STATUTORY INSTRUMENTS

1986 No. 2210

WATER, ENGLAND AND WALES

The Essex Water Order 1986

Made - - -	11*th December* 1986
Coming into Operation	12*th December* 1986

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 makes the following order:—

Citation and commencement

1.— (1) This order may be cited as the Essex Water Order 1986 and shall come into operation on 12th December 1986.

(2) The Essex Water Acts and Orders 1861 to 1985 and this order may be cited together as the Essex Water Acts and Orders 1861 to 1986.

Interpretation

2. In this order—

"the Company" means the Essex Water Company;

"the Third Schedule" means the Third Schedule to the Water Act 1945 having effect as applied to the undertaking of the Company as for the time being authorised by any enactment.

Capital and borrowing powers

3. The Essex Water (Capital Powers) Order 1981(c) shall be amended by substituting for section 4 (Capital and borrowing powers) 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.

(a) 1945 c.42.
(b) S.I. 1951/142, 1900, 1970/1681.
(c) S.I. 1981/1514.

(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 £100 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.

(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 directors may, without further authorisation, raise the same amount of capital as they were authorised to raise, but which they had not so raised, before the date of the coming into operation of this order.

(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

(a) 1845 c.16.

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.— (1) In addition to the powers to borrow money on mortgage of the undertaking or to raise money by the creation and issue of debenture stock, which are for the time being exercisable by the Company, the Company may for the purposes of or in connection with the undertaking borrow by way of temporary loans or overdrafts from banks or by the issue of bills of exchange or promissory notes or otherwise any sums which they may temporarily require—

(a) for the purpose of defraying expenses pending the receipt of revenues receivable by them; and

(b) for the purpose of defraying, pending the issue of shares or stock of any description or the borrowing of money in pursuance in either case of an authorisation in that behalf, expenses intended to be defrayed by means of such issues or borrowing, as the case may be;

Provided that the aggregate amount outstanding at any one time of moneys so borrowed for the purpose mentioned in paragraph *(a)* of this section shall not exceed £5 million.

(2) Section 4 (Temporary borrowing) of the South Essex Waterworks (No.2) Order 1962(a) is hereby revoked.

Costs of order

5. 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.

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

Signed by authority of
the Secretary of State
11th December 1986.

(a) S.I. 1962/1978.