STATUTORY INSTRUMENTS

1973 No. 333

WATER SUPPLY, ENGLAND AND WALES

The Sheffield Water (Wortley) Order 1973

Made - - - *27th February* 1973

Coming into Operation *1st March* 1973

The Secretary of State for the Environment, in exercise of his powers under section 9(1) 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 Sheffield Water (Wortley) Order 1973 and shall come into operation on 1st March 1973.

(2) The Sheffield Water Acts and Orders 1896 to 1972 and this order may be cited together as the Sheffield Water Acts and Orders 1896 to 1973.

Interpretation.

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

"the Act of 1945" means the Water Act 1945;

"the city" means the city of Sheffield;

"the Corporation" means the lord mayor, aldermen and citizens of the city acting by the council of the city;

"the Council" means the rural district council of Wortley;

"the day of transfer" means 1st April 1973;

"the limits of supply" means the limits within which the Corporation are from time to time authorised to supply water;

"the town clerk" means the town clerk of the city and includes any person duly appointed by the Corporation to discharge temporarily the duty of that officer;

"the transferred undertaking" means the water undertaking of the Council described in the Schedule to this order;

"the undertaking" means the undertaking of the Corporation as from time to time authorised by any enactment;

and any expression to which a meaning is assigned by the Third Schedule to the Act of 1945 shall have the meaning so assigned.

(2) Except where the context otherwise requires, references in this order to any enactment shall be construed as references to that enactment as amended by, or having effect by virtue of, any subsequent enactment, including this order.

(a) 1945 c. 42.

(b) S.I. 1951/142, 1900, 1970/1681 (1951 I, pp. 1348, 1347; 1970 III, p. 5551).

[DOE 11230]

Information to be supplied before transfer.

3.—(1) As soon as may be after the commencement of this order the clerk of the Council shall send to the town clerk a statement giving particulars with respect to the matters specified in the description of the transferred undertaking in the Schedule to this order.

(2) Any question arising between the Council and the Corporation as to the correctness of the said statement shall be determined by an arbitrator to be appointed either by agreement beween the parties or, in default of agreement, by the President of the Institution of Civil Engineers.

Inspection of books, etc.

4. The Corporation may at all reasonable times inspect, and shall at their expense be entitled to copies of, all registers, books of account, maps, plans, specifications, engineering reports and other documents which relate to the transferred undertaking and are in the possession or under the control of the Council.

Transfer of water undertaking.

5. On the day of transfer the transferred undertaking shall by virtue of this order be transferred to, and vest in the Corporation and shall for all purposes become part of the undertaking.

Repayment of loan charges to Council.

6.—(1) Subject to the provisions of this section, the Corporation shall pay to the Council in the year commencing on the day of transfer and in each year thereafter any amounts which, in pursuance of arrangements in force immediately before the day of transfer for the redemption of loans and the payment of interest thereon, would, but for this order, have fallen on or after that day to be debited in the accounts of the transferred undertaking for that year in respect of money borrowed for purposes of that undertaking:

Provided that—

(*a*) the Corporation shall not be liable to pay so much of any amount as aforesaid as is attributable to any period before the day of transfer and any such amount shall be calculated as if the amount due in respect of redemption of loans and payment of interest accrued from day to day;

(*b*) in calculating the amounts which would have fallen to be debited in respect of any loan, regard shall be had to—

(i) the income earned by any sinking fund established for the redemption of that loan; and

(ii) any sum received by the Council from the Unemployment Grants Committee or under the Rural Water Supplies and Sewerage Acts 1944 to 1961, or any payments of a similar nature made under any other enactment towards the financing of the liabilities in respect of which that loan was raised.

(2) Any sum payable under subsection (1) of this section shall, unless otherwise agreed, be paid by half-yearly instalments.

(3) Any question which may arise as to the amounts payable by the Corporation under subsection (1) of this section shall be determined by

an arbitrator to be appointed either by agreement between the parties or, in default of agreement, by the President of the Institute of Municipal Treasurers and Accountants.

(4) Any payment made by the Corporation under subsection (1) of this section in respect of the liability for the redemption of a loan shall be deemed to be a capital payment, and any other such payment (other than a payment in respect of debt management expenses) shall be deemed to be an annual payment.

(5) The Corporation may agree with the lender and with the Council for the transfer to the Corporation of the liability with respect to any outstanding loan made to the Council in respect of the transferred undertaking, and where any liability so transferred is in respect of a loan secured by a mortgage, the mortgage (unless otherwise agreed) shall take effect in all respects as a mortgage created by the Corporation of their revenues to secure the loan and the interest thereon.

(6) In this section reference to redemption of loans includes repayment of advances.

Payment for stores.

7. The Corporation shall also pay to the Council, as soon as practicable after the day of transfer an amount equal to the value immediately before the day of transfer of all stores which were then held on revenue account by the Council and which were transferred to the Corporation by this order.

Recovery and apportionment of debts.

8.—(1) The Council shall be entitled to and may recover all rates, rents, charges, profits and sums of money and shall discharge and pay all debts and liabilities in respect of the transferred undertaking which accrue due or become payable before the day of transfer and, subject to the provisions of this order, the Corporation shall be entitled to and may recover all such revenues and shall discharge or pay all such outgoings which accrue due or become payable on or after that day:

Provided that (except so far as may be otherwise agreed between the Corporation and the Council) so much of any amount recovered or paid by the Council by virtue of this section as is attributable to any period beginning on or after the day of transfer shall (as the case may require) be paid by them to, or be repaid to them by, the Corporation; and so much of any amount so recovered or paid by the Corporation as is attributable to any period before the day of transfer shall (as the case may require) be paid by them to, or be repaid to them by, the Council.

(2) Where necessary for the purposes of this section, any revenues and outgoings shall be apportioned between the Corporation and the Council.

(3) Any question which may arise under this section shall be determined by an arbitrator to be appointed either by agreement between the parties, or, in default of agreement, by the President of the Institute of Municipal Treasurers and Accountants.

Transfer of officers.

9.—(1) The Corporation shall take over and employ as from the day

of transfer every officer and servant, who immediately before that date is employed by the Council solely or mainly in connection with the transferred undertaking and is willing to enter the employment of the Corporation, on terms and conditions not less favourable than those on which he is employed by the Council immediately before the day of transfer:

Provided that the Corporation shall not be required to take into their employment any officer or servant whose contract of employment with the Council was entered into after 13th July 1972, unless such contract was entered into to replace an officer or servant who had left the employment of the Council and contained terms and conditions substantially similar to those of the contract with that officer or servant or unless such contract was entered into with the consent of the Corporation.

(2) In respect of those persons who—

(*a*) immediately before the day of transfer are servants or part-time officers within the meaning of the Local Government Superannuation Acts 1937 to 1953, enjoying superannuation rights under the said Acts; and

(*b*) enter the employment of the Corporation in pursuance of subsection (1) of this section;

the Corporation shall be deemed to have passed a statutory resolution for the purposes of paragraph (*b*) of subsection (2) of section 3 of the Local Government Superannuation Act 1937(a), and any such person shall be deemed to belong to a class or description of persons specified therein as being contributory employees of the Corporation.

(3) (*a*) For the purposes of the application of the Water Officers (Compensation) Regulations 1964(b) to any person in consequence of this order or anything done in pursuance thereof the compensation authority shall be—

(i) in the case of an officer or servant of the council whose contract of service was entered into after 13th July 1972 and who is not transferred to the Corporation pursuant to subsection (1) of this section, the council;

(ii) in any other case, the Corporation.

(*b*) For the purposes of the application as aforesaid of regulations 6(2) 7(1)(*a*), 12(2) and 13(1)(*a*) of the said regulations of 1964 the material date shall be the day of transfer.

(4) Where at any time within five years after the day of transfer the Corporation consider it necessary in the interests of their more efficient organisation or administration to require an officer or servant who has entered their employment in pursuance of subsection (1) of this section to work at a place other than that at which he worked before the day of transfer, the Corporation shall reimburse that officer or servant for any removal expenses and increase in travelling expenses which he may incur to such extent and for such period as shall be reasonable in the circumstances.

(a) 1937 c. 68. (b) S.I. 1964/26 (1964 I, p. 23).

(5) Any reference in this section to the Local Government Superannuation Acts 1937 to 1953, or to any provision of those Acts, shall be construed as including a reference to those Acts, or to that provision, as the case may be, as having effect by virtue of paragraph 5 of Schedule 7 to the Superannuation Act 1972(a).

Carrying on of transferred undertaking.

10.—(1) The Council in carrying on the transferred undertaking until the day of transfer shall not, without the previous consent of the Corporation—

(*a*) enter into any contract or, subject to the provisions of this section, incur any liability, otherwise than in the ordinary course of carrying on that undertaking, extending beyond the day of transfer or make any unnecessary expenditure or any exceptional expenditure, other than expenditure reasonably incurred in respect of accountancy, engineering or legal costs in connection with the transfer of that undertaking by this order;

(*b*) vary any rates, rents or charges which were being demanded or taken by them in connection with that undertaking at the commencement of this order; or

(*c*) increase the remuneration, salaries, wages or emoluments of their officers or servants in connection with that undertaking except in accordance with any contract of employment or scale of remuneration or at the instance of a joint industrial council or other wage negotiating body.

(2) Nothing in this order shall impose any liability on the Corporation in respect of anything done in contravention of this section.

Recovery of sums transferred from accounts of water undertaking to other accounts.

11.—(1) Where at any time after 13th July 1972—

(*a*) the Council have, without the consent of the Corporation, debited any amount in the accounts of their water undertaking and credited that amount in any other account of the Council; and

(*b*) that amount, but for its having been so debited, would have been transferred to the Corporation by this order;

the Council shall be liable to pay that amount to the Corporation, except in so far as it is properly so debited and credited by way of an adjustment of the accounts of the Council in respect of any transaction carried out, or service provided, partly for the purposes of the transferred undertaking of the Council and partly for other purposes.

(2) Any claim under this section shall be made before the expiration of the period of twelve months beginning on the day of transfer.

Power to maintain, etc., transferred works.

12.—(1) As from the day of transfer the Corporation may continue and maintain the reservoirs, boreholes, pumping stations, mains, pipes and other works and apparatus transferred to them by this order.

(2) Any mains, pipes or other works transferred to the Corporation by this order shall for all purposes be deemed to have been laid or constructed by the Corporation.

(a) 1972 c. 11.

Transfer of licences under Water Resources Act 1963.

13. Any licence issued to the Council before the day of transfer under the Water Resources Act 1963(a) in so far as it is a licence to abstract water by means of works transferred by this order shall on the day of transfer be transferred by virtue of this order to the Corporation and the Corporation shall thereupon by virtue of section 32(5) of the said Act of 1963 to that extent become the holder of such licence for the purposes of that Act.

Continuance of actions.

14. Any action, arbitration or other proceeding or any cause of action, arbitration or other proceeding, pending or existing on the day of transfer by, or against, or in favour of, the Council in respect of the transferred undertaking shall not be prejudicially affected by reason of this order and may be continued, prosecuted and enforced by, or against, or in favour of, the Corporation.

Saving of agreements, etc.

15. Subject to the provisions of this order, all sales, conveyances, grants, assurances, deeds, contracts (other than contracts the benefits of, and the liabilities under, which are not transferred by this order), bonds, agreements, notices and demands affecting the transferred undertaking and in force immediately before the day of transfer shall, on and from that day, be as binding and of as full force and effect in every respect and may be enforced as fully and effectually against, or in favour of, the Corporation as if, instead of the Council, the Corporation had been a party thereto or bound thereby or entitled to the benefits thereof.

Books to remain evidence.

16. All books and documents which, if this order had not been made, would have been evidence in respect of any matter for or against the Council shall, in so far as they relate to the transferred undertaking be admissible in evidence on and after the day of transfer in respect of the same matter for or against the Corporation.

Determination of agreements with respect to bulk supplies.

17. As from the day of transfer any agreement which may on that day be in force for, or with respect to, the supply of water in bulk by the Corporation to the Council shall cease to have effect but without prejudiceto the right of the Corporation to recover any sums payable in respect of water supplied before that day.

Repeal.

18. As from the day of transfer, the following enactments, shall be repealed:—

In the Sheffield Corporation (Consolidation) Act 1918(b)—
Section 103 (As to water supply to Wortley Rural District);
Section 104 (As to water supply in parish of Bradfield).

Application of certain provisions of Third Schedule to Act of 1945.

19. For the purposes of this order, the provisions of section 91 (which provides for mode of reference to arbitration) and of section 94 (which requires copies of the special Act to be kept by undertakers in their office, and deposited with certain officers) of the Third Schedule to the Act of 1945 shall apply to the undertaking and are hereby incorporated with this order.

(a) 1963 c. 38. (b) 1918 c. lxi.

SCHEDULE

DESCRIPTION OF THE TRANSFERRED UNDERTAKING

The water undertaking of the Council as existing immediately before the day of transfer, including—

(*a*) all the lands, buildings, easements, waterworks, water, sources of supply, machinery, mains, pipes, meters, plant, stock, spare parts, tools, apparatus, vehicles, stores, furniture and other real and personal property, assets and effects, rights, powers and privileges vested in, or held or enjoyed by, the Council for, or in relation to, their water undertaking immediately before the day of transfer, and all liabilities and obligations to which they were then subject in relation to the said undertaking;

(*b*) the benefits of all contracts (other than contracts for the employment of officers or servants) in force immediately before the day of transfer in respect of the said undertaking subject to any obligations thereunder;

(*c*) all registers, books of account, maps, plans, specifications, engineering reports and other documents relating solely to the said undertaking;

but excluding—

(i) any funds, money or securities for money of the Council, whether invested or in hand (other than consumers' deposits and any money or securities in money representing the unexpended balance of any sum borrowed by the Council for the purposes of the said undertaking);

(ii) any liabilities or obligations in respect of any sum borrowed by the Council for the purposes of the said undertaking;

(iii) any right to receive payments from the Unemployment Grants Committee or under the Rural Water Supplies and Sewerage Acts 1944 to 1961, or any payments of a similar nature under any other enactment in respect of expenditure incurred in connection with the said undertaking.

J. E. Beddoe,

An Under Secretary
in the Department
of the Environment

Signed by authority of
the Secretary of State
27th February 1973