

1987 No. 613

WATER, ENGLAND AND WALES

The Mid Southern Water Order 1987

Made - - - - - *25th March 1987*

Coming into force *26th March 1987*

The Secretary of State for the Environment, in exercise of the powers conferred by sections 23, 32(1), 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 Mid Southern Water Order 1987 and shall come into force on 26th March 1987.

(2) The Mid Southern Water Acts and Orders 1893 to 1986 and this Order may be cited together as the Mid Southern Water Acts and Orders 1893 to 1987.

Interpretation

2. In this Order-

“the Company” means the Mid Southern Water 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.

Capital and borrowing powers

3. For section 4 (capital and borrowing powers) of the Mid Southern Water Order 1972(d) 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 £50 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.

(a) See the definition of Minister.
(b) 1945 c.42.
(c) S.I. 1951/142, 1900, 1970/1681.
(d) S.I. 1972/878.

(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(a).

(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) The Company shall not pay interest on any moneys borrowed or debenture stock issued under this section at a higher rate than seven per cent. per annum or such higher rate as the Secretary of State may from time to time allow:

Provided that the consent of the Secretary of State shall not be required to the payment of interest on moneys borrowed by the Company on mortgage of the undertaking or by the issue of debenture stock at a rate higher than seven per cent. per annum if the rate is a fixed rate and is certified to the Company as being appropriate in the circumstances of the case by—

- (a) the firm of stockbrokers, being members of a recognised stock exchange as defined in section 16(1) of the Company Securities (Insider Dealing) Act 1985(b), or the bankers who placed the mortgage or placed or underwrote the issue of debenture stock; or
- (b) in the case of the raising of money on mortgage, an accountant or firm of accountants being either the duly appointed auditor or auditors of the Company or a person qualified to be so appointed.

(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).”.

Temporary borrowing

4. Section 8 (temporary borrowing) of the Mid-Wessex Water Order 1960(c) shall have effect as if in the proviso for the words “one hundred thousand pounds” there were substituted the words “two million pounds”.

Maximum rates of dividend

5.—(1) The Company shall not in respect of any year pay dividends on their paid up share capital at rates greater than the following—

- (a) on capital subscribed before the date of commencement of this Order, the rates which they were empowered to pay immediately before that date;

(a) 1845 c.16.

(b) 1985 c.8.

(c) S.I. 1960/1553.

- (b) on ordinary capital subscribed during the initial period, 10 per cent.;
- (c) on ordinary capital subscribed after the expiration of the initial period, 7 per cent. or such higher rate not exceeding 10 per cent. as the Secretary of State may allow;
- (d) on preference capital subscribed during the initial period, 12 per cent.;
- (e) on preference capital subscribed after the expiration of the initial period, 7 per cent. or such higher rate not exceeding 12 per cent. as the Secretary of State may allow; or
- (f) on any other capital which in accordance with the terms of subscription or issue bears a rate of dividend lower than the rates mentioned in paragraphs (b) to (e), that lower rate.

(2) The Company shall be entitled to pay a dividend on ordinary capital at rates greater than those mentioned in paragraphs (b) and (c) of subsection (1) to make up deficiencies in dividends payable in the preceding five years in respect of that capital.

(3) In this section the "initial period" means the period of five years beginning with the date of commencement of this Order.

Modification of the Third Schedule

6. Section 3 of the Mid-Wessex Water (No. 2) Order 1957(a) (which applied the Third Schedule to the undertaking with certain modifications) shall be amended by substituting for paragraph (g) of subsection (3) the following paragraphs—

"(g) in section 76 (which provides for the establishment of reserve and contingency funds)—

"(i) in subsection (1) for the word "they", where that word first occurs, there shall be substituted the words "the directors of the company", after the words "as they think fit" there shall be inserted the words "(not being provisions for liabilities or charges within paragraph 89 of Schedule 4 to the Companies Act 1985)(b)" and for the word "them" in paragraph (a) there shall be substituted the words "the company";

(ii) in subsection (3) for the words "The undertakers" there shall be substituted the words "The directors of the company";

(iii) in subsection (4) for the words "twelve and a half" there shall be substituted the words "twenty-five"; and

(iv) in subsection (5) for the words "one and a quarter" there shall be substituted the words "two and a half";

(gg) 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";".

Interim dividends

7. The directors of the Company may in any year, without calling a meeting of the shareholders for the purpose, declare and pay interim dividends out of the profits of the undertaking.

Appointment of proxies

8. Section 76 (manner of voting) of the Companies Clauses Consolidation Act 1845(c) as incorporated with the Mid Southern Water Acts and Orders 1893 to 1986 shall have effect subject to the following provisions—

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

(b) any member of the Company may in writing authorise an attorney to appoint

(a) S.I. 1957/2233.

(b) 1985 c.6.

(c) 1845 c.16; section 76 was amended by the Companies Clauses Consolidation Act 1888 (c.48) and the Companies Clauses Consolidation Act 1889 (c.37).

a proxy to vote on his behalf and where the member is a corporation an officer or attorney may be so authorised; and

- (c) a copy of any authorisation mentioned in paragraph (b) shall be sent to the Company at the same time as any instrument appointing a proxy.

Repeals and revocations

9.—(1) Section 29 (interim dividend) and section 31 (appointment of proxies) of the Frimley and Farnborough District Water Act 1915(a) are repealed.

(2) The Orders mentioned in column 1 of the Schedule to this Order are revoked to the extent mentioned in column 2.

Costs of Order

10. 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.

SCHEDULE REVOCATIONS

<i>Column 1 (Order)</i>	<i>Column 2 (Extent of revocation)</i>
The Mid Southern Water Order 1971(b)	The whole Order.
The Mid Southern Water Order 1972	Section 7.
The Mid Southern Water (Capital Powers) Order 1977(c)	The whole Order.

Signed by authority of the Secretary of State

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

25th March 1987

(a) 1915 c.xiii.
(b) S.I. 1971/968.
(c) S.I. 1977/744.

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