

1987 No. 234

WATER, ENGLAND AND WALES

The Tendring Hundred Water Order 1987

Made - - - - - *18th February 1987*

Coming into force *19th February 1987*

The Secretary of State for the Environment, in exercise of the powers conferred by sections 23, 32(1), 33 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 makes the following Order:-

Citation and commencement

1.—(1) This Order may be cited as the Tendring Hundred Water Order 1987 and shall come into force on 19th February 1987.

(2) The Tendring Hundred Water Acts and Orders 1884 to 1982 and this Order may be cited together as the Tendring Hundred Water Acts and Orders 1884 to 1987.

Interpretation

2. In this Order -

“the Company” means the Tendring Hundred Waterworks Company;

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

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

Amendment of enactments

3.—(1) The Tendring Hundred Water (No.2) Order 1962(c) shall be amended as follows -

(a) in the proviso to section 29(1) (temporary borrowing) for the words “seventy-five thousand” there shall be substituted the words “two hundred and fifty thousand”;

(b) in section 34(3) (application of Third Schedule) -

(i) in paragraph (f)(i) after the words “of the Company” there shall be inserted the words “and by the insertion after the words “as they think fit” of the words “(not being provisions for liabilities or charges within paragraph 89 of Schedule 4 to the Companies Act 1985(d))””;

(ii) after paragraph (f) there shall be inserted the following paragraph -
“(ff) in subsection (1) of section 77 (which places a limitation on the balance carried forward at the end of the year) in paragraph (a) after the word “dividend” and in paragraph (c) after the word “dividends” there shall be inserted the words “together with the advance corporation tax associated therewith”.”.

(2) Schedule 1 to the Tendring Hundred Water Order 1968(a) (application of and modifications to Third Schedule) shall be amended by inserting in column (2) opposite the application in column (1) of section 57 (discount for prompt payment of water rates) the following –

“In subsection (1) for the word “prompt” there shall be substituted the word “the” and after the word “charges” there shall be inserted the words “or instalments of such rates and charges before they fall due or in consideration of prompt payment after they fall due.””.

(3) The Tendring Hundred Water (Financial Provisions) Order 1975(b) shall be amended as follows –

(a) for section 4 (capital and borrowing powers) there shall be substituted the following section –

“4.—(1) The Company may raise capital by –

- (a) the issue of shares;
- (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 raised by borrowing and still outstanding on that date,

shall not exceed ten million pounds.

(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 ten per cent. of the total on the relevant date of the sums and amount specified in paragraphs (a) and (b) of 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 after 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 have been the amount raised by that issue.

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

(7) Sums to be raised by the Company 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.

(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

(a) S.I. 1968/1962. (b) S.I. 1975/1771. (c) 1845 c.16.

- (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).”

- (b) in paragraph (a) of the proviso to section 6 (interest on borrowed money) for the words “Prevention of Fraud (Investments) Act 1958(a)” there shall be substituted the words “Company Securities (Insider Dealing) Act 1985(b)”.

Application of section 55 of the Third Schedule

4. Section 55 of the Third Schedule (which was applied to the undertaking with modifications by the Tendring Hundred Water Order 1976 (c)) shall continue to apply to the undertaking but in the following modified form –

“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 directors of the undertakers so resolve and the person who is liable to pay the water rate in respect of any 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), four or more equal instalments at intervals of not less than one month on such dates within the relevant period as the directors of 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 any payment or 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."

Revocation

5. The Tending Hundred Water Order 1976 is hereby revoked.

Application of section 94 of Third Schedule

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

Signed by authority of
the Secretary of State
18th February 1987

J. Hobson
An Under Secretary in the
Department of the Environment

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