
STATUTORY INSTRUMENTS

1987 No. 2073

WATER, ENGLAND AND WALES

The Sunderland and South Shields Water Order 1987

Made - - - - 27th November 1987

Coming into force - - 30th November 1987

The Secretary of State for the Environment, on the application of the Sunderland and South Shields Water Company, being statutory water undertakers⁽¹⁾, and in exercise of powers conferred by sections 23, 32, 33, 50 and 59(1)⁽²⁾ of the Water Act 1945⁽³⁾ and now vested in him⁽⁴⁾, hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Sunderland and South Shields Water Order 1987 and shall come into force on 30th November 1987.

(2) The Sunderland and South Shields Water Acts and Orders 1852 to 1982 and this Order may be cited together as the Sunderland and South Shields Water Acts and Orders 1852 to 1987.

(3) In this Order—

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

“the Third Schedule” means the Third Schedule to the Water Act 1945 as it applies to the undertaking;

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

Capital and borrowing powers

2.—(1) For section 4 of the Sunderland and South Shields Water Order 1979⁽⁵⁾ (capital and borrowing powers) there shall be substituted the following section:—

(1) The Company may raise capital by—

(a) the issue of shares;

(1) See the Water Act 1973 (c. 37), section 11(6).

(2) See the definition of “Minister”.

(3) 1945 c. 42; there are amendments to sections 23 and 32, but none relevant to this Order.

(4) S.I.1951/142, 1900, 1970/1681.

(5) S.I. 1979/1457.

- (b) borrowing on mortgage of the undertaking;
- (c) borrowing by the issue of debenture stock.

(2) Any sums to be raised in accordance with subsection (1), when added to—

- (a) the sums raised by the issue of existing share capital before the relevant date; and
- (b) other amounts so raised by borrowing and still outstanding on that date;

shall not exceed £45 million.

(3) Subject to subsection (4), the Company shall take such steps as may be necessary to ensure that the amounts raised as mentioned in paragraphs (b) and (c) of subsection (1) which are at any time outstanding do not exceed twice the aggregate of—

- (a) the sums raised by the issue of existing share capital; and
- (b) the amount of the Company's reserves.

(4) With the consent of the Secretary of State, the Company may raise an additional amount as mentioned in paragraphs (b) and (c) of subsection (1) not exceeding on the relevant date ten per cent of the aggregate mentioned in subsection (3).

(5) For the purposes of this section—

- (a) the amount raised by the issue of share capital or debenture stock is the amount raised taking into account any premiums or discounts; and
- (b) in the case of any share capital or debenture stock issued for a consideration other than cash the nominal value shall be taken to be the amount raised by that issue.

(6) The Company's power of borrowing may be exercised without obtaining the certificate of a justice under section 40 of the Companies Clauses Consolidation Act 1845((6)).

(7) Sums to be raised by the Company as mentioned in—

- (a) subsection (1)(a), may be raised by the issue of new ordinary shares or stock or new preference shares or stock or, at the Company's option, by any of those methods;
- (b) subsection (1)(b) or (c), may be raised by any mode which the directors of the Company may consider appropriate, including by means of bills, notes or bonds.

(8) In this section—

“the Company's reserves” means the aggregate of any of the following amounts appearing in the Company's last audited balance sheet—

- (a) any capital reserve;
- (b) any sum carried forward in accordance with section 77 of the Third Schedule; and
- (c) any amounts standing to the credit of any reserve or contingency fund established and maintained in accordance with section 76 of the Third Schedule; “the relevant date” means the date on which the Company exercise the powers mentioned in subsection (1).”.

(2) The directors of the Company may, without further authorisation, raise the same amount of capital as they were authorised to raise, but which they had not raised, before the coming into force of this Order.

Modification of the Third Schedule

3. Section 76((7)) of the Third Schedule (reserve and contingency funds) shall be further modified to have effect as if there were inserted after the words “think fit” the words “(not being provisions for liabilities or charges within paragraph 89 of Schedule 4 to the Companies Act 1985((8)))”.

Collection of charges for water supply

4. For section 55((9)) of the Third Schedule (Making and dates for payment of water rates) there shall be substituted the following section:—

(1) Undertakers who charge water rates under the special Act shall make such a rate by fixing, in respect of a period of twelve months commencing on either the first day of January, the first day of April, the first day of July or the first day of October (hereinafter called “the rating period ”), the rate-poundage or, as the case may be, the scale of rate-poundages, by reference to which amounts due under the rate are to be calculated.

(2) Any rate shall be payable by one of the following methods, namely—

(a) by equal half-yearly instalments on such dates within the first and seventh months of a rating period as the undertakers may determine and specify; or

(b) if the undertakers so resolve, and the person who is liable to pay the water rate in respect of any premises so elects—

(i) by a single payment on or before such date within the rating period as the undertakers may specify;

(ii) subject to subsection (10), by not more than ten equal instalments at intervals of not less than one month on such dates within the rating period as the undertakers may specify.

(3) A water rate under this section, or in force under any of the enactments relating to the undertakers immediately before the coming into operation of this section, shall unless and until a new rate is made, continue to operate in respect of each successive period of twelve months.

(4) If the person who is, or who, but for the provisions of section 54 above would be, liable to pay any water rate is in occupation of premises for part only of a rating period, that person or, as the case may be, the owner of the premises, shall be entitled to recover from the undertakers a due proportion of the rate calculated at a daily rate in respect of any period during which those premises are not occupied by the first-mentioned person.

(5) If, and so long as, any water rate is payable by half-yearly instalments, no proceedings shall be commenced for the recovery of any such instalment until the expiration of two months from the first day of the half-year in respect of which it has been demanded.

(6) Subject to subsections (4) and (5), where a person accepts a supply of water to any premises, either for the first time or after a discontinuance of supply, he shall be liable to pay any instalment or amount due in respect of the water rate on the day on which notice requiring the supply is given to the undertakers or, if no such notice is given, on the day when they commence the supply.

(7) A person who elects to pay a water rate in instalments in accordance with subsection (2)(b)(ii) shall give notice to that effect to the undertakers on or before such date within the rating period as the undertakers may resolve and specify.

(7) Section 76 was applied to the undertaking by S.I. 1959/2278 and was modified by S.I. 1979/1459.

(8) 1985 c. 6.

(9) Section 55 was applied to the undertaking by S.I. 1958/2233.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(8) Subject to subsection (9) any notice mentioned in subsection (7) shall continue to have effect in each successive rating period until withdrawn by a further notice to the undertakers.

(9) A notice mentioned in subsection (7) shall cease to have effect if any payment or instalment is not made on or before the due date in a rating period, and the undertakers give notice to that effect to the person in default and thereupon any sum due shall be recoverable by the undertakers as if a notice mentioned in subsection (7) had not been given.

(10) Where any water rate is payable by instalments the undertakers may adjust the amount of the first or last instalment so that no instalment comprises or includes an amount of less than a penny.

(11) In this section “specify” means specify in a written notice sent by the undertakers to a person liable to pay any water rate.”.

Repeal of enactments

5. The enactments specified in column 1 of the Schedule to this Order are hereby repealed to the extent specified in column 2 thereof.

Costs of Order

6. 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.

Signed by authority of the Secretary of State

27th November 1987

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

SCHEDULE

REPEALS

Enactment	Extent of repeal
(1)	(2)
The Sunderland and South Shields Waterworks Act 1852((10))	Section 36.
The Sunderland and South Shields Water Act 1921((11))	In section 75, the words from “of which seven days” to “business is situate”.
The Sunderland and South Shields Waterworks Order 1976((12))	Section 3.

(10) 1852 c. xxvii.
(11) 1921 c. xlvi.
(12) S.I. 1976/1142.