

1962 No. 1030

WATER, ENGLAND AND WALES

The Cambridge Waterworks Order, 1962

Made - - - - - 22nd February, 1962

Coming into Operation 12th May, 1962

Whereas it appears to the Minister of Housing and Local Government to be expedient for the purpose of securing a more efficient supply of water to make provision for the transfer to the Cambridge University and Town Waterworks Company of the water undertakings of the councils and joint boards hereinafter mentioned:

And whereas the Minister is empowered to make an order under subsection (2) of section 9 of the Water Act, 1945(a), for the purpose of providing compulsorily for the said transfer, but by virtue of the provisions of the said Act of 1945 the order will not come into operation until the provisions of paragraph 17 of the First Schedule thereto have been complied with:

Now therefore the Minister, in exercise of the powers hereinbefore recited, and of all other powers enabling him in that behalf, hereby orders as follows:—

1.—(1) This order may be cited as the Cambridge Waterworks Order, 1962. Citation.

(2) The Cambridge University and Town Waterworks Acts and Orders, 1853 to 1961, and this order may be cited together as the Cambridge University and Town Waterworks Acts and Orders, 1853 to 1962.

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

“the Act of 1945” means the Water Act, 1945;

“the added limits” means the area described in the first schedule to this order;

“the Company” means the Cambridge University and Town Waterworks Company;

“the Company’s undertaking” means the water undertaking of the Company as for the time being authorised by any enactment;

“the councils” means the Saint Ives Council and the councils of the urban district of Ramsey and the rural districts of Chesterton, Saint Ives and South Cambridgeshire and “council” means any one of the councils;

“the day of transfer” means the 1st day of April or the 1st day of October whichever first occurs next after the expiration of a period of nine months beginning with the commencement of this order;

“the existing limits” means the limits within which the Company are immediately before the day of transfer authorised to supply water;

“the joint boards” means the Chesterton and Saint Ives Joint Water Board constituted under the Chesterton and Saint Ives Joint

Interpre-
tation

(a) 8 & 9 Geo. 6. c. 42.

Water Orders, 1941 and 1948(a), and the Ramsey and Saint Ives Joint Water Board constituted under the Ramsey and Saint Ives Joint Water Orders, 1936(b) and 1950(c), and "joint board" means either of the joint boards ;

"the limits of supply" means the limits within which the Company are for the time being authorised to supply water ;

"the local enactments" means the Cambridge University and Town Waterworks Acts and Orders, 1853 to 1961 ;

"the Minister" means the Minister of Housing and Local Government ;

"the Saint Ives Council" means the mayor, aldermen and burgesses of the borough of Saint Ives in the county of Huntingdon acting by the council of that borough ;

"the transferred undertakings" means, subject to the provisions of subsection (2) of this section, the water undertakings of the councils and the joint boards and includes, subject to the provisions of this order—

(a) all the lands, buildings, waterworks, water, sources of supply, machinery, mains, pipes, meters, plant, stock, spare parts, tools, apparatus, vehicles, stores, and other property, assets and effects, rights, powers and privileges vested in, or enjoyed by, the councils or the joint boards in relation to their respective water undertakings immediately before the day of transfer and all liabilities and obligations to which they were then subject in relation to their respective undertakings ;

(b) the benefits of, and liabilities under, all contracts (other than contracts for the supply of water in bulk by the Company to a council for distribution within the added limits and contracts for the employment of officers or servants) in force immediately before the day of transfer in respect of any of the said undertakings ;

(c) all registers, books of account, maps, plans, specifications, engineering reports and other documents relating solely to any of the said undertakings ;

but does not include—

(i) any funds, money or securities for money (except consumers' deposits) ;

(ii) any liabilities or obligations in respect of any sum borrowed for the purposes of any of the said undertakings ;

(iii) any right to receive payments from the Unemployment Grants Committee or under the Rural Water Supplies and Sewerage Acts, 1944 to 1961, or any payments of a similar nature under any other enactment in respect of expenditure incurred in connection with any of the said undertakings ;

and "transferred undertaking" means any one of the said undertakings ;

"year" means a period of twelve months beginning on the 1st day of April ;

and any expression not hereinbefore defined to which a meaning is assigned by the Third Schedule to the Act of 1945 shall have the meaning so assigned.

(a) S.I. 1948/2757. (b) Confirmed by 26 Geo. 5 and 1 Edw. 8. c. xxii.
(c) S.I. 1950/230.

(2) For the purposes of this order any reference (whether specific or general) to the water undertaking of the Saint Ives Rural District Council shall be construed as a reference to that undertaking exclusive of the part thereof which is used only for or relates only to the supply of water to the parishes of Hemingford Abbots, Hemingford Grey and Houghton and Wyton.

(3) Unless 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.

3.—(1) Not later than two months after the commencement of this order each of the councils and each joint board shall send to the Company a statement giving particulars with respect to the matters specified in the definition of the transferred undertakings.

Information to be supplied before transfer.

(2) Any question arising between a council or a joint board and the Company as to the correctness of any such statement shall be determined by an arbitrator to be appointed either by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers.

4. The Company may at all reasonable times inspect, and shall at their expense be entitled to copies of, all registers, books of account, maps, plans, specifications, engineering reports and other documents which relate to any of the transferred undertakings and are in the possession or under the control of a council or joint board.

Inspection of books, etc.

5.—(1) Subject to the provisions of this order, on the day of transfer—

(a) the transferred undertakings shall by virtue of this order be transferred to and vest in the Company and become part of the Company's undertaking; and

Transfer of undertakings.

(b) the limits of supply shall be extended so as to include the added limits.

(2) For the purposes of this order any mains, pipes or other works so transferred shall be deemed to have been laid or constructed by the Company.

6.—(1) Subject to the provisions of subsections (2), (3), (4), (5) and (6) of this section, as from the day of transfer the local enactments shall, with any necessary modifications, apply and have effect within the added limits as they apply and have effect within the existing limits and the Company within the added limits shall have the same powers and be subject to the same obligations as they have and are subject to within the existing limits.

Application of local enactments.

(2) Subject to the provisions of this order during the period of six years beginning on the day of transfer the rates and charges which the Company shall levy and make for the supply of water in the added limits shall (notwithstanding anything contained in the local enactments) exceed as hereinafter specified the rates and charges which the Company levy and make in the remainder of the limits of supply, that is to say:—

(a) during the period of three years beginning on the day of transfer the rate charged by the Company for the supply of water for domestic purposes to any premises in the added limits shall be calculated at a rate-poundage exceeding by fifty per cent. the rate-poundage charged for such a supply to premises of the same

net annual value used for similar purposes in the remainder of the limits of supply and during the remainder of the said period of six years shall be calculated at a rate-poundage exceeding by twenty-five per cent. the rate-poundage charged for such a supply to premises of the same net annual value used for similar purposes in the remainder of the limits of supply ;

(b) during the said period of three years the minimum charge for a supply of water for domestic purposes to any premises in the added limits shall exceed the minimum charge for such a supply in the remainder of the limits of supply by fifty per cent. and during the remainder of the said period of six years shall exceed the minimum charge in the remainder of the limits of supply by twenty-five per cent. ;

(c) during the said period of three years the charge made by the Company for the supply of water by meter to any premises in the added limits exclusive of the rural district of South Cambridgeshire (except such charges as may be agreed or determined under section 27 of the Act of 1945) shall exceed by fifty per cent. the charge for a corresponding supply in the remainder of the limits of supply and during the remainder of the said period of six years shall exceed by twenty-five per cent. the charge for such corresponding supply.

(3) Where a water rate or charge in respect of any premises calculated in accordance with subsection (2) of this section would but for the provisions of this subsection include a fraction of a penny any such fraction shall be ignored.

(4) The provisions of paragraph (c) of subsection (2) of this section shall be without prejudice to any agreement for the supply of water obligations under which are transferred to the Company by virtue of this order.

(5) The provisions of subsection (2) of this section shall not apply in relation to the rates and charges for the supply of water to any premises in the added limits which immediately before the day of transfer are supplied with water by the Company in pursuance of an order under section 11 of the Act of 1945.

(6) Notwithstanding the foregoing provisions of this section, if the day of transfer is the 1st day of October—

(a) the water rates and charges which were in force in the added limits immediately before that day shall continue in force until the 1st day of April next thereafter, and

(b) references in subsection (2) of this section to the day of transfer shall be construed as references to that 1st day of April.

Consideration for transfer of undertakings.

7.—(1) The price or consideration to be paid by the Company to the owners of each of the transferred undertakings for the transfer of that undertaking shall be such sum as may be agreed between such owners and the Company or as, in default of agreement, shall be determined by an arbitrator to be appointed either by agreement between the parties or, in default of agreement, by the President of the Institute of Chartered Accountants in England and Wales, to be the amount which the undertaking might have been expected to realise if this order had not been made and it had been sold as a going concern on the day of transfer in the open market by a willing seller to a willing buyer :

Provided that, in the case of each transferred undertaking, the said price or consideration shall not be less than the aggregate of—

- (a) the amount of any loans raised by the owners of the undertaking for the purposes of the undertaking outstanding on the day of transfer (together with, in the case of each transferred undertaking which is owned by a joint board, the amount of any premium payable by the joint board on the repayment and redemption of any such loan in accordance with the provisions of section 8 of this order) less (i) the amount of the unexpended balance of any such loan, (ii) the amount of any sinking fund established for the repayment of any such loan, and (iii) the amount of the capitalised value as on the day of transfer of any annual contributions payable on or after that day to the owners of the undertaking by the Unemployment Grants Committee or under the Rural Water Supplies and Sewerage Acts, 1944 to 1961, or under any other enactment towards the financing of the liabilities in respect of which the loan was raised ;
- (b) the amount of any capital expenditure incurred by the owners of the undertaking for the purpose of the undertaking which was not defrayed from moneys raised by the exercise of a statutory borrowing power and in respect of which the owners intended to exercise a statutory borrowing power which was available to them immediately before the day of transfer or in respect of which they intended, and but for this order could reasonably have been expected, to obtain such power ;
- (c) the amount equal to the then current value of all stores which immediately before the day of transfer are held on revenue account by the owners of the undertaking and which by this order are transferred to the Company ; and
- (d) in the case of each transferred undertaking which is owned by a joint board the amount of the costs and expenses reasonably incurred or to be incurred by that board in winding up their affairs.

(2) The Company shall pay to the owners of each of the transferred undertakings the sum agreed or determined as aforesaid as the price or consideration for the transfer of their undertaking as soon as reasonably practicable after the day of transfer and shall pay interest thereon at a rate of one per cent. per annum above bank rate for the time being less income tax from the day of transfer until the date when the said price or consideration shall be paid :

Provided that if in any case the price or consideration has not been agreed or determined as aforesaid before the day of transfer the Company may at any time after that day and before the price or consideration has been agreed or determined pay to such owners a sum on account of such price or consideration and the Company shall not be liable to pay interest on the proportion of the said price or consideration represented by such sum in respect of any period after the payment of such sum.

8.—(1) On the day of transfer the Chesterton and Saint Ives Joint Water Orders, 1941 and 1948, and the Ramsey and Saint Ives Joint Water Orders, 1936 and 1950, shall be repealed except to such extent and for such time as it may be necessary for the said enactments to continue in force to enable the joint boards to carry out their functions

Dissolution
of joint
boards.

under this order and to wind up their affairs and on and after that day each joint board shall continue in existence for the purposes only of carrying out such functions and winding up their affairs.

(2) Each joint board shall as soon as reasonably practicable after they have received from the Company the price or consideration payable to them under section 7 of this order apply such price or consideration in repayment and redemption of any moneys borrowed by the joint board (other than, in the case of the Ramsey and Saint Ives Joint Water Board, moneys in respect of which liability is transferred to their constituent councils under section 9 of this order) and in the discharge of any other liabilities of the board which are not transferred to the Company by virtue of this order and shall distribute any balance remaining after such repayment and redemption and discharge of other liabilities together with any other moneys remaining in their hands after all their liabilities have been met to their constituent councils in the proportions in which immediately before the day of transfer such constituent councils are liable to contribute to the common fund of the joint board.

(3) When each joint board have completed their functions under the last preceding subsection and wound up their affairs they shall by resolution declare that such functions have been completed and their affairs wound up and the joint board shall thereupon by virtue of this order be dissolved :

Provided that if the Minister is satisfied that the joint board have completed the said functions and wound up their affairs and that they have not passed any such resolution as aforesaid he may declare the joint board to be dissolved and upon such declaration the joint board shall by virtue of this order be dissolved.

(4) The accounts of each joint board and of their committees and officers shall be made up to the day on which the board is dissolved and shall be audited in like manner and subject to the like incidents and consequences as if this order had not been made and any sum certified by a district auditor to be due from any person at any such audit shall be paid to the constituent councils of the joint board in the proportions in which immediately before the day of transfer such constituent councils are liable to contribute to the common fund of the joint board.

Transfer of grants and of liabilities of joint board under certain mortgage deeds.

9.—(1) On the day of transfer the right to receive payments which but for this order would have been made to the Ramsey and Saint Ives Joint Water Board in pursuance of undertakings given under the Rural Water Supplies and Sewerage Acts, 1944 to 1961, shall be transferred by virtue of this order to the constituent councils of that joint board in the proportions in which immediately before the day of transfer such constituent councils are liable to contribute to the common fund of the said joint board.

(2) The liability of the said joint board under the mortgage deeds described in the second schedule to this order shall, on the day of transfer, be transferred by virtue of this order to the constituent councils of that joint board in the same proportions as are mentioned in subsection (1) of this section and each such council shall repay to the Public Works Loan Board the part of the balance of the debt of the said joint board to the Public Works Loan Board transferred

to that council and shall observe and perform the covenants in the said mortgage deeds so far as the same still remain to be performed and observed.

(3) As from the day of transfer the revenues of each of the constituent councils of the said joint board shall be substituted for the revenues of that joint board as security under the said mortgage deeds for that part of the balance of the debt of the said joint board to the Public Works Loan Board transferred to that council.

10.—(1) Each council and joint board shall be entitled to and may recover all rates, rents, charges, profits and sums of money and shall discharge and pay all debts and liabilities in respect of the transferred undertaking of that council or joint board which accrue due or become payable before the day of transfer and subject to the provisions of this order the Company shall be entitled to and may recover all such revenues and shall discharge or pay all such outgoings which accrue due or become payable on or after that day :

Recovery
and
apportion-
ment of
debts.

Provided that (except so far as may be otherwise agreed between the council or joint board and the Company) so much of any amount recovered or paid by the council or joint board by virtue of this section as is attributable to any period beginning on or after the day of transfer shall (as the case may require) be paid by them to, or be repaid to them by, the Company and so much of any amount so recovered or paid by the Company as is attributable to any period before the day of transfer shall (as the case may require) be paid by them to, or be repaid to them by, the council or joint board.

(2) Where necessary for the purposes of this section, any revenues and outgoings shall be apportioned between the Company and the council or joint board.

(3) Any question which may arise under this section shall be determined by an arbitrator to be appointed either by agreement between the parties, or, in default of agreement, by the President of the Institute of Municipal Treasurers and Accountants.

11.—(1) The Company shall take over and employ as from the day of transfer every officer or servant who immediately before that day is employed by a council solely or mainly in connection with the council's water undertaking or by a joint board (and who shall be willing to enter the service of the Company) on terms and conditions not less favourable than those on which they were employed by a council or joint board immediately before the day of transfer :

Transfer of
officers.

Provided that—

(a) the Company shall not be liable to take into their service any officer or servant whose contract of service was entered into after the 30th day of April, 1961, unless such contract was entered into to replace an officer or servant who had left the service of the council or joint board and contained terms and conditions substantially similar to those of the contract with that officer or servant or unless such contract was entered into with the consent of the Company ;

(b) where it is necessary for the purpose of executing the provisions of section 8 of this order and winding up the affairs of a joint board that any officer or servant of a joint board should remain

in the service of that board after the day of transfer the Company shall, subject to the provisions of this section, take over and employ any such officer or servant (if he is willing to enter their service) on such terms and conditions as aforesaid as from the day when the joint board in question is dissolved.

(2) Every person who becomes an officer or servant of the Company by virtue of subsection (1) of this section shall be afforded by the Company superannuation rights not less favourable than those enjoyed by him immediately before the day of transfer.

(3) Any compensation payable under section 44 of the Act of 1945 or this order to an officer or servant of a council or joint board in consequence of this order or anything done in pursuance thereof shall be payable—

(a) in the case of an officer or servant whose contract of service with a council was entered into after the 30th day of April, 1961, and who by reason of proviso (a) to subsection (1) of this section does not enter the employment of the Company under that subsection, by that council;

(b) in any other case by the Company.

Carrying on
of existing
undertakings.

12.—(1) A council or joint board in carrying on their water undertaking until the day of transfer shall not, without the previous consent of the Company—

(a) enter into any contract or, subject to the provisions of this section, incur any liability otherwise than in the ordinary course of carrying on their water undertaking extending beyond the day of transfer or make any unnecessary expenditure or any exceptional expenditure other than expenditure reasonably incurred in respect of accountancy, engineering or legal costs in connection with the transfer of that undertaking by this order;

(b) vary any rates, rents or charges which were being demanded or taken by them at the commencement of this order; or

(c) increase the remuneration, salaries, wages or emoluments of their officers or servants in connection with their water undertaking except in accordance with any contract of service or scale of remuneration or at the instance of any joint industrial council or other wage negotiating body.

(2) Nothing in this order shall impose any liability upon the Company in respect of anything done in contravention of this section.

Power to
maintain
transferred
works.

13. As from the day of transfer the Company may for the purposes of their undertaking continue and maintain the waterworks transferred to them by this order and may take for the said purposes any water which may be taken or intercepted by the said waterworks and which a council or joint board might have taken if this order had not been made.

Continuance
of pro-
ceedings.

14. Nothing in this order shall release, discharge or suspend any action, arbitration or other proceeding, or cause of action, arbitration or other proceeding, pending or existing, immediately before the day of transfer by or in favour of or against a council or joint board in relation to the transferred undertaking of the council or joint board and (but without prejudice to the preceding provisions of this order) any such action, arbitration or proceeding or cause of action, arbitration or proceeding may be maintained, prosecuted or continued by or in favour of or against the Company.

15. Subject to the provisions of this order, all sales, conveyances, grants, assurances, deeds, contracts (other than contracts the benefits of, and the liabilities under, which are not transferred by this order), bonds, agreements, notices and demands affecting a transferred undertaking and in force immediately before the day of transfer shall on and from that day be as binding and of as full force and effect in every respect and may be enforced as fully and effectually against or in favour of the Company as if instead of the council or the joint board the Company had been a party thereto or bound thereby or entitled to the benefits thereof.

Saving of agreements, etc.

16. All books and documents which if this order had not been made would have been evidence in respect of any matter for or against a council or joint board shall in so far as they relate to the transferred undertaking of that council or joint board be admissible in evidence on and after the day of transfer in respect of the same matter for or against the Company.

Books to remain evidence.

17. As from the day of transfer any agreement in so far as it relates to the supply of water in bulk by the Company to a council for distribution within the added limits shall cease to have effect, but without prejudice to the right of the Company to recover any sums payable in respect of water supplied before that day.

Bulk supply agreements.

18. For the purposes of this order, section 91 of the Third Schedule to the Act of 1945 (which provides for the appointment of an arbitrator) and section 94 of the said Schedule (which requires copies of the special Act to be kept by undertakers in their office, and deposited with certain officers), shall apply to the Company's undertaking and are hereby incorporated with this order.

Application of certain provisions of Third Schedule to Act of 1945

19.—(1) Any order made under section 113 of the Public Health Act, 1936(a), and in force immediately before the day of transfer authorising a council to supply water in an area which is not within the added limits or the existing limits shall as from the day of transfer have effect in respect of that area as if it were an order under section 11 of the Act of 1945 authorising the Company to supply water in that area.

Fringe orders.

(2) Save as aforesaid any order authorising a council to supply water under section 113 of the Public Health Act, 1936, shall as from the day of transfer cease to have effect and any order under section 11 of the Act of 1945 which authorises the Company to supply water in the added limits shall, except insofar as it relates to any area outside those limits, also cease to have effect as from that day.

(3) Where immediately before the day of transfer a local authority (other than a council) were supplying water within the added limits by virtue of consent given by a council under section 113 of the Public Health Act, 1936, that consent shall be deemed to have been given by the Company.

20.—(1) Where part only of a water undertaking is to be transferred by virtue of this order or where a water undertaking, or part thereof, to be so transferred includes an asset which is held or used in part for the purposes of that undertaking and in part for other

Adjustment of property rights and liabilities.

(a) 26 Geo. 5 & 1 Edw. 8. c. 49.

purposes of a council or which forms part only of a building or other premises of a council the undertakers concerned in the transfer may, notwithstanding any previous provision of this order, enter into agreements for the adjustment of any property, rights or liabilities which are to be so transferred and to which immediately before the day of transfer the council from which the transfer is to be made are entitled or subject otherwise than exclusively in relation to the water undertaking or, as the case may be, to the part of the water undertaking, so to be transferred.

(2) Without prejudice to the generality of subsection (1) of this section any such agreement may provide for the joint user of any property and for payments to be made in respect of any of the terms or conditions of the agreement.

(3) In default of agreement as to any matter requiring adjustment under this section the question shall be referred to arbitration and the award of the arbitrator may provide for any matter for which an agreement under this section might have provided.

(4) Where a question has arisen under this section in respect of any property, right or liability and has not been agreed or determined by arbitration before the day of transfer such property, right or liability shall not on that day be transferred by virtue of this order but any such property or right, so far as may be necessary for the effective operation of the undertaking or, as the case may be, of the part of the undertaking, transferred to the Company may be used or enjoyed by the Company on such terms as may be agreed or failing agreement as may subsequently be determined by arbitration, and upon the question being agreed or determined the said property, right or liability shall by virtue of this order be transferred in such manner and upon such terms and conditions as shall be agreed or determined and on a date stated in the agreement or in the award of the arbitrator, as the case may be.

Repeal of
local
enactments.

21. Section 11 (For protection of South Cambridgeshire Rural District Council) and section 12 (Power to execute works beyond limits of supply) of the Cambridge Waterworks (Babraham) Order, 1959(a), are hereby repealed.

Settlement of
disputes.

22. Subject to the provisions of this order, any dispute arising in connection with the provisions of this order between the Company and a council or joint board or between two or more councils or joint boards shall be referred to arbitration.

FIRST SCHEDULE

The borough of Saint Ives in the county of Huntingdon, the urban district of Ramsey, the rural district of South Cambridgeshire, the rural district of Saint Ives except the parishes of Hemmingford Abbots, Hemmingford Grey and Houghton and Wyton and so much of the rural district of Chesterton as is not within the existing limits.

(a) S.I. 1959/2328.

SECOND SCHEDULE

MORTGAGE DEEDS OF THE RAMSEY AND SAINT IVES JOINT WATER BOARD LIABILITY UNDER WHICH IS TRANSFERRED TO CONSTITUENT COUNCILS OF THAT JOINT BOARD

Date	Loan Number	Amount of Loan	Period of Loan
10th September, 1955 ...	203,992	{ £8,000 £12,000	35 years 35 years
19th December, 1955 ...	206,620/1	£19,350	35 years
25th September, 1956 ...	210,222/1	£9,000	15 years
28th February, 1957 ...	210,222/4	£8,000	35 years

Given under the official seal of the Minister of Housing and Local Government this twenty-second day of February, nineteen hundred and sixty-two.

(L.S.)

J. H. Street,
Under Secretary,
Ministry of Housing and Local Government.

STATUTORY INSTRUMENTS

1962 No. 1030

WATER, ENGLAND AND WALES

The Cambridge Waterworks Order, 1962

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