment of interest thereon in respect of money borrowed in respect of the Newhaven works.

(2) Any sum payable under the foregoing provisions of this section shall unless otherwise agreed be paid not later than the day on which the amounts referred to in subsection (1) of this section become payable by the Board.

(3) Any payment made by the Company under subsection (1) of this section in respect of the liability for the redemption of a loan shall be

deemed to be a capital payment and any other such payment shall be deemed to be an annual payment.

J. A. L. Gunn,
An Under Secretary
in the Department of the Environment.

Signed by authority of
the Secretary of State
25th March 1985.