

1976 No. 1792

WATER, ENGLAND AND WALES

The Lee Valley Water Order 1976

Made - - - - 22nd October 1976

Coming into Operation 2nd November 1976

The Secretary of State for the Environment, in exercise of powers conferred by sections 23 and 50 of the Water Act 1945(a) and 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 Lee Valley Water Order 1976 and shall come into operation on 2nd November 1976.

Citation and commencement.

(2) The Lee Valley Water Acts and Orders 1959 to 1972 and this order may be cited together as the Lee Valley Water Acts and Orders 1959 to 1976.

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

Interpretation.

“the Company” means the Lee Valley Water Company;

“the Third Schedule” means the Third Schedule to the Water Act 1945;

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

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

3.—(1) The following enactments so far as the same are applicable to the purposes and are not inconsistent with the provisions of the Lee Valley Water Acts and Orders 1959 to 1976 are hereby incorporated with this order, namely:—

Incorporation of Companies Clauses Acts.

(a) sections 1 to 37, 61 to 65 and 120 to 123 of the Companies Clauses Consolidation Act 1845(c):

Provided that section 15 of the said Act of 1845 shall have effect as if for the words “on demand” there were substituted the words “within two months after delivery thereof”;

(b) the Companies Clauses Act 1863(d) (except sections 17 to 21 and the provisions thereof which limit the rate of dividend on preference capital and Parts III and IV thereof):

Provided that section 14 of the said Act of 1863 shall have effect as modified by section 3 (Amendment of section 14 of the Companies Clauses Act 1863) of the Lee Valley Water (Financial Provisions) Order 1967(e).

(a) 1945 c. 42.

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

(c) 1845 c. 16.

(d) 1863 c. 118.

(e) S.I. 1967/1565.

(2) For the purpose of such incorporation, the expression "the special Act" in the said Acts respectively shall be construed to mean this order and the expression "the company" shall mean the Company.

(3) For the purposes of this order the provisions of section 94 of the Third Schedule (which requires copies of the special Act to be kept by undertakers in their office, and to be deposited with certain officers) shall apply to the undertaking and are 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 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-one million one hundred and sixty thousand one hundred and twenty-four pounds.

(2) (a) 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 ordinary shares or preference shares or wholly or partly by one or more of those modes respectively.

(b) For the purposes of this section the amount raised or to be raised by the issue of any 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 re-issue thereof.

(3) (a) For the purposes of this section the Company may borrow money on mortgage of the undertaking:

Provided that the aggregate of any sums borrowed shall not (when added to any money borrowed on mortgage or raised by the creation and issue of debenture stock by the Company and still outstanding at the date or respective dates on which the Company exercise the powers of this section) exceed in the whole—

(i) 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; and

(ii) with the consent of the Secretary of State for the Environment an additional amount not exceeding ten per cent of such first-mentioned amount;

(b) For the purposes of this subsection 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).

(4) The Company shall not pay interest on any moneys borrowed or debenture stock issued under this section at a higher rate than seven per cent. per annum or such higher rate as the Secretary of State for the Environment may from time to time allow:

Provided that the consent of the said 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(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.

(5) The unexercised powers of the Company for raising money by the creation and issue of additional share capital under the Lee Valley Water Acts and Orders 1959 to 1972 shall cease to be exercisable.

(6) Any share capital which the directors of the Company were before the coming into operation of this order authorised by a resolution of the Company to create and issue and which was not so created and issued before the coming into operation of this order may be created and issued by the directors of the Company under subsection (1) of this section and without any further requisite.

(7) No share created and issued under this section shall be of less nominal value than one pound.

(8) In this section “share” includes stock and “share capital” shall be construed accordingly.

5. Section 76 of the Third Schedule (which provides for the establishment of reserve and contingency funds) as applied to the undertaking by the Lee Valley Water Act 1959(b) shall have effect as if in subsection (4) thereof for the words “twelve and a half” there were substituted the word “twenty”. Modification of section 76 of Third Schedule.

6. The following enactments are hereby repealed:— Repeal.
Section 46 (Power to borrow) of the Lee Valley Water Act 1959;
Section 4 (Increase of borrowing powers) of the Lee Valley Water (Financial Provisions) Order 1967.

7. The costs, charges and expenses of and incidental to the application for and the preparation and making of this order shall be paid by the Company and may in whole or in part be defrayed out of revenue. Costs of order.

J. R. Niven,

Signed by the authority of
the Secretary of State
22nd October 1976.

An Under Secretary in the Department
of the Environment.

(a) 1958 c. 45.

(b) 1959 c. li.