STATUTORY INSTRUMENTS

1979 No. 801

WATER, ENGLAND AND WALES

The Wrexham and East Denbighshire Water (Capital Powers) Order 1979

Made - - - -	*2nd July* 1979
Coming into Operation	*3rd July* 1979

The Secretary of State for Wales, in exercise of powers conferred by sections 23, 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 Wrexham and East Denbighshire Water (Capital Powers) Order 1979 and shall come into operation on 3rd July 1979.

(2) The Wrexham and East Denbighshire Water Acts and Orders 1864 to 1977 and this order may be cited together as the Wrexham and East Denbighshire Water Acts and Orders 1864 to 1979.

Interpretation.

2. In this order, unless the context otherwise requires, the several words and expressions to which meanings are assigned by the enactments incorporated with this order shall have the same respective meanings; and

"the Company" means the Wrexham and East Denbighshire Water Company;

"the Order of 1933" means the Wrexham and East Denbighshire Water Order 1933(c);

"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.

Incorporation of enactments.

3.—(1) The following enactments (so far as they are applicable to the purposes of this order and are not inconsistent with the provisions of the Wrexham and East Denbighshire Water Acts and Orders 1864 to 1977) are hereby incorporated with this order—

(*a*) the Companies Clauses Consolidation Act 1845(d), except sections 56 to 60 (which relate to the conversion of borrowed money into capital) and sections 161 and 162 (which provide for affording access to the special Act);

(*b*) Part I (relating to cancellation and surrender of shares) and Part II (relating to additional capital), except the provisions thereof which limit the rate of dividend on preference capital, of the Companies Clauses Act 1863(e):

(a) 1945 c. 42.
(b) S.I. 1951/142, 1900, 1965/319.
(c) confirmed by 1933 c. lviii.
(d) 1845 c. 16.
(e) 1863 c. 118.

Provided that—

(i) section 98 of the said Act of 1845 (which requires proceedings to be entered in books), as so incorporated, shall 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";

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

(A) after the words "each year" there were inserted the words "or out of the unappropriated profits from previous years or partly out of one and partly out of the other"; and

(B) before the words "profits available" there were inserted the word "such".

(2) For the purposes of this order the provisions of section 94 of the Third Schedule (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.

(3) 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.

Additional capital.

4.—(1) The Company may from time to time raise by the creation and issue of ordinary stock or preference stock, or wholly or partly by either of those modes, additional capital to such nominal amount as shall be sufficient to produce, after taking into account any premiums or discounts (if any) which may be obtained or allowed on the issue or re-issue thereof, the sum of three million pounds.

(2) The Company shall not in respect of any year pay dividends on any paid-up capital raised after the commencement of this order under subsection (1) of this section or subsection (1) of section 4 (Additional capital) of the Wrexham and East Denbighshire Water (Financial Provisions) Order 1977(a) at rates greater than the following rates, that is to say:

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

(*b*) on capital subscribed during the initial period—

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

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

(*c*) on capital subscribed after the expiration of the initial period—

(i) in the case of ordinary capital, seven per cent or such higher rate not exceeding ten per cent as the Secretary of State may in respect of any subscription allow; or

(ii) in the case of preference capital, seven per cent or such higher rate not exceeding twelve per cent as the Secretary of State may in respect of any subscription allow.

In this subsection "the initial period" means the period of five years beginning with the coming into operation of this order.

(a) S.I. 1977/799.

(3) Nothing in paragraphs (*b*) or (*c*) of subsection (2) of this section shall prevent the payment (subject to the provisions of section 24 (Back dividends) of the Order of 1933) of a greater dividend on the ordinary capital created and issued in pursuance of subsection (1) of this section in order to make up deficiencies in previous dividends except that in the case of any further issues of ordinary capital such payments shall be limited to deficiencies arising during the last five years before the year in respect of which a dividend is being paid.

Application of enactments.

5. Subject to the provisions of this order the under-mentioned enactments shall, so far as applicable, extend and apply to any stocks created and issued under the powers of this order as if those enactments with any necessary modifications were re-enacted in this order:—

The Order of 1933—

Section 22 (New stock to be subject to same incidents as existing stock);

Section 25 (Provisions as to sale of stock and payment of commissions).

Repeal.

6. Subsections (2) and (3) of section 4 (Additional capital) of the Wrexham and East Denbighshire Water (Financial Provisions) Order 1977 are hereby repealed.

Costs of Order.

7. All costs, charges and expenses of and incidental to the application for and the preparation and making of this order may be paid by the Company in whole or in part out of revenue.

Signed by authority of the
Secretary of State
2nd July 1979.

P. J. Hosegood,
An Under Secretary in the
Welsh Office.