

1975 No. 967

WATER, ENGLAND AND WALES

**The Sunderland and South Shields
Water (Financial Provisions) Order 1975**

Made - - - - 10th June 1975
Coming into Operation 18th June 1975

The Secretary of State for the Environment, in exercise of powers conferred by sections 23, 32 and 50 of the Water Act 1945(a) now vested in him(b), and of all other powers enabling him in that behalf, hereby orders as follows:—

1.—(1) This order may be cited as the Sunderland and South Shields Water (Financial Provisions) Order 1975 and shall come into operation on 18th June 1975.

Citation
and
commence-
ment.

(2) The Sunderland and South Shields Water Acts and Orders 1852 to 1972 and this order may be cited together as the Sunderland and South Shields Water Acts and Orders 1852 to 1975.

2.—(1) In this order, unless the context otherwise requires, expressions to which meanings are assigned by the enactments incorporated with this order shall have the same respective meanings; and—

Interpreta-
tion.

“the Company” means the Sunderland and South Shields Water Company;

“directors” means the board of directors for the time being of the Company;

“the existing enactments” means the Sunderland and South Shields Water Acts and Orders 1852 to 1972;

“the existing loan capital” means the debenture stocks and mortgage debentures specified in Part II of the Schedule to this order issued under the authority of the existing enactments;

“the existing share capital” means the ordinary capital and preference capital specified in Part I of the Schedule to this order issued under the authority of the existing enactments;

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

“the undertaking” means the undertaking of the Company as for the time being authorised by any enactment.

(a) 1945 c. 42.

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

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

Incorporation of enactments.

3.—(1) The following enactments (so far as they are applicable for the purposes of, and are not inconsistent with, the provisions of the existing enactments and this order) are hereby incorporated with this order, namely:—

(a) sections 1 to 55, 61 to 65 and 120 to 123 of the Companies Clauses Consolidation Act 1845(a);

(b) the Companies Clauses Act 1863(b) (except Part IV thereof):

Provided that section 14 of the said Act of 1863 shall have effect as modified by section 6 (Amendment and repeal of enactments) of the Sunderland and South Shields Water (Financial Provisions) Order 1968(c) and section 22 of the said Act of 1863 (which contains regulations as to the creation and issue of debenture stock) as so incorporated shall have effect as if for the words "and to the same amount as" were omitted therefrom.

(2) In the construction of the enactments so incorporated with this order, the expression "the special Act" shall be read as a reference to this order and the expression "the company" shall mean the Company.

(3) For the purposes of this order section 94 of the Third Schedule to the Water Act 1945 (which requires undertakers to keep a copy of the special Act at their principal office and to deposit copies with certain officers) shall apply to the undertaking and is hereby incorporated with this order.

Capital and borrowing powers.

4.—(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 respectively, such sums as, when added to any money raised by the issue of the existing share capital or borrowed by the issue of the existing loan capital and in either case outstanding at the date, or the respective dates, on which the Company exercise the powers of this section, shall be sufficient to produce in the aggregate twenty-six million pounds:

Provided that the aggregate of any sums so borrowed shall not (when added to any money borrowed by the issue of the existing loan capital and outstanding at the date, or the respective dates, on which the Company exercise the powers of this section) exceed in the whole—

(a) the amount (including premiums and allowing for discounts) which for the time being has been raised by the Company by the creation and issue of share capital; and

(b) with the consent of the Secretary of State an additional amount not exceeding five per cent of such first-mentioned amount.

(2) The Company may raise sums by the creation and issue of share capital under subsection (1) of this section by the creation and issue of

(a) 1845 c. 16.

(b) 1863 c. 118.

(c) S.I. 1968/655.

further amounts of ordinary stock or of preference stock or by the creation and issue of new ordinary shares or stock or new preference shares or stock, or wholly or partly by one or more of those modes respectively.

(3) For the purposes of this section the amount raised by the issue of any share capital shall be taken to be the amount raised after taking into account any premiums or discounts which may be obtained or allowed on the issue or re-issue thereof.

(4) The Company may exercise their powers of borrowing money under this section without obtaining any certificate of a justice under section 40 of the Companies Clauses Consolidation Act 1845.

(5) For the purposes of this order an amount equal to the nominal amount of each of the consolidated stocks issued under the Sunderland and South Shields Water (Financial Provisions) Order 1955(a) shall respectively be deemed to have been raised by the issues of such consolidated stocks and the nominal amount of any share capital or debenture stock which has been, or shall hereafter be, issued for a consideration other than cash shall be deemed to have been raised by the issue of such share capital or debenture stock, as the case may be.

(6) The directors of the Company may by virtue of this subsection and without any further requisite raise by the creation and issue of share capital the same amount as the aggregate amount which the Company were before the date on which this order comes into operation authorised to raise by the creation and issue of any share capital or to borrow and which was not so raised or borrowed before that date.

(7) The unexercised powers of the Company for raising money by the creation and issue of additional share capital under the existing enactments shall cease to be exercisable.

5. The Company shall not pay interest on any moneys borrowed or debenture stock issued under section 4 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: Interest on borrowed money.

Provided that the consent of the Secretary of State shall not be required to the payment of interest on moneys 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 stockbrokers, being members of a recognised stock exchange (as defined in the Prevention of Fraud (Investments) Act 1958(b)), 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.

6. The following enactments shall, subject to the provisions of this order, so far as applicable extend and apply in relation to any share capital, debenture stock or mortgages created and issued or granted Application of certain enactments.

(a) S.I. 1955/926.

(b) 1958 c. 45.

under the provisions of this order as if those enactments with any necessary modifications were re-enacted in this order:—

The Sunderland and South Shields Water Act 1921(a)—

section 56 (New capital to rank with existing capital of same class);

section 60 (Existing mortgages to have priority);

section 61 (Application of money);

section 62 (Power to create debenture stock);

section 63 (Priority of money raised on mortgage or debenture stock over other claims);

section 65 (Minimum amounts of holdings of stock);

section 66 (Receipt in cases of persons not sui juris);

The Sunderland and South Shields Water Act 1922(b)—

section 21 (Appointment of receiver).

Repeals.

7. The following enactments are hereby repealed:—

The Sunderland and South Shields Water (Financial Provisions) Order 1968—

section 4 (Power to borrow);

The Sunderland and South Shields Water (Financial Provisions) Order 1970(c)—

section 4 (Maximum rates of interest).

Costs of Order.

8. All costs, charges and expenses of, and incidental to, the application for this order and the preparation and making of this order may be paid by the Company in whole or in part out of revenue.

(a) 1921 c. xlvii.

(b) 1922 c. xxvi.

(c) S.I. 1970/1237.

SCHEDULE

PART I

EXISTING ORDINARY AND PREFERENCE CAPITAL

	<i>Nominal amount issued £</i>
Consolidated Ordinary Stock (3.50% maximum formerly 5.00%)	1,212,076
Ordinary Stock (3.50% maximum formerly 5.00%)	787,924
2.80% (formerly 4.00%) Consolidated Preference Stock	687,356
3.50% (formerly 5.00%) Redeemable Preference Stock, 1980/81	300,000
4.20% (formerly 6.00%) Redeemable Preference Stock, 1978/79	200,000
3.85% (formerly 5.50%) Redeemable Preference Stock, 1981/83	1,000,000
4.55% (formerly 6.50%) Redeemable Preference Stock, 1982/84	2,000,000
4.20% (formerly 6.00%) Redeemable Preference Stock, 1986/88	2,000,000
7.00% (formerly 10.00%) Redeemable Preference Stock, 1975	1,000,000

PART II

EXISTING LOAN CAPITAL

	<i>Nominal amount issued £</i>
4.50% Redeemable Debenture Stock, 1973/78	250,000
5.75% Redeemable Debenture Stock, 1976	140,000
7.00% Redeemable Debenture Stock, 1986/88	3,000,000
7.50% Redeemable Debenture Stock, 1991/93	1,000,000
7.75% Redeemable Debenture Stock, 1992/94	1,500,000
10.00% Redeemable Debenture Stock, 1992/94	900,000
10.25% Redeemable Debenture Stock, 1983	1,800,000
3.50% Perpetual Debenture Stock	250,000
Mortgages	43,345

Signed by authority of
the Secretary of State
10th June 1975.

J. R. Niven,
An Under Secretary in the
Department of the Environment.