



Water Act 1989

1989 CHAPTER 15

PART II

WATER SUPPLY AND SEWERAGE SERVICES

CHAPTER VI

STATUTORY WATER COMPANIES

101 Registration of statutory water companies under the Companies Act 1985

(1) Chapter II of Part XXII of the Companies Act 1985 (registration of companies not formed under that Act) shall have effect in relation to statutory water companies as if—

- (a) any reference in that Chapter to a joint stock company included a reference to such a statutory water company as would not fall to be treated as a joint stock company for the purposes of that Chapter apart from this paragraph; and
- (b) any reference in that Chapter to an Act of Parliament included a reference to a local statutory provision which is not contained in an Act of Parliament;

and it is hereby declared that nothing in this Act or in the said Act of 1985 shall be construed as requiring a statutory water company to which a certificate has been issued under section 688 of that Act (certificates of registration under Chapter II of Part XXII) to be treated for the purposes of this Act or any other purposes as if it had been a different person in law before the issue of that certificate.

(2) Where—

- (a) provision for the constitution and regulation of a statutory water company holding an appointment under Chapter I of this Part—
 - (i) is contained in local statutory provisions having effect in accordance with paragraph 5 of Schedule 21 to the said Act of 1985 (enactments to have effect as if contained in memorandum and articles); or
 - (ii) would, apart from this subsection, be so contained if the company became a registered water company;

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- (b) the company has by special resolution proposed (whether before or after becoming a registered water company) that provision contained in a memorandum and articles shall have effect in substitution for those local statutory provisions;
- (c) the proposal that a memorandum and articles shall so have effect in relation to the company has been approved by order made by the Secretary of State; and
- (d) in the case of a company that has not already done so, the company becomes a registered water company,

those local statutory provisions shall cease to have effect on such date as may, for the purposes of this subsection, be specified or described in that order and the proposed memorandum and articles shall come into force on that date subject to any modifications, terms or conditions contained in any order made by the High Court under section 102 below.

- (3) The Secretary of State shall not make an order for the purposes of subsection (2)(c) above in relation to a proposal by any company unless it appears to him—
 - (a) that neither an application under section 102 below with respect to the company's proposal nor an appeal with respect to the subject-matter of such an application is pending and that the time within which any such application or appeal may be made or brought has expired; and
 - (b) where there is —
 - (i) a division of the shares or stock of the company into different classes; and
 - (ii) such a proposed difference between the memorandum and articles and the local statutory provisions which they will replace as will vary the rights attached to any such class,
 that a consent to or approval of the difference has been given under subsection (4) below in respect of each class the rights attached to which would be varied if the order were made.
- (4) A consent to or approval of a proposal is given for the purposes of subsection (3)(b) above in respect of a class of shares or stock if—
 - (a) consent in writing to the proposal has been given by the holders of not less than three-quarters, in nominal value, of the issued shares or stock of that class; or
 - (b) an extraordinary resolution approving the proposal is passed at a separate general meeting of holders of shares or stock of that class;

and for the purpose of determining whether the requirements specified in subsection (3)(b) above are satisfied in relation to any two or more classes of shares or stock in a company, it shall be immaterial that consents and approvals have been given in respect of different classes in accordance with different paragraphs of this subsection.

- (5) Where an order has been made for the purposes of subsection (2)(c) above in relation to any company—
 - (a) nothing in sections 97 to 100 above or in section 41 of the 1945 Act (power to issue redeemable stock) shall have effect on and after the date specified or described in the order so as to confer powers in relation to the company in addition to those conferred by virtue of the company's memorandum and articles;
 - (b) on and after that date, the memorandum and articles which come into force by virtue of the order shall have effect, in accordance with section 14 and the

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other provisions of the Companies Act 1985, as if they were the company's registered memorandum and articles; and

- (c) the company shall, before the end of the period of fifteen days beginning with the day after that date, deliver to the registrar of companies a printed copy of the memorandum and articles which have so come into force;

and subsection (3) of section 6 of the said Act of 1985 (penalty for default in delivering documents to the registrar of companies) shall apply in relation to the obligation imposed by paragraph (c) above as it applies in relation to the obligations imposed by subsection (1) of that section.

- (6) Where the Secretary of State makes an order for the purposes of subsection (2)(c) above in relation to any company and it appears to him to be appropriate to do so for the purposes of, or in consequence of, the approval contained in the order, he may by order repeal or amend any local statutory provision.
- (7) The power to make an order for the purposes of subsection (2)(c) above or an order under subsection (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and an order under subsection (6) above may—
 - (a) make different provision for different cases, including different provision in relation to different persons, circumstances or localities; and
 - (b) contain such supplemental, consequential and transitional provision as the Secretary of State considers appropriate.

- (8) In this section and section 102 below—

“extraordinary resolution”—

- (a) in relation to a meeting held after the company in question has become a registered water company, means an extraordinary resolution within the meaning of the Companies Act 1985; and
- (b) in relation to a meeting held before that company becomes a registered water company, means such a resolution as would be a special resolution within the meaning of section 98 above if the meeting were a meeting of the company;

“memorandum and articles” means a document containing only such provision as may be contained in a memorandum and articles of association registered under that Act;

“registrar of companies” has the same meaning as in that Act; and

“special resolution”—

- (a) in relation to a time after the company in question has become a registered water company, means (subject to subsection (2) of section 102 below) a special resolution within the meaning of that Act; and
- (b) in relation to a time before that company becomes a registered water company, means (subject to that subsection) a special resolution within the meaning of section 98 above;

and in this section and section 102 below a reference to a company's becoming a registered water company is a reference to the issue to that company (whether before or on or after the transfer date) of a certificate under section 688 of that Act.