STATUTORY INSTRUMENTS

1979 No. 1168

WATER, ENGLAND AND WALES

The Bristol Waterworks Order 1979

Made - - - - 17*th September* 1979

Coming into Operation 26*th September* 1979

The Secretary of State for the Environment, in exercise of powers conferred by sections 23 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 orders as follows:—

Citation and commencement.

1.—(1) This order may be cited as the Bristol Waterworks Order 1979 and shall come into operation on 26th September 1979.

(2) The Bristol Waterworks Acts and Orders 1862 to 1978 and this order may be cited together as the Bristol Waterworks Acts and Orders 1862 to 1979.

Interpretation.

2. In this order, unless the context otherwise requires—

"the Company" means the Bristol Waterworks Company;

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

Incorporation of enactments.

3.—(1) The Companies Clauses Consolidation Act 1845(c), except sections 56 to 60 (which relate to the conversion of borrowed money into capital), section 145 (which relates to the publication of penalties) and sections 161 and 162 (which relate to the keeping and depositing of copies of the special Act), and the Companies Clauses Act 1863(d), except Part IV (which relates to change of name), are, so far as applicable for the purposes of, and subject to the provisions of the Bristol Waterworks Acts and Orders 1862 to 1978 and this order, hereby incorporated with and form part of this order:

Provided that—

(*a*) section 14 of the said Act of 1863 (which relates to dividends on preference capital) as so incorporated shall have effect as if—

(i) after the words "each year" there were inserted the words "or out of the profits from previous years available for payment of dividend, or partly out of the one and partly out of the other,"; and

(ii) before the words "profits available" there were inserted the word "such";

and, as so modified, the said section 14 shall apply to any capital raised under the Bristol Waterworks Acts and Orders 1862 to 1978;

(a) 1945 c.42. (b) S.I. 1951/142, 1900, 1970/1681. (c) 1845 c. 16. (d) 1863 c. 118.

(*b*) section 22 of the said Act of 1863 (which contains regulations as to the creation and issue of debenture stock) as so incorporated shall have effect as if the words "and to the same amount as" were omitted.

(2) In the construction of the enactments so incorporated with this order the expression "the special Act" shall mean this order and the expression "the company" shall mean the Company.

(3) For the purposes of this order, the provisions of section 94 of the Third Schedule to the Water Act 1945 (which provides for copies of the special Act to be kept by undertakers in their office and to be deposited with certain officers) shall apply to the undertaking and are hereby incorporated with this order.

Capital and borrowing powers.

4.—(1) The Company may from time to time raise by the creation and issue of ordinary stock or preference stock, or by borrowing on mortgage of the undertaking or by the creation and issue of debenture stock, or wholly or partly by any one or more of those modes, such sums as, when added to any money raised by the issue of share or loan capital and outstanding at the time when the powers of this section are exercised, shall be sufficient to produce in the aggregate, after taking into account any premiums or discounts which may be obtained or allowed on the issue or re-issue thereof, the sum of seventy million pounds:

Provided that the aggregate of any sums so borrowed shall not, when added to other sums so borrowed by the Company and outstanding at the time when the powers of this section are exercised, exceed—

(*a*) twice the amount (including premiums and allowing for discounts) which has for the time being been raised by the Company by the issue of share capital; or

(*b*) with the consent of the Secretary of State, the sum of that amount and an additional amount not exceeding ten per cent. thereof.

(2) For the purposes of this section, where any ordinary stock or preference stock of the Company has been or shall hereafter be issued for a consideration other than cash, a sum equal to the nominal amount of that stock shall be deemed to have been raised by the issue thereof.

(3) The unexercised powers for the raising of money by the issue of share capital under the Bristol Waterworks Acts and Orders 1862 to 1978 shall cease to be exercisable but any share capital which the directors of the Company were by resolution of the Company authorised to create and issue or re-issue before the coming into operation of this order may be created and issued or re-issued by the directors in exercise of the powers of subsection (1) above and without further requisite.

(4) Notwithstanding anything in any enactment for the time being relating to the Company, the directors of the Company may by virtue of this section, and without further requisite, exercise any powers for the time being vested in the Company of borrowing and reborrowing on mortgage and of creating and issuing mortgages or debenture stock and of raising money by the issue of notes or bonds.

(5) (*a*) Notwithstanding anything in Part III of the Companies Clauses Act 1863 or in the Bristol Waterworks Acts and Orders 1862 to 1978, the interest

on all mortgages and debenture stock at any time granted or issued by the Company shall, unless otherwise provided in any later enactment, rank *pari passu* without respect to the dates of the securities or of the Acts of Parliament, orders or resolutions by which the mortgages and stock were authorised and shall have priority over all principal moneys secured by such mortgages.

(*b*) Notice of the effect of this subsection shall be endorsed on all mortgages and certificates of debenture stock issued by the Company after the commencement of this order.

(6) For the purposes of this section the Company may without obtaining any certificate of a justice under section 40 of the Companies Clauses Consolidation Act 1845 borrow money on mortgage of the undertaking.

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 rates, that is to say:—

(*a*) on capital subscribed before the commencement of this order, the rates which they were entitled to pay thereon immediately before that date; and

(*b*) on capital subscribed after the commencement of this order—

(i) in the case of ordinary capital, ten per cent.;

(ii) in the case of preference capital, twelve per cent.

(2) Nothing in subsection (1) above shall prevent the payment of a greater dividend on ordinary stock in order to make up deficiencies in previous dividends:

Provided that, as respects capital subscribed after the coming into operation of the Bristol Waterworks Order 1970(a) this subsection shall apply only to deficiencies arising during the last five years before the year in respect of which the dividend is being paid.

Maximum rate of interest.

6. The Company shall not pay interest on any moneys borrowed on mortgage of the undertaking or on any debenture stock issued under section 4 (Capital and borrowing powers) of this order 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 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—

(*a*) in the case of the placing of a mortgage or the issue of debenture stock, by the firm of stockbrokers, being members of the Stock Exchange, or the bankers who placed the mortgage or placed or underwrote the issue of the debenture stock; or

(*b*) in any other case, by 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.

(a) S.I. 1970/643.

Application of section 93 Bristol Waterworks Act 1939.

7.—(1) Section 93 (Application of money) of the Bristol Waterworks Act 1939(a) shall, subject to the modification specified in subsection (2) below and to any other necessary modifications, extend and apply to all moneys raised under this order.

(2) In subsection (2) of the said section 93 as so applied, the reference to the existing Acts and Orders shall be read as a reference to the Bristol Waterworks Acts and Orders 1862 to 1979.

Share capital to be part of general capital.

8. Any share capital created and issued by the Company under the powers of this order shall be part of the general capital of the Company and the holders thereof respectively in proportion to the amount of their stock shall be entitled to the like rights of voting and any other rights, qualifications and privileges and be subject to the like provisions and liabilities in all respects as holders of other stock of the Company of the same class or description.

Temporary borrowing.

9. Section 9 (Company may incur temporary loans) of the Bristol Waterworks (Clevedon) Order 1952(b), as amended by section 7 of the Bristol Waterworks Order 1966(c), shall have effect as if for the words "fifty thousand pounds" there were substituted the words "one million pounds".

Signing of minutes &c.

10. Section 98 of the Companies Clauses Consolidation Act 1845, relating to proceedings, shall in its application to the Company have effect as if after the words "shall be signed by the chairman of such meeting" there were inserted the words "or of the next succeeding meeting".

Repeals.

11. The enactments specified in the Schedule to this order are hereby repealed.

Costs of Order.

12. 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.

(a) 1939 c.lxxxi. (b) S.I. 1952/2274. (c) S.I. 1966/1372.

SCHEDULE

ENACTMENTS REPEALED

The Bristol Waterworks Act 1862(a)—

Section 15 (Power to Company to raise additional capital)

Section 19 (Dividends on new shares)

Section 21 (Power to borrow)

The Bristol Waterworks Amendment Act 1865(b)—

Section 5 (Power to raise additional capital by new shares)

Section 8 (Power to borrow on mortgage)

The Bristol Waterworks Act 1872(c)—

Section 4 (Additional share capital may be raised)

Section 7 (Power to borrow on mortgage)

The Bristol Waterworks Act 1882(d)—

Section 24 (Company may raise additional capital)

Section 27 (Limit of dividend on new capital)

Section 29 (Power to borrow in respect of capital already raised)

Section 33 (Debenture stock)

The Bristol Waterworks Act 1888(e)—

Section 25 (Company may raise additional capital)

Section 28 (Limit of dividend on new capital)

Section 35 (Power to borrow in respect of capital authorised by Act of 1882)

Section 36 (Power to borrow in respect of additional capital authorised by this Act)

Section 40 (Debenture stock)

The Bristol Waterworks Act 1889(f)—

Section 23 (Company may raise additional capital)

Section 26 (Limit of dividend on new capital)

Section 33 (Power to borrow in respect of additional capital authorised by this Act)

Section 37 (Debenture Stock)

The Bristol Waterworks Act 1895(g)—

Section 11 (Company may apply existing funds and raise additional capital)

Section 13 (Power to borrow in respect of additional capital authorised by this Act)

In section 14 (Certain sections of the Act of 1889 incorporated), the references to sections 26 and 37 of the said Act of 1889

(a) 1862 c. xxx. (b) 1865 c.xxvi. (c) 1872 c.ii. (d) 1882 c.clxxv.
(e) 1888 c. cliii. (f) 1889 c.x. (g) 1895 c. viii.

The Bristol Waterworks Act 1902(a)—

Section 22 (Company may raise additional capital)

Section 25 (Limit of dividend on new preference capital)

Section 26 (Limit of dividend on new capital)

Section 27 (Power to borrow in respect of additional capital authorised by this Act)

In section 30 (Certain sections of Act of 1889 incorporated), the reference to section 37 of the said Act of 1889

The Bristol Waterworks Act 1914(b)—

Section 3 (Company may raise additional capital)

Section 6 (Limit of dividend on new preference capital)

Section 8 (Power to borrow)

In section 10 (Certain sections of Bristol Waterworks Act 1889 incorporated), the reference to section 37 of the said Act of 1889

The Bristol Waterworks Act 1917(c)—

Section 48 (Power to company to raise additional capital)

Section 49 (Power to borrow)

In section 51 (Application of certain sections of Acts of 1889, 1902 and 1914), the references to section 37 of the said Act of 1889 and section 26 of the said Act of 1902

Section 52 (As to rate of dividend on new preference and loan capital)

Section 56 (Consent of Treasury to raising of money)

The Bristol Waterworks Order 1920(d)—

Section 12 (As to authorised but unissued capital)

Section 13 (Issue of authorised loan capital as redeemable capital &c.)

The Bristol Waterworks Act 1921(e)—

Section 32 (Borrowing in respect of authorised capital)

Section 34 (Limitation on back dividends)

The Bristol Waterworks Act 1926(f)—

Section 11 (As to unissued borrowing powers)

The Bristol Waterworks Act 1927(g)—

Section 31 (Power to Company to raise additional capital)

Section 33 (Dividends on new stock)

Section 35 (Power to borrow)

In section 39 (Application of certain sections of Acts of 1889, 1902 and 1917), the references to section 37 of the said Act of 1889 and section 26 of the said Act of 1902

(a) 1902 c. cxxx. (b) 1914 c. xxvi. (c) 1917 c. xx. (d) Confirmed by 1920 c. cvi.
(e) 1921 c. xi. (f) 1926 c. v. (g) 1927 c. lxiv.

The Bristol Waterworks Act 1939(a)—

Section 79 (Additional capital)

Section 80 (Limit of dividend on additional ordinary capital)

Section 86 (Additional loan capital)

The Bristol Waterworks (Clevedon) Order 1952—

Section 4 (Additional capital)

Section 7 (Power to borrow)

The Bristol Waterworks Order 1954(b)—

Section 4 (Additional capital)

Section 6 (Power to borrow)

The Bristol Waterworks Order 1956(c)—

Section 4 (Additional capital)

Section 6 (Power to borrow)

The Bristol Waterworks (West Gloucestershire) Order 1959(d)—

Section 19 (As to unexercised capital powers of West Gloucestershire Company)

Section 20 (Power to borrow)

The Bristol Waterworks (Frome Rural) Order 1962(e)—

Section 4 (Additional capital)

Section 6 (Power to borrow)

The Bristol Waterworks Order 1964(f)—

Section 4 (Additional capital)

Section 6 (Power to borrow)

The Bristol Waterworks Order 1966—

Section 4 (Increased borrowing powers)

The Bristol Waterworks (Sodbury) Order 1967(g)—

Section 7 (Increased borrowing powers)

The Bristol Waterworks Order 1971(h)—

Section 4 (Additional capital)

(a) 1939 c. lxxxi. (b) S.I. 1954/795. (c) S.I. 1956/1262. (d) S.I. 1959/999.

(e) S.I. 1962/528. (f) S.I. 1964/1062. (g) S.I. 1967/463. (h) S.I. 1971/1053.

The Bristol Waterworks Order 1974(a)—

In section 3 (Incorporation of enactments), Subsection (3)

Section 4 (Additional capital)

Section 7 (Maximum rates of dividend)

A. G. Semple,
An Under Secretary in the
Department of the Environment.

Signed by authority of
the Secretary of State
17th September 1979.

(a) S.I. 1974/1750.

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