



Statutory Water Companies Act 1991

1991 CHAPTER 58

PART I

POWERS OF STATUTORY WATER COMPANIES

General powers

1 General powers of companies holding appointments

- (1) Subject to the following provisions of this section, a statutory water company holding an appointment under Chapter I of Part II of the Water Industry Act 1991 as a water undertaker for any area—
 - (a) shall have power to do anything (whether in that area or elsewhere) which, in the opinion of the company, is calculated to facilitate, or is conducive or incidental to, the carrying out of the functions which are functions of the company by virtue of the appointment; and
 - (b) without prejudice to the generality of that power, shall have power, for the purposes of, or in connection with, the carrying out of those functions—
 - (i) to acquire and dispose of land and other property;
 - (ii) to carry out such engineering or building operations at such places (whether in that area or elsewhere) as the company considers appropriate; and
 - (iii) to supply water fittings to any person to whom they supply water and to install, repair and alter such a person's water fittings, whether or not supplied by the company.
- (2) Without prejudice to the generality of the power conferred by virtue of paragraph (a) of subsection (1) above, a company such as is mentioned in that subsection shall have power—
 - (a) to provide for any person outside the United Kingdom advice or assistance, including training facilities, as respects any matter in which the company has skill or experience;

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- (b) to become a member of any body formed for the purpose of promoting the interests of water undertakers or any description of water undertakers; and
 - (c) to make donations and incur expenditure for the benefit of its officers and employees and in particular to pay, or make provision (whether by contributory or non-contributory schemes or otherwise) for the payment of, pensions, allowances or gratuities to or in respect of any persons who have been or are officers or employees of the company.
- (3) Nothing in this section with respect to the carrying out of works shall be construed as conferring any power otherwise than for the purpose of removing such a limitation on the capacity of a statutory water company as would, apart from this section, exist by virtue of the company's constitution.
- (4) Accordingly, without prejudice to the provisions of Part VI of the Water Industry Act 1991, this section shall be disregarded for the purpose of determining whether a statutory water company is liable, on grounds other than such a limitation as is mentioned in subsection (3) above, for any act or omission in exercise of a power to carry out works conferred by this section.
- (5) Nothing in this section shall be construed as authorising a statutory water company to carry on the business of a manufacturer of water fittings.
- (6) In this section "supply", in relation to water fittings, has the same meaning as it has in Part II of the Consumer Protection Act 1987 by virtue of section 46 of that Act.

Powers to issue redeemable stock

2 Powers to issue redeemable stock

- (1) This section applies, subject to the following provisions of this Act, to every statutory water company which—
- (a) has created or issued any redeemable stock; or
 - (b) has authority to create and issue any stock.
- (2) Subject to the following provisions of this section and to section 3 below, a company to which this section applies may from time to time issue, so as to be redeemable, any stock created by them or any redeemed stock.
- (3) No redeemed stock shall be issued under this section except for the purpose of effecting the redemption of redeemable stock under the provisions of section 3 below unless the issue is authorised by a resolution of a general meeting of the company.
- (4) No new stock shall be created, nor shall any redeemed stock be issued by a statutory water company, so as to make the total amount of any particular class of stock exceed the amount of stock of that class which the company is for the time being authorised to create except during an interval of three months between—
- (a) the creation or, in the case of redeemed stock, the issue of the stock; and
 - (b) the completion of the redemption of redeemable stock for the purpose of redeeming which the stock of that particular class is proposed to be created or issued.
- (5) Where any preference stock is created or issued by a statutory water company as mentioned in subsection (4) above, the amount raised by means of that stock shall, for the purposes of any enactment, statutory order or resolution regulating the borrowing

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powers of the company, be deemed during any such interval as is so mentioned not to have been raised.

- (6) In this section and section 3 below—
- “issue” includes reissue;
 - “preference stock” includes preference shares;
 - “redeemable stock” means stock issued so as to be redeemable;
 - “redeemed stock” means redeemable stock which has been redeemed and is available for issue under the provisions of this section or section 3 below; and
 - “stock” means preference stock or debenture stock.

3 Terms and conditions of issue and redemption of redeemable stock

- (1) Subject to the following provisions of this section and to section 4 below, redeemable stock issued by a company to which section 2 above applies—
- (a) shall bear such rate of dividend or interest; and
 - (b) shall be redeemable at such time, in such manner and subject otherwise to such terms and conditions,
- as the company may have determined before issuing the stock.
- (2) The terms and conditions of redemption upon which any redeemable stock is issued by a company to which section 2 above applies shall be stated—
- (a) in any offer by the company of any of the stock for sale; and
 - (b) in every certificate of the stock;
- and a term or condition which is not so stated shall not be binding upon the holder of the stock.
- (3) Redeemable stock may be redeemed either—
- (a) by paying off the stocks; or
 - (b) by issuing, to an assenting holder of the stock, other stock in substitution for the redeemable stock;
- and for the purpose of raising money to pay off, or of providing stock in substitution for, any redeemable stock, a company to which section 2 above applies may (subject to subsections (4) and (5) of that section) create new stock or issue redeemed stock, in either case, so as to be redeemable or irredeemable, as the company thinks fit.
- (4) A company to which section 2 above applies shall not redeem any redeemable stock out of revenue; but any discount allowed on the issue of redeemable stock, or any premium payable on redemption, may be written off out of revenue.
- (5) The redemption, by a company to which section 2 above applies, of any preference stock issued so as to be redeemable shall not affect the validity of any mortgage or of any debenture stock if the grant or issue of the mortgage or debenture stock by the company was lawful in the circumstances existing at the date of the grant or issue.

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Relaxation of restrictions affecting raising of capital

4 Relaxation of limits on capital, borrowing and dividends

- (1) Subject to the following provisions of this section and to section 5 below, so much of any provision contained in any local statutory provision, or having effect by virtue of anything done under any relevant provision, as—
 - (a) imposes any limit to which this section applies in relation to any statutory water company; or
 - (b) otherwise relates to any such limit,shall have effect subject to such modifications as may be approved by special resolution of the company.
- (2) This section applies, in relation to a statutory water company, to the following limits (whether they are expressed by reference to a specified sum or percentage or by reference to the respective proportions of, or of different descriptions of, capital raised and sums borrowed or to any other matter), that is to say—
 - (a) a limit on the amount of capital, or of capital of a particular description, that may be raised by the company;
 - (b) a limit on the amount that may be borrowed, or borrowed in a particular way or in particular circumstances, by the company; and
 - (c) a limit on the dividends payable on shares or stock in the company, or on shares or stock of a particular description.
- (3) Where there is a division of the shares or stock of a statutory water company into different classes, no modification of a limit falling within subsection (2)(c) above shall have effect by virtue of this section unless a consent to or approval of the modification has been given under subsection (4) below in respect of each class the rights attached to which are varied in consequence of the modification.
- (4) A consent or approval is given for the purposes of subsection (3) above in respect of a class of shares or stock if—
 - (a) consent in writing to the modification has been given by not less than three-quarters, in nominal value, of the members of the company holding shares or stock of that class; or
 - (b) a resolution approving the modification is passed by not less than three-quarters, in nominal value, of the members of the company holding shares or stock of that class who are present (whether in person or by proxy) at a meeting of which not less than twenty-one days' notice, specifying the intention to propose the resolution, has been duly given.
- (5) For the purpose of determining whether the requirements of subsection (3) above are satisfied in relation to any two or more classes of shares or stock in a statutory water company, it shall be immaterial that consents and approvals have been given in respect of different classes in accordance with different paragraphs of subsection (4) above.
- (6) Provision having effect by virtue of a resolution passed in accordance with this section may be modified by a subsequent such resolution.
- (7) The modifications that may be made by virtue of this section do not include, in the case of a limit falling within subsection (2)(a) above, any modification having the effect of reducing the authorised share capital, or the authorised capital stock, of the statutory water company in question.

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(8) In this section—

“relevant provision” means section 3(1) above, section 41(5) of the Water Act 1945, the provisions of the Statutory Companies (Redeemable Stock) Act 1915 or any local statutory provision;

“special resolution”, in relation to a statutory water company, means a resolution passed by a majority of not less than three-quarters of such of the members of the company as (being entitled to do so) vote (whether in person or by proxy) at a meeting of the company of which not less than twenty-one days' notice, specifying the intention to propose the resolution, has been duly given;

and in computing any majority for the purposes of the definition of “special resolution” the regulations contained in any local statutory provision as to the number of votes to which each member is entitled shall apply.

5 Appeals to the court in respect of applications under section 4

(1) Where subsection (3) of section 4 above applies in relation to a modification specified in a resolution passed for the purposes of that section, the holders of not less, in the aggregate, than fifteen per cent., in nominal value, of the issued shares or stock of any class of shares or stock of the company (being persons who have not for the purposes of that section consented to the modification or voted in favour of any resolution for the modification) may apply to the High Court to have the modification cancelled.

(2) An application to the High Court under this section—

(a) may be made on behalf of the shareholders or stockholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose; but

(b) shall not be made in relation to any modification more than twenty-one days after the date of the giving of the last consent or approval to the modification to be given for the purposes of section 4(1) or (3) above.

(3) Where an application is made under this section—

(a) the modification to which it relates shall have no effect unless and until it is confirmed by the High Court; and

(b) the High Court, after hearing the applicant and any other persons who apply to that Court to be heard and appear to that Court to be interested in the application—

(i) if satisfied, having regard to all the circumstances of the case, that the variation would unfairly prejudice the shareholders or stockholders of the class represented by the applicant, may disallow the modification; and

(ii) if not so satisfied, shall confirm it.

(4) The decision of the High Court on an application under this section shall be final.

6 Relaxation of restrictions on payment of interest

Nothing in so much of any local statutory provision as imposes a requirement—

(a) as to the rate of interest at which sums may be borrowed by a statutory water company; or

(b) as to the rate at which interest on sums so borrowed is to be paid,

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shall apply in relation to any borrowing by a statutory water company after 31st August 1989.

7 Relaxation of restrictions on applications of profits

- (1) Notwithstanding the provisions of any local statutory provision, every statutory water company shall have power to form and maintain reserve and contingency funds by setting apart such sums in such circumstances, and to invest those funds in such manner, as it thinks fit.
- (2) Nothing in subsection (1) above shall authorise any failure by a statutory water company to meet any obligation imposed on it by virtue of any local statutory provision to pay any sum to any other person.
- (3) Nothing in any local statutory provision shall have effect so as to impose a limit on the amount that may be carried forward at the end of any period to the credit of the profit and loss (net revenue) account of a statutory water company.

8 Relaxation of restrictions on mode of sale of shares or stock

Nothing in any local statutory provision shall have effect—

- (a) so as to require any shares or stock in a statutory water company to be offered for sale to the public; or
- (b) so as to require any offer for the sale of any such shares or stock to be an offer for sale by auction or tender.

Arrangements and reconstructions

9 Arrangements and reconstructions by certain companies

- (1) Part XIII of the 1985 Act (arrangements and reconstructions) shall have effect in relation to statutory water companies that are not limited companies with such modifications as may be prescribed by regulations made by the Secretary of State.
- (2) Section 213 of the Water Industry Act 1991 (procedure for making regulations and supplemental powers) shall apply in relation to the making of regulations under this section as it applies in relation to the making of regulations under that Act.
- (3) In this section “limited company” means a company, within the meaning of the 1985 Act, which is limited by shares.

Power to appoint officers as directors

10 Power to appoint officers as directors

- (1) Notwithstanding anything in the Companies Clauses Consolidation Act 1845 (“the 1845 Act”), as applied to any company, but subject to any provision of a memorandum and articles having effect by virtue of an order under section 12 below and to any modification of any such memorandum and articles, the following provisions of this section shall have effect in relation to any statutory water company.

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- (2) Any person employed as chief engineer, general manager or secretary of the company may (whether or not he is a shareholder of the company) be appointed a director of the company either by the directors or in the manner provided by the 1845 Act.
- (3) No appointment shall be made by virtue of this section if the appointment would increase the number of the directors of the company in question beyond the maximum number prescribed by any provision of any enactment or statutory order relating to the company; and not more than one director of the company shall hold office by virtue of this section at the same time.
- (4) A person appointed by virtue of this section—
 - (a) shall not cease to be a director by reason that he is employed as mentioned in subsection (2) above; but
 - (b) if he was appointed by the directors, shall cease to be a director as from the date of the next ordinary general meeting of the company unless his appointment is approved at that meeting by a majority of the votes of the proprietors of the company entitled to vote or voting (whether personally or by proxy) at the meeting.
- (5) The provisions of the 1845 Act requiring directors to retire by rotation shall have effect as if a person appointed by virtue of this section were not a director.