



CHAPTER xi.

An Act to confirm a Provisional Order of the Minister of Health relating to the Banbury Water Company.

[22nd July 1943.]

WHEREAS under the provisions of the Gas and Water Works Facilities Act 1870 and the Gas and Water Works Facilities Act 1870 Amendment Act 1873 the Minister of Health and the Board of Trade have made a Provisional Order which needs confirmation by Parliament :

33 & 34 Vict.
c. 70.
36 & 37 Vict.
c. 89.

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

1. The Order of the Minister of Health which as amended is set out in the schedule to this Act is hereby confirmed and shall have full validity and force.

Order in
schedule
confirmed.

2. Paragraph (d) of subsection (2) and subsection (4) of section one of the Emergency Powers (Defence) Act 1939 as amended by subsection (2) of section one of the Emergency Powers (Defence) Act 1940 shall have effect as if this Act had been passed before the commencement of the last mentioned Act.

Saving of
Emergency
Powers.
2 & 3 Geo. 6.
c. 62.
3 & 4 Geo. 6.
c. 20.

3. This Act may be cited as the Ministry of Health Provisional Order Confirmation (Banbury Water) Act 1943.

Short title.

SCHEDULE.

BANBURY WATER.

Provisional Order under the Gas and Water Works Facilities Act 1870 and the Gas and Water Works Facilities Act 1870 Amendment Act 1873 to make further provision as to the capital and borrowing powers of the Banbury Water Company and for other purposes.

THE MINISTER OF HEALTH in pursuance of the powers given to him by the Gas and Water Works Facilities Act 1870 the Gas and Water Works Facilities Act 1870 Amendment Act 1873 and of all other powers enabling him in that behalf hereby orders as follows:—

Short and collective titles.

1. This Order may be cited as the Banbury Water Order 1943 and the Banbury Waterworks Acts and Order 1865 to 1937 and this Order may be cited together as the Banbury Waterworks Acts and Orders 1865 to 1943.

Commencement of Order.

2. This Order shall come into operation upon the date of the passing of the Act of Parliament confirming it.

Incorporation of Acts.

3.—(1) The following Acts and parts of Acts (so far as the same are applicable for the purposes of this Order and are not inconsistent with the provisions of the Banbury Waterworks Acts and Orders 1865 to 1943) are hereby incorporated with this Order:—

8 & 9 Vict.
c. 16.

(a) The Companies Clauses Consolidation Act 1845 (except the provisions thereof with respect to the conversion of the borrowed money into capital) as amended by the Companies Clauses Consolidation Act 1888;

51 & 52 Vict.
c. 48.

(b) Part II (relating to additional capital) except the provisions thereof which limit the rate of dividend on preference capital and Part III (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts;

26 & 27 Vict.
c. 118.

(c) The Waterworks Clauses Acts 1847 and 1863 except the words "with the consent in writing of the owner or reputed owner of any such house or of the agent of such owner" in section 44 of the Waterworks Clauses Act 1847.

10 & 11 Vict.
c. 17.
26 & 27 Vict.
c. 93.

(2) For the purpose of such incorporation the expression "special Act" where used in the said enactments shall be construed to mean this Order and the expression "company" shall be construed to mean the undertakers.

(3) In the application to the undertakers of Part III of the Companies Clauses Act 1863 section 22 shall be read as if the words "and to the same amount as" were omitted therefrom.

4.—(1) In this Order the several words terms and expressions to which by the enactments wholly or partially incorporated with this Order or by the Gas and Water Works Facilities Act 1870 meanings are assigned shall unless the context otherwise requires have the same respective meanings. Interpretation.

(2) In this Order unless the context otherwise requires—

“ the undertakers ” means the Banbury Water Company ;

“ the undertaking ” means the undertaking of the undertakers as authorised for the time being ;

“ the limits of supply ” means the limits for the time being within which the undertakers are authorised to supply water ;

“ the Minister ” means the Minister of Health ;

“ the Act of 1937 ” means the Banbury Waterworks Act 1937.

5. In addition to the capital already authorised to be raised by the undertakers the undertakers may— Additional capital.

(1) raise any further sums not exceeding in the whole the sum of twenty thousand pounds by the creation and issue of new ordinary shares or stock or new preference shares or stock or wholly or partly by any one or more of those modes respectively (in this order referred to as “ the additional capital ”) but the undertakers shall not issue any share under the authority of this Order of less nominal value than one pound and it shall not be lawful for the undertakers to create and issue under the powers of this Order any greater nominal amount of capital than will be sufficient to produce after taking into account premiums and discounts (if any) which may be obtained or allowed on the sale thereof the said sum of twenty thousand pounds ;

(2) borrow on mortgage of the undertaking any sum or sums not exceeding in the whole one-half of the amount of the additional capital which at the time of borrowing has been raised under the provisions of paragraph (1) of this section but no sum shall be borrowed in respect of any shares or stock so issued until the undertakers have proved to a justice of the peace before he gives his certificate under section 40 of the Companies Clauses Consolidation Act 1845 that the whole of the additional capital at the time issued together with the premiums (if any) realised on the sale thereof has been fully paid up.

6. The sections of the Act of 1937 hereinafter mentioned shall apply to any shares stock debenture stock or mortgages issued or granted under the powers of this Order in like manner as they apply to shares stock debenture stock or mortgages issued or granted under the powers of that Act and as if they were with any necessary modifications re-enacted herein. Application of sections of Act of 1937.

The sections above referred to are—

Section 74 (Limit of profit on additional capital) ;

Section 75 (New shares or stock to be subject to the same incidents as other shares or stock) ;

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Order Confirmation (Banbury Water) Act, 1943.

Section 76 (New shares or stock to form part of the capital of the Company) ;

Section 77 (Restriction as to votes in respect of preference shares or stock) ;

Section 78 (New and existing shares or stock may be of same class) ;

Section 84 (Priority of mortgages and debenture stock over other debts) ;

Section 86 (Priority of principal moneys secured by existing mortgages) ; and

Section 89 (Application of money).

Power to issue capital to employees and consumers.

7. Notwithstanding anything in any Act or Order relating to the undertakers the undertakers may with the consent of the Minister and subject to such conditions as the Minister may think fit to impose offer for subscription to the consumers of water supplied by the undertakers and to employees any ordinary or preference shares or stock which they may for the time being be authorised to issue without offering the same for sale by public auction or tender.

Undertakers may incur temporary loans.

8.—(1) The undertakers may for the purposes of or in connection with the undertaking borrow or raise money on temporary loans from bankers by means of overdrafts or otherwise.

(2) The powers of borrowing or raising money conferred by this section shall be in addition to any powers for the time being of the undertakers to borrow on mortgage of the undertaking or to raise money by the issue of debenture stock.

(3) The aggregate amount outstanding at any one time of the money borrowed or raised under this section shall not exceed one-tenth of the amount of the share capital of the undertakers for the time being issued and paid up.

Purchase of debenture stock by agreement.

9.—(1) The undertakers may at any time purchase by agreement any debenture stock of the undertakers at a price not exceeding the market value thereof and for that purpose may apply any moneys for the time being in their hands which they are entitled to apply to capital purposes.

(2) Any debenture stock purchased under the provisions of this section may at any time be cancelled and extinguished by the undertakers and the amount of any debenture stock so cancelled shall be deemed to be money borrowed and paid off by the undertakers within the meaning of section 39 of the Companies Clauses Consolidation Act 1845 and the provisions of that section as to re-borrowing by the undertakers shall apply accordingly.

Saving for emergency powers of Treasury.

10.—(1) So long as this section continues in force it shall not be lawful without the consent of the Treasury to exercise the powers of borrowing or raising capital conferred by this Order.

54 & 55 Vict. c. 39.

(2) Section 113 of the Stamp Act 1891 (which in the case of any increase in the amount of nominal share capital of a company being authorised by any Act charges stamp duty on a statement of the amount

of such increase to be delivered within one month from the passing of the Act) shall as amended by any subsequent enactment have effect as respects any share capital authorised to be raised by this Order as if this Order had come into operation on the date when such consent as aforesaid is given as respects that capital or on the date when this section expires whichever first occurs.

(3) This section shall continue in force so long as the making of an issue of capital in the United Kingdom without the consent of the Treasury is prohibited by regulations made under the Emergency Powers (Defence) Acts 1939 and 1940.

II.—(I) If the Minister is satisfied that the owners or occupiers of premises in an area outside the limits of supply desire to obtain a supply of water from the undertakers and that the giving of the supply is not likely to interfere with the supply of water for any purposes within the said limits he may on the application of the undertakers and with the consent of the local authority within whose district and of any statutory water undertakers within whose limits of supply the area is situate by order authorise the undertakers to supply water in that area or such part thereof as may be specified in the order on such conditions as may be so specified :

Power of Minister to authorise undertakers to supply premises outside the limits of supply.

Provided that a consent required for the purposes of this subsection shall not be unreasonably withheld and any question whether or not consent is unreasonably withheld shall be referred to and determined by the Minister.

(2) Where the undertakers are by virtue of an order made under the preceding subsection supplying water to premises outside the limits of supply any other statutory water undertakers supplying water under a local Act or Order within whose limits of supply those premises are situate or if there are no such other undertakers the local authority of the district in which the premises are situate may in the absence of any agreement to the contrary at any time give not less than three months' notice to the undertakers that they are able and intend to give a supply of water to the premises in question.

(3) When a notice has been given under the last preceding subsection then so soon as after the expiration of three months the undertakers or authority giving the notice commence to supply water to the premises in question the undertakers shall except for the purpose of recovering water rates and water charges and of removing any pipes plant or apparatus which the undertakers or authority giving the notice do not require them to leave in position cease to have any rights or duties in respect of a supply to those premises but the undertakers or authority giving the notice shall pay to them such portion of any expenses reasonably incurred by them for the purpose of giving a supply to those premises as may be agreed or in default of agreement determined by an arbitrator appointed by the Minister.

(4) While the undertakers are by virtue of an order made under subsection (I) of this section authorised to supply water outside the limits of supply the enactments relating to their undertaking shall have effect as if the area specified in the order were within those limits.

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22 & 23 Geo. 5.
c. 37.

(5) An order made under subsection (1) of this section shall not authorise the undertakers to supply water to any premises outside the area included within the limits shown on "the deposited map" as such map is defined by section 119 of the Thames Conservancy Act 1932.

Power to
prohibit use
of hosepipe
temporarily.

12.—(1) If the undertakers are of opinion that by reason of drought or other cause the water supply of the undertakers should be conserved the undertakers may prohibit as from such date as they may determine the drawing or user through any hose or moveable pipe of water supplied by them so far as such drawing or user is for the purpose of gardens or horses or washing vehicles or any outdoor washing purpose and such prohibition shall continue until withdrawn.

(2) The undertakers shall before the prohibition comes into force give public notice in two or more newspapers circulating within the limits of supply of the prohibition and of the date when it will come into force.

(3) Any person who shall after the date stated in the said notice fail to comply with the prohibition shall be liable to a penalty not exceeding five pounds and to a further penalty not exceeding forty shillings for each day on which such failure occurs after conviction therefor.

(4) The undertakers shall not make any charge for the use of a hose or moveable pipe in respect of any period during which the drawing or user of water by means thereof is prohibited as aforesaid if such prohibition is complied with in relation to such hose or moveable pipe and where any water consumer has paid to the undertakers the charge for the use of any such hose or moveable pipe during the year or part of a year which includes the said period and complies with the said prohibition in relation to such hose or moveable pipe the undertakers shall repay to the water consumer the proportion of such charge which is attributable to that period.

Purchase of
water in bulk.

13. The undertakers may enter into and carry into effect agreements with any authority company body or person supplying water under parliamentary authority and subject to the approval of the Minister in the case of any water intended for domestic consumption with any other authority company body or person for the purchase of water in bulk by the undertakers for such price and on such terms and conditions and for such period as may be agreed upon and any water so purchased may be used by the undertakers for the purpose of the undertaking.

Recovery of
water rates &c.
from persons
removing.

14. If a justice is satisfied on complaint by any duly authorised officer of the undertakers that any person is quitting or about to quit any premises to which the undertakers supply water and has failed to pay on demand any rate or charge therefor which may be due from him and intends to evade payment of the same by departing from the said premises the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the person named therein to seize forthwith and detain sufficient goods and chattels of the defaulter to meet the claim of the undertakers until the complaint is determined upon the return of the summons.

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15. The Minister may direct any inquiries to be held which he may deem necessary for the purposes of his powers under this Order and section 290 of the Local Government Act 1933 shall apply as if the undertakers were a local authority and as if this Order were an enactment relating to the functions of a local authority. Inquiries by
Minister.
23 & 24 Geo. 5.
c. 51.

16. All costs charges and expenses of and incidental to the application for and the preparation making and confirmation of this Order shall be paid by the undertakers out of revenue. Costs of Order.

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