STATUTORY INSTRUMENTS

1989 No. 1623

WATER, ENGLAND AND WALES

The Welsh Water Authority (North Wales Hospital, Denbigh, Waterworks) Order 1989

Made - - - -	*31st August 1989*
Coming into force	*31st August 1989*

The Secretary of State for Wales, on the application of the Welsh Water Authority as statutory water undertakers(a), and in exercise of powers conferred by sections 9(1) and (3) and 59(1)(b) of the Water Act 1945(c), and now vested in him(d), 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 Welsh Water Authority (North Wales Hospital, Denbigh, Waterworks) Order 1989 and shall come into force on 31st August 1989.

(2) This Order shall be included among the enactments which may be cited together as the Welsh Water Authority Orders 1976 to 1989.

Interpretation

2. In this Order:–

"the Act of 1896" means the North Wales Counties Lunatic Asylum (Water Supply) Act 1896(e);

"the Authority" means the Welsh Water Authority;

"the day of transfer" means the day after that upon which this Order comes into force;

"the deposited plan" means the plan prepared in duplicate signed by an Assistant Secretary in the Welsh Office and marked "Plan referred to in the Welsh Water Authority (North Wales Hospital, Denbigh, Waterworks) Order 1989" one duplicate of which is deposited and available for inspection at the offices of the Authority at Cambrian Way, Brecon and the other at the Welsh Office, Cathays Park, Cardiff;

"the transferred undertaking" means the water undertaking of the Clwyd Area Health Authority vested in the Secretary of State for Wales, as described in Schedule 1 to this Order;

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

Transfer of North Wales Hospital Undertaking

3. The transferred undertaking shall on the day of transfer by virtue of this Order be transferred to and vest in the Authority and shall become part of the undertaking.

(a) *See* the Water Act 1973 (c.37) section 11(6).
(b) *See* the definition of "Minister".
(c) 1945 c.42. There are amendments to section 9 but none relevant to this Order.
(d) S.I. 1951/142, 1900, 1965/319.
(e) 1896 c.cl (59 & 60 Vic.).

Power to continue and maintain works and to take waters

4. As from the day of transfer, the Authority may:–

(a) continue and maintain the transferred undertaking;

(b) take any water which may be taken or intercepted by any works forming part of the transferred undertaking.

Continuation of Supplies

5.—(1) As from the day of transfer the Authority shall continue to make supplies of water available to all those premises supplied from the transferred undertaking immediately prior to that date in the manner provided by paragraph (2) below.

(2)(a) The Authority shall continue to supply those premises receiving treated potable water on the day immediately prior to the day of transfer with water of a quality and in a quantity no less favourable than at the first-mentioned day.

(b) The Authority shall continue to supply those premises receiving untreated non-potable water immediately prior to the day of transfer with such water.

(3) If the Authority construct such works as shall enable them to make a treated potable supply available to those premises which, prior to the day of transfer received untreated non-potable supplies, the Authority may cease to make such untreated non-potable supplies available to any of those premises as from the commencement of the supply to them of treated potable water.

(4) As from the day of transfer the Authority shall ensure that the North Wales Hospital will be supplied with potable water from a system that includes reservoir storage equivalent to at least 48 hours demand by the Hospital.

Application of byelaws

6. As from the day of transfer all water installations of the transferred undertaking shall be subject to the water byelaws then in force under section 17 of the Act of 1945.

Repeal and amendment of the Act of 1896

7.—(1) On the day of transfer sections, 7, 8, 14, 17, 19 and 21 of the Act of 1896 shall be repealed and section 16 shall no longer apply to the transferred undertaking.

(2) As from the day of transfer the remaining provisions of the Act of 1896 shall, in relation to the continued operation of the transferred undertaking, have effect as if for the expression "the Committee" there were substituted the expression "the Welsh Water Authority".

Charges

8.—(1) As from the day of transfer, and notwithstanding anything in any agreement in force on that date made between the Secretary of State and any consumer, but subject to the provisions of this Order, the Authority shall make charges for all water supplied from the transferred undertaking in accordance with the Authority's scheme of charges for the time being in force.

(2) The application of the Authority's scheme of charges to domestic consumers supplied from the transferred undertaking shall be phased in accordance with the provisions of Schedule 2 to this Order.

Saving of agreements, etc.

9. 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 effectively against or in favour of the Authority as if instead of the Secretary of State or the Clwyd Area Health Authority the Authority had been a party thereto or bound thereby or entitled to the benefits thereof.

Books to remain evidence

10. 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 Secretary of State or the Clwyd Area Health Authority shall, in so far as they relate to the transferred undertaking, be admissable in evidence on and after the day of transfer in respect of the same matter for or against the Authority.

Inspection of Documents, etc.

11. For the purpose of enabling the Authority and the Secretary of State to discharge their functions under the Order–

(a) the Authority before the day of transfer and thereafter the Secretary of State shall be entitled to have access to and take copies of all registers, books, maps, plans, specifications, engineering reports and other documents comprised in the transferred undertaking; and

(b) the Authority shall be entitled at any time to have access to and to take copies of all registers, books, maps, plans, specifications, engineering reports and other documents not comprised in, but which relate to, the transferred undertaking.

Arbitration

12. Subject to the provisions of this Order, any dispute arising in connection with the provisions of this Order between the Authority and the Secretary of State shall be determined by the arbitration of a single arbitrator to be agreed upon between the parties or, failing agreement, appointed on the application of either party to that dispute, after notice in writing to the other, by the President of the Institution of Civil Engineers.

Signed by authority of the Secretary of State.

Alwyn H. H. Jones
An Assistant Secretary
Welsh Office

31st August 1989

SCHEDULE 1

DESCRIPTION OF THE TRANSFERRED UNDERTAKING

The water undertaking of the Clwyd Area Health Authority (having been constructed pursuant to the Act of 1896 for supplying water to the hospital formerly known as the North Wales Counties Lunatic Asylum) in the communities of Denbigh and Nantglyn as existing immediately before the day of transfer, including–

(a) The Llyn Bran reservoir situated in the community of Nantglyn in the District of Glyndwr in the County of Clwyd and shown edged pink on the deposited plan;

(b) the installations–

(i) annotated "A" and "B" and coloured pink on the deposited plan, situated in the said Community of Nantglyn; and

(ii) annotated "C" and coloured pink on the deposited plan, situated in the Community of Denbigh;

(c) the mains pipes and apparatus situated partly in the Community of Llansannan in the Borough of Colwyn in the said County and partly in the communities of Denbigh and Nantglyn, in the District of Glyndwr, the approximate positions of which are shown by red lines on the deposited plan;

(d) all rights, powers, privileges, agreements and contracts (other than contracts of employment) enjoyed by the Secretary of State or the Clwyd Area Health Authority immediately before the day of transfer in respect of the transferred undertaking;

(e) all deeds, agreements, registers, books of account, maps, plans, specifications, engineering reports and other documents relating to the transferred undertaking or to the supply of water thereby which immediately before the day of transfer are in the possession of the Secretary of State but not including any liabilities or obligations in respect of any sum borrowed for the purpose of the transferred undertaking.

(f) The benefit of and liabilities under all easements, quasi-easements, rights, covenants and conditions which immediately before the day of transfer were vested in or enjoyed by the Secretary of State in connection with the lands, buildings, works, apparatus and equipment comprised within the said undertaking.

SCHEDULE 2

PHASED CHARGING REGIME TO OPERATE FROM THE DAY OF TRANSFER

Part I Consumers Receiving Potable Supplies

To the end of the charging year following transfer	50% of Welsh Water Authority charges or 110% of Clwyd Health Authority's last charging rate (whichever is greater).
First full charging year after transfer	65% of Welsh Water Authority charges or 120% of Clwyd Health Authority's last charging rate (whichever is greater).
Second full charging year after transfer	80% of Welsh Water Authority charges or 130% of Clwyd Health Authority's last charging rate (whichever is greater).
Third full charging year after transfer and thereafter	Full Welsh Water Authority charges.

Part II Consumers Receiving Non-Potable Supplies

During period of non-potable supply	40% of Welsh Water Authority charges for potable supplies or 110% of Clwyd Health Authority's last charging rate (whichever is greater).
To the end of the charging year from the receipt of potable supplies	65% of Welsh Water Authority charges for potable supplies or 120% of Clwyd Health Authority's last charging rate (whichever is greater).
The first full charging year from receipt of potable supplies	80% of Welsh Water Authority charges for potable supplies or 130% of Clwyd Health Authority's last charging rate (whichever is greater).
The second full charging year from the receipt of potable supplies and thereafter	Full Welsh Water Authority charges for potable supplies.

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