
STATUTORY INSTRUMENTS

1979 No. 1457

WATER, ENGLAND AND WALES

The Sunderland and South Shields Water Order 1979

Made - - - - 14th November 1979

Coming into Operation 23rd November 1979

The Secretary of State for the Environment, in exercise of powers conferred by sections 23, 32 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 Sunderland and South Shields Water Order 1979 and shall come into operation on 23rd November 1979.

Citation
and
commence-
ment.

(2) The Sunderland and South Shields Water Acts and Orders 1852 to 1976 and this order may be cited together as the Sunderland and South Shields Water Acts and Orders 1852 to 1979.

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

Interpreta-
tion.

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

“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.

3.—(1) The following enactments, so far as they are applicable for the purposes of, and are not inconsistent with, the provisions of the Sunderland and South Shields Water Acts and Orders 1852 to 1976 and this order, are hereby incorporated with this order, namely:—

Incorporation
of
enactments.

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

(b) the Companies Clauses Act 1863(d) (except Part IV thereof which relates to change of name):

Provided that—

(i) section 14 of the said Act of 1863 (which relates to dividends on preference shares) as so incorporated shall have effect as modified by section 6 (Amendment and repeal of enactments) of the Sunderland and South Shields Water (Financial Provisions) Order 1968(e); and

(ii) section 22 of the said Act of 1863 (which regulates 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.

(a) 1945 c. 42.
(d) 1863 c. 118.

(b) S.I. 1951/142, 1900, 1970/1681.
(e) S.I. 1968/655.

(c) 1845 c. 16.

(2) 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.

(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) 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 or loan capital and outstanding at the time when the powers of this section are exercised, shall be sufficient to produce in the aggregate the sum of 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 outstanding at the time when the powers of this section are exercised, exceed—

- (a) twice the amount which has for the time being been raised by the Company by the issue of share capital; or
- (b) with the consent of the Secretary of State, the sum of that amount and an additional amount not exceeding ten per cent. thereof.

(2) Sums raised by the creation and issue of share capital under subsection (1) above may be so raised by the creation and issue of additional 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.

(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) For the purposes of this section 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 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, as the case may be, debenture stock.

(5) The unexercised powers for the raising of sums by the issue of share capital under the Sunderland and South Shields Water Acts and Orders 1852 to 1976 shall cease to be exercisable, but any share capital which the directors of the Company were, by resolution of the Company, authorised to create and issue or re-issue before the coming into operation of this order may be created and issued or re-issued by the directors in exercise of the powers of subsection (1) above and without further requisite.

(a) S.I. 1955/926.

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

(7) Notwithstanding anything in any enactment for the time being relating to the Company, the directors of the Company may, by virtue of this section and without further requisite, exercise any powers for the time being vested in the Company of borrowing and reborrowing on mortgage and of creating and issuing mortgages or debenture stock and of raising money by the issue of notes or bonds.

5. Subject to the provisions of this order, the following enactments shall, so far as applicable, extend and apply to any share capital, debenture stock or mortgages created and issued or granted under this order as if those enactments, with any necessary modifications, were re-enacted in this order:—

Application
of certain
enactments.

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

- 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);

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

- section 3 (Maximum rates of dividend);

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

- section 5 (Interest on borrowed money).

6. Any share capital created and issued by the Company under this order shall be part of the general capital of the Company and the holders thereof respectively in proportion to the amount of their stock shall be entitled to the like rights of voting and any other rights, qualifications and privileges and be subject to the like provisions and liabilities in all respects as holders of other stock of the Company of the same class or description.

Share
capital to
be part of
general
capital.

7. Section 26 (Temporary borrowing) of the Derwent Water Order 1957(e) shall have effect as if in the proviso to paragraph (b) thereof, for the words "one hundred thousand pounds" there were substituted the words "one million pounds".

Temporary
borrowing.

8. Section 76 (power to create reserve and contingency funds) of the Third Schedule to the Water Act 1945, as applied to the undertaking by section 3 of the Sunderland and South Shields Water (No. 3) Order 1959(f), shall have

Reserve
and
contingency
funds.

(a) 1921 c. xlvii.
(d) S.I. 1975/967.

(b) 1922 c. xxvi.
(e) S.I. 1958/496.

(c) S.I. 1970/1237.
(f) S.I. 1959/2278.

effect as if—

- (a) in subsection (4), for the words “twelve and a half” there were substituted the word “twenty”; and
- (b) in subsection (5), for the words “one and a quarter” there were substituted the word “two”.

Repeals. 9. The enactments specified in the Schedule to this order are hereby repealed.

Costs of order. 10. 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.

SCHEDULE

ENACTMENTS REPEALED

- The Sunderland and South Shields Waterworks Act 1852(a)—
section LV (Power to raise additional money on mortgage);
- The Sunderland and South Shields Waterworks Amendment Act 1859(b)—
section VII (Power to raise additional money by creation of new shares);
section XIV (Power to borrow on mortgage);
- The Sunderland and South Shields Water Act 1868(c)—
section 15 (Additional share capital may be raised);
section 16 (Company to raise former authorised capital in first instance);
section 22 (Power to borrow);
- The Sunderland and South Shields Water Act 1891(d)—
section 23 (Company may raise additional capital);
section 24 (As to vesting of new shares);
section 33 (Power to borrow in respect of additional capital authorised by this Act);
- The Sunderland and South Shields Water Act 1921—
section 55 (Additional capital);
section 58 (Borrowing powers in respect of issued capital);
section 59 (Power to borrow);
- The Sunderland and South Shields Water Act 1922—
section 19 (Additional capital);
section 20 (Power to borrow);
section 22 (Application of certain sections of Act of 1921);
- The Sunderland and South Shields Water (Capital Powers) Order 1953(e)—
section 4 (Additional capital);
section 7 (Additional capital to be part of general capital);

(a) 1852 c. xxvii.
(d) 1891 c. xxxiii.

(b) 1859 c. vi.
(e) S.I. 1953/1551.

(c) 1868 c. lxxii.

The Sunderland and South Shields Water (Financial Provisions) Order 1955—
section 14 (As to unexercised powers of raising capital);

The Derwent Water Order 1957—

section 23 (Power to company to issue additional capital);

section 27 (Additional capital to be part of general capital);

The Sunderland and South Shields Water (Capital Powers) Order 1964(a)—

section 4 (Additional capital);

section 5 (Additional capital to be part of general capital);

section 6 (Application of enactments);

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

section 5 (Application of enactments);

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

section 4 (Capital and borrowing powers);

section 6 (Application of certain enactments).

Signed by authority of
the Secretary of State
14th November 1979.

A. G. Semple,
An Under Secretary in the
Department of the Environment.

(a) S.I. 1964/1291.