STATUTORY INSTRUMENTS

1985 No. 60

WATER, ENGLAND AND WALES

The Essex Water Order 1985

Made - - - - - 18*th January* 1985

Coming into Operation 1*st February* 1985

The Secretary of State for the Environment, in exercise of powers conferred on him by sections 32 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 Essex Water Order 1985 and shall come into operation on 1st February 1985.

(2) The Essex Water Acts and Orders 1861 to 1983 and this order may be cited together as the Essex Water Acts and Orders 1861 to 1985.

Interpretation

2. In this order unless the context otherwise requires—

"the Company" means the Essex 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.

Variation of the South Essex Waterworks Order 1964

3. The South Essex Waterworks Order 1964**(c)** is hereby amended in Schedule 2 thereof by—

(1) inserting in column (1) after the words "Section 76 (Reserve and contingency funds)" the words "Section 77 (Limitation on balance carried forward at end of year)" and in column (2), opposite the words thus inserted, the words "In paragraph (*a*), after the word "interest" the words "(including any tax payable in respect of any such dividend)" shall be inserted and in paragraph (*c*), at the end, the words "(including any tax payable in respect of any such dividends)" shall be inserted", and

(2) substituting for the words in column (2), opposite the item in column (1) entitled "Section 55 (Making and dates for payment of water rates)" the following words:—

(a) 1945 c. 42. **(b)** S.I. 1951/142, 1900, 1970/1681. **(c)** S.I. 1964/1548.

"In subsection (1), for the words from "by equal quarterly instalments" to the end of the subsection there shall be substituted the words—
"in respect of any premises—

(*a*) if the undertakers so resolve and the person who is liable to pay the water rate payable in respect of the premises so elects by making payment, by a single payment on a date within the first month of the rate period determined by the undertakers and specified in a statement sent by them to that person; or

(*b*) by equal half-yearly instalments on such dates within the first and seventh months of the rate period as shall be determined and so specified by the undertakers; (subject in the case of paragraph (*a*) or (*b*) above to such discount as may be allowed by the undertakers under section 54(2) or section 57 of this Schedule); or

(*c*) if the undertakers so resolve and, not later than one month after the beginning of the rate period, the person who is liable to pay the water rate payable in respect of the premises gives notice to the undertakers of his election to pay the rate by amounts as provided in this paragraph, then by such amounts (not less than two or more than five in respect of any half-yearly instalment and not less than four or more than ten in respect of any rate period) on such dates (at intervals of not less than one month) as may be determined and so specified by the undertakers.".

After subsection (2) the following subsection shall be inserted—

"(2A) Where a water rate payable in respect of any premises is paid in advance by a single payment and the person who is, or who, but for the last foregoing section, would be, liable to pay that rate is in occupation of those premises during a portion only of the rate period, the person by whom the rate is paid shall be entitled to recover from the undertakers so much of the payment as bears to the whole payment the same proportion as the number of days within the rate period during which the first-mentioned person is in occupation bears to the number of days in the rate period, except in so far as he has previously recovered it from an incoming occupier:

Provided that nothing in this paragraph shall affect liability to pay rates in respect of any subsequent portion of the rate period during which the premises may again become occupied."

In subsection (3) after the words "water rates are payable" there shall be inserted the words "in respect of any premises", in paragraph (*a*) for the words "two months" there shall be substituted the words "three months" and for paragraph (*b*) before the proviso there shall be substituted the following—

"(*b*) if the person who is, or who, but for the last foregoing section, would be, liable to pay the water rate is in occupation of those premises during a portion only of the half-year, the person by whom the rate is paid shall be entitled to recover from the undertakers so much of the payment as bears to the whole payment the same proportion as the number of days within the half-year during which the first-mentioned person is in occupation bears to the number of days in the half-year except in so far as he has previously recovered it from an incoming occupier:".

In subsection (4) for the words "foregoing subsection" there shall be substituted the words "two foregoing subsections"; in paragraph (*a*) thereof, after the word "instalment" there shall be inserted the words "or amount due in respect"; and, in paragraph (*b*) thereof, after the words "an instalment" there shall be inserted the words "or any sum in respect", and after the words "the instalment" there shall be inserted the words "or, as the case may be, the sum";

After subsection (4) there shall be inserted the following subsection—

"(4A) Where a person gives notice under paragraph (*c*) of subsection (1) of this section of his election to pay the water rate payable in respect of any premises by amounts as provided in that paragraph—

(*a*) the notice shall, subject as provided in the next following paragraph, remain in force in respect of each successive rate period, and the undertakers shall send to that person in respect of each successive rate period such a statement of the amounts and dates for payment within that rate period as is referred to in the said paragraph (*c*), but, where the undertakers determine to vary the number of amounts payable in respect of a half-yearly instalment or in respect of a rate period (as they may determine), notice of that variation must be sent to that person not less than three months before the first day of that rate period, stating such varied number of amounts as provided in the said paragraph (*c*) and the dates for payment;

(*b*) the notice of election shall cease to have effect—

(i) if the person by whom it was given withdraws it by further notice to the undertakers; or

(ii) if any payment is not made on or before the date in any rate period when it is due in accordance with the statement sent by the undertakers in respect of that rate period and the undertakers give notice to the person by whom the notice of election has been given that, by reason of the default, the notice is being treated as cancelled;

and, upon the notice of election ceasing to have effect in accordance with this paragraph, any sum due by way of water rate in respect of the premises shall be recoverable as if no such notice of election had been given;

(*c*) the amounts specified in any statement sent by the undertakers to the person by whom notice of election has been given shall be equal, except that the undertakers may round off any such amount (other than the first or the last) to the nearest five pence and adjust the first or, as the case may be, last amount accordingly.".

Section 55 as applied to the undertaking

4. Section 55 of the Third Schedule, as it applies to the undertaking by virtue of section 3 above, is set out in the Schedule to this order.

Revocation

5. The Essex Water Order 1976**(a)** is hereby revoked.

(a) S.I. 1976/911.

Costs of Order

6. All 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.

Signed by authority of
the Secretary of State
18th January 1985.

J. A. L. Gunn,
An Under Secretary in the
Department of the Environment.

SCHEDULE

SECTION 55 OF THE THIRD SCHEDULE TO THE WATER ACT 1945 AS APPLIED TO THE UNDERTAKING

Making and dates for payment of water rates

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, 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 and, subject to the provisions of this section, any such rate shall be payable in advance in respect of any premises—

(*a*) if the undertakers so resolve and the person who is liable to pay the water rate payable in respect of the premises so elects by making payment, by a single payment on a date within the first month of the rate period determined by the undertakers and specified in a statement sent by them to that person; or

(*b*) by equal half-yearly instalments on such dates within the first and seventh months of the rate period as shall be determined and so specified by the undertakers;

(subject in the case of paragraph (*a*) or (*b*) above to such discount as may be allowed by the undertakers under section 54(2) or section 57 of this Schedule); or

(*c*) if the undertakers so resolve and, not later than one month after the beginning of the rate period, the person who is liable to pay the water rate payable in respect of the premises gives notice to the undertakers of his election to pay the rate by amounts as provided in this paragraph, then by such amounts (not less than two or more than five in respect of any half-yearly instalment and not less than four or more than ten in respect of any rate period) on such dates (at intervals of not less than one month) as shall be determined and so specified by the undertakers.

(2) A water rate under this section, or in force under any enactments relating to the undertakers immediately before the coming into operation of this section, shall unless and until a new rate is made, continue to operate in respect of each successive period of twelve months.

(2A) Where a water rate payable in respect of any premises is paid in advance by a single payment and the person who is, or who, but for the last foregoing section, would be, liable to pay that rate is in occupation of those premises during a portion only of the rate period, the person by whom the rate is paid shall be entitled to recover from the undertakers so much of the payment as bears to the whole payment the same proportion as the number of days within the rate period during which the first-mentioned person is in occupation bears to the number of days in the rate period, except in so far as he has previously recovered it from an incoming occupier.

Provided that nothing in this paragraph shall affect liability to pay rates in respect of any subsequent portion of the rate period during which the premises may again become occupied.

(3) If, and so long as, the water rates are payable in respect of any premises in advance by half-yearly instalments—

(*a*) no proceedings shall be commenced for the recovery of any such instalment until the expiration of three months from the first day of the half-year in respect of which it has been demanded; and

(*b*) if the person who is, or who, but for the last foregoing section, would be, liable to pay the water rate is in occupation of those premises during a portion only of the half-year, the person by whom the rate is paid shall be entitled to recover from the undertakers so much of the payment as bears to the whole payment the same proportion as the number of days within the half-year during which the first-mentioned person is in occupation bears to the number of days in the half-year except in so far as he has previously recovered it from an incoming occupier:

Provided that nothing in this paragraph shall exempt the owner of any premises from liability in respect of any subsequent portion of the half-year during which the premises may again become occupied.

(4) Subject to the provisions of the last two foregoing subsections—

(*a*) where the undertakers commence to give a supply of water to any premises, either for the first time or after a discontinuance of supply, the then current instalment or amount due in respect of the water rate shall become payable 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 to give the supply; and

(*b*) the liability of a person to pay an instalment or any sum in respect of a water rate shall not be affected by the fact that, before the end of the period in respect of which the instalment or, as the case may be, the sum became payable by him, he or his tenant, as the case may be, removes from the premises in question, or causes the supply of water thereto to be discontinued.

(4A) Where a person gives notice under paragraph (*c*) of subsection (1) of this section of his election to pay the water rate payable in respect of any premises by amounts as provided in that paragraph—

(*a*) the notice shall, subject as provided in the next following paragraph, remain in force in respect of each successive rate period, and the undertakers shall send to that person in respect of each successive rate period such a statement of the amounts and dates for payment within that rate period as is referred to in the said paragraph (*c*), but, where the undertakers determine to vary the number of amounts payable in respect of a half-yearly instalment or in respect of a rate period (as they may determine), notice of that variation must be sent to that person not less than three months before the first day of that rate period, stating such varied number of amounts as provided in the said paragraph (*c*) and the dates for payment;

(*b*) the notice of election shall cease to have effect—

(i) if the person by whom it was given withdraws it by further notice to the undertakers; or

(ii) if any payment is not made on or before the date in any rate period when it is due in accordance with the statement sent by the undertakers in respect of that rate period and the undertakers give notice to the person by whom the notice of election has been given that, by reason of the default, the notice is being treated as cancelled;

and, upon the notice of election ceasing to have effect in accordance with this paragraph, any sum due by way of water rate in respect of the premises shall be recoverable as if no such notice of election had been given;

(*c*) the amounts specified in any statement sent by the undertakers to the person by whom notice of election has been given shall be equal, except that the undertakers may round off any such amount (other than the first or the last) to the nearest five pence and adjust the first or, as the case may be, last amount accordingly.

(5) Nothing in this section affects any right of the undertakers to make a minimum charge in respect of water rates.

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