

1988 No. 56

WATER, ENGLAND AND WALES

The Newcastle and Gateshead Water Order 1988

Made - - - - 11th January 1988

Coming into force - 12th January 1988

The Secretary of State for the Environment, on the application of the Newcastle and Gateshead Water Company, being statutory water undertakers, and in exercise of the powers conferred by sections 23, 32, 33, 50, and 59(1)(a) of the Water Act 1945(b), and now vested in him(c), and of all other powers enabling him in that behalf, hereby makes the following Order—

Citation and commencement

1.—(1) This Order may be cited as the Newcastle and Gateshead Water Order 1988 and shall come into force on 12th January 1988.

(2) The Newcastle and Gateshead Water Acts and Orders 1863 to 1983 and this Order may be cited together as the Newcastle and Gateshead Water Acts and Orders 1863 to 1988.

Interpretation

2. In this Order—

“the Company” means the Newcastle and Gateshead Water Company;

“the 1982 Order” means the Newcastle and Gateshead Water (Consolidation, etc.) Order 1982(d);

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

“the undertaking” means the undertaking of the Company as from time to time authorised.

Appointment of proxies

3. Notwithstanding anything in the Companies Clauses Consolidation Act 1845(e)—

(a) a proxy appointed to vote for or on behalf of a member of the Company need not himself be a shareholder;

(b) the attorney of any member duly authorised in writing or, in the case of a corporation, an officer or attorney so authorised, may appoint a proxy to vote for and on behalf of the member and for that purpose may execute on behalf of the member the necessary form of proxy:

Provided that, except in cases where the instrument appointing the attorney shall have been previously registered with the Company, the said instrument (or a copy which complies with the requirements of section 3 of the Powers of Attorney Act 1971(f) (Proof of instruments creating powers of attorney)) shall be transmitted to the Secretary of the Company at the same time as the instrument appointing the proxy.

(a) See the definition of ‘Minister’.

(b) 1945 c.42. There are amendments to sections 23, 32, 33 and 59(1), but none are relevant to this Order.

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

(d) S.I. 1982/1718.

(e) 1845 c.16.

(f) 1971 c.27.

Making and dates for payment of water rates

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

“ 55.—(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 relevant 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 made in respect of a relevant period shall be payable in respect of any premises by one of the following methods, namely—

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

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

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

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

(3) A water rate made in respect of a relevant period shall, unless and until a new rate is made under subsection (1), continue to have effect 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 relevant period, that person or, as the case may be, the owner of the premises, shall be liable to pay a due proportion of the rate calculated at a daily rate in respect of any period of occupation.

(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 receives 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 relevant period as the undertakers may specify.

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

(9) A notice mentioned in subsection (7) shall cease to have effect if payment of any instalment is not made on or before the due date in a relevant 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 set out in a written notice sent by the undertakers to a person liable to pay any water rate.

(a) Section 55 is applied to the undertaking by S.I. 1982/1718.

55A.—(1) The undertakers may once only make a water rate by fixing a rate poundage in respect of a period of three months following the expiration of a relevant period mentioned in section 55 above.

(2) Any such rate shall be payable in full on the first day of that three month period.

(3) Subsections (4) and (6) of section 55 shall have effect in relation to a rate made in accordance with this section.”.

Amendment of the 1982 Order

5. The provisions of the 1982 Order specified in column (1) of the Schedule to this Order shall have effect subject to the amendments set out in column (2) of that Schedule.

Application of section 94 of Third Schedule

6. For the purposes of this Order, section 94 of the Third Schedule(a) (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.

Costs of Order

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

J. A. L. Gunn

Signed by authority of the Secretary of State
11th January 1988

An Under Secretary in the
Department of the Environment

SCHEDULE

AMENDMENTS OF THE 1982 ORDER

Article 5

<i>Provision</i>	<i>Amendment</i>
(1)	(2)
Section 3 (Incorporation of Companies Clauses Acts)	In subsection (1), after paragraph (c) of the proviso insert— “(cc) section 76 of the said Act of 1845 (which relates to the manner of voting) shall have effect as if the words “being shareholders” were omitted;”.
Section 7 (Application of Third Schedule)	In subsection (1), for “section 61” substitute “sections 61 and 74”. In subsection (2)(a), omit “subsection (1) of”; after “from the owners)” insert “(i) in subsection (1)” and after “shall be omitted”, insert— “(ii) in subsection (2), after the words “water-rate” there shall be inserted the words “under section 55(2)(a) or (b)(i) of this Schedule”;

(a) Section 94 was amended by S.I. 1986/1.

Provision

(1)

Section 8 (Capital and borrowing powers)

Amendment

(2)

In subsection (2)(d), in sub-paragraph (i) after "company" insert—

"and for the words "think fit" the words "think fit (not being provisions for liabilities or charges within paragraph 89 of Schedule 4 to the Companies Act 1985)"^(a).

After subsection (2)(d), insert—

"(dd) in subsection (1) of section 77 (which provides for a limitation on the balance carried forward):—

(i) in paragraph (a), after the word "interest" there shall be inserted the words "(including any tax payable in respect of any such dividend)"; and

(ii) in paragraph (c), at the end there shall be inserted the words "(including any tax payable in respect of any such dividends)";".

In subsection (3)(a), omit the proviso.

After subsection (3), insert—

"(3A) Subject to subsection (3B), the Company shall take such steps as may be necessary to ensure that the amounts raised by borrowing on mortgage of the undertaking or by the creation and issue of debenture stock 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.

(3B) With the consent of the Secretary of State, the Company may raise an additional amount by borrowing on mortgage of the undertaking or by the creation and issue of debenture stock not exceeding ten per cent. of the total on the relevant date of the sums and amount specified in paragraphs (a), and (b) of subsection (3A)."

After subsection (8), insert—

"(9) 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)".

^(a) 1985 c.6.

Provision

(1)

Section 10 (Temporary borrowing)

Section 20 (Meetings of Company)

Amendment

(2)

After "from banks or otherwise" insert "(including bills of exchange and promissory notes)";

In paragraph (b), after "expenses" insert "(including the cost to the Company of redeeming any redeemable preference stock, redeemable debenture stock or debenture)";

In the proviso, for "one million" substitute "two million".

In subsection (1), for the words from "on such day" to the end of the subsection substitute—

"and the Company shall not be required to balance their accounts or to make up a balance sheet half-yearly;

(b) the Company may by resolution at a general meeting at any time determine that the ordinary meetings of the Company shall be held in such month as the directors may from time to time determine and the Company may from time to time in like manner alter or rescind any such resolutions;

(c) notice of all general meetings of the Company (whether ordinary or extraordinary) may, if the directors so determine, be given by letter sent by ordinary letter post to each shareholder instead of by public advertisement:

Provided that the letters shall be directed according to the registered or other known address of each shareholder, pre-paid and posted not later than 7 clear days before the date of the meeting;

(d) in proving that any such notice has been given it shall be sufficient to show that the letter containing the notice was properly addressed and posted as a pre-paid letter not later than the time hereby prescribed."