

**1988 No. 2306**

**WATER, ENGLAND AND WALES**

**The Eastbourne Water Order 1988**

*Made* - - - - - *12th December 1988*

*Coming into force* *12th December 1988*

The Secretary of State for the Environment, on the application of the Eastbourne Waterworks Company, being statutory water undertakers(a), and in exercise of powers conferred by sections 23, 32, 33, 50 and 59(1)(b) of the Water Act 1945(c) and now vested in him(d), hereby makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Eastbourne Water Order 1988 and shall come into force at 2.00 pm on 12th December 1988.

(2) The Eastbourne Water Acts and Orders 1859 to 1986 and this Order may be cited together as the Eastbourne Water Acts and Orders 1859 to 1988.

(3) In this Order—

“the 1845 Act” means the Companies Clauses Consolidation Act 1845(e);

“the 1859 Act” means the Eastbourne Waterworks Act 1859(f);

“the 1863 Act” means the Companies Clauses Act 1863(g);

“the 1920 Act” means the Eastbourne Waterworks Act 1920(h);

“the 1961 Order” means the Eastbourne Water (Financial Provisions) Order 1961(i);

“the 1967 Order” means the Eastbourne Water Order 1967(j);

“the 1972 Order” means the Eastbourne Water (Capital Powers) Order 1972(k);

“the 1983 Order” means the Eastbourne Water (Financial Provisions) Order 1983(l);

“the 1986 Order” means the Eastbourne Water (Financial Provisions) Order 1986(m);

“the Company” means the Eastbourne Water Company;

“the Third Schedule” means the Third Schedule to the Water Act 1945 as it applies to the undertaking(n);

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(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 sections 23 and 32, but none relevant to this Order.

(d) S.I. 1951/142, 1900, 1970/1681.

(e) 1845 c.16.

(f) 1859 c.xcix.

(g) 1863 c.118.

(h) 1920 c.lxiv.

(i) S.I. 1961/1011.

(j) S.I. 1967/1036.

(k) S.I. 1972/1387.

(l) S.I. 1983/1188.

(m) S.I. 1986/2.

(n) See S.I. 1967/1036.

“the undertaking” means the undertaking of the Company as for the time being authorised by any enactment.

#### **Change of name**

2.—(1) As from the commencement of this Order the name of the Eastbourne Waterworks Company shall be the Eastbourne Water Company.

(2) Part IV of the 1863 Act (which relates to change of name) is hereby incorporated with this Order; and references therein to “the special Act” and “the company” shall be construed as references to this Order and the Company respectively.

#### **Capital and borrowing powers**

3.—(1) Section 4 of the 1983 Order (capital and borrowing powers) shall be amended as follows.

(2) For the words “twenty million pounds” substitute “twenty-five million pounds”.

#### **Temporary borrowing**

4. Section 3 of the 1961 Order (temporary borrowing) shall be amended as follows—

(a) after the words “or otherwise” insert “(including bills of exchange or promissory notes)”; and

(b) for the words “one million pounds” substitute “two million pounds”.

#### **Maximum rates of dividend**

5. For section 5 of the 1972 Order (maximum rates of dividend) there shall be substituted the following section—

“5.—(1) The Company shall not in respect of any year pay dividends on their paid-up share capital at rates greater than the following—

(a) on capital subscribed before the date of commencement of this Order, the rates which they were entitled to pay thereon immediately before that date;

(b) on ordinary capital—

(i) during the initial period, 10 per cent., or

(ii) thereafter 7 per cent. or such higher rate not exceeding 10 per cent. as the Secretary of State may approve;

(c) on preference capital—

(i) during the initial period, 12 per cent., or

(ii) thereafter 7 per cent. or such higher rate not exceeding 12 per cent. as the Secretary of State may approve.

(2) The Company may pay a dividend on ordinary capital at rates greater than those mentioned in subsection (1) to make up deficiencies in previous dividends arising during the five years preceding the year in respect of which a dividend is being paid.

(3) In this section “the initial period” means the period of 5 years beginning with 12th December 1988.”.

#### **Making and dates for payments of water rates**

6. For section 55 of the Third Schedule (Making and dates for payment of water rates) there shall be substituted the following sections—

“55.—(1) Undertakers who charge water rates under the special Act shall make such a rate by fixing, in respect of a period of twelve months commencing on either the first day of January, the first day of April, the first day of July or the first day of October (hereinafter called “the relevant period”), the rate poundage or, as the case may be, the scale of rate poundages, by reference to which amounts due under the rate are to be calculated.

(2) Any rate made in respect of a relevant period shall be payable in respect of any premises by one of the following methods, namely—

- (a) by equal half-yearly instalments on such dates within the first and seventh months of a relevant period as the undertakers may specify; or
- (b) if the undertakers so resolve, and the person who is liable to pay the water rate in respect of the premises so elects—
  - (i) in single payment on or before such date within the relevant period as the undertakers may specify;
  - (ii) subject to subsection (10), not more than ten equal instalments at intervals of not less than one month on such dates within the relevant period as the undertakers may specify.

(3) A water rate made in respect of a relevant period shall, unless and until a new rate is made under subsection (1), continue to have effect in respect of each successive period of twelve months.

(4) If the person who is, or who, but for the provisions of section 54 above, would be, liable to pay any water rate is in occupation of premises for part only of a relevant period, that person or, as the case may be, the owner of the premises, shall be liable to pay a due proportion of the rate calculated at a daily rate in respect of any period of occupation.

(5) If, and so long as, any water rate is payable by half-yearly instalments, no proceedings shall be commenced for the recovery of any such instalment until the expiration of two months from the first day of the half-year in respect of which it has been demanded.

(6) Subject to subsections (4) and (5), where a person receives a supply of water to any premises, either for the first time or after a discontinuance of supply, he shall be liable to pay any instalment or amount due in respect of the water rate on the day on which notice requiring the supply is given to the undertakers or, if no such notice is given, on the day when they commence the supply.

(7) A person who elects to pay a water rate in instalments in accordance with subsection (2)(b)(ii) shall give notice to that effect to the undertakers on or before such date within the relevant period as the undertakers may specify.

(8) Subject to subsection (9) a notice mentioned in subsection (7) shall continue to have effect in each subsequent relevant period until withdrawn by a further notice to the undertakers.

(9) A notice mentioned in subsection (7) shall cease to have effect if payment of any instalment is not made on or before the due date in a relevant period, and the undertakers give notice to that effect to the person in default and thereupon any sum due shall be recoverable by the undertakers as if a notice mentioned in subsection (7) had not been given.

(10) Where any water rate is payable by instalments the undertakers may adjust the amount of the first or last instalment so that no instalment comprises or includes an amount of less than a penny.

(11) In this section "specify" means set out in a written notice sent by the undertakers to a person liable to pay any water rate.

**55A.—**(1) The undertakers may once only make a water rate by fixing a rate poundage in respect of a period of three months following the expiration of a relevant period mentioned in section 55 above.

(2) Any such rate shall be payable in full on the first day of that three month period.

(3) Subsections (4) and (6) of section 55 shall have effect in relation to a rate made in accordance with this section."

#### **Number of Directors**

7. In section 18 of the 1920 Act (Number of directors), for the word "five" substitute "eight".

### **Notice of meetings**

8. Section 71 of the 1845 Act (notice of meetings) shall cease to apply to the Company.

### **Appointment of proxies**

9.—(1) Notwithstanding anything in section 76 of the 1845 Act, the attorney of any member duly authorised in writing or, in the case of a corporation, an officer or attorney so authorised, may appoint a proxy to vote for and on behalf of the member and for that purpose may execute on behalf of the member the necessary form of proxy.

(2) In the proviso to the said section 76, after the words "any member" insert "or officer".

### **Voting rights**

10. For section 14 of the 1986 Order (voting rights) there shall be substituted the following section—

"(1) Every holder of consolidated ordinary stock shall be entitled to one vote for every £1 of stock held by him."

### **Closing of transfer books**

11. In section 17 of the 1845 Act (closing of transfer books), omit the words "of which seven days notice shall be given by advertisement as hereinafter mentioned".

### **Repeals**

12. The enactments specified in column (1) of the Schedule to this Order are hereby repealed to the extent mentioned in column (2).

### **Costs of Order**

13. 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.

Signed by authority of the Secretary of State

12th December 1988

*J. A. L. Gunn*  
An Under Secretary in the Department of the Environment

SCHEDULE

Article 12

REPEALS

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(1)	(2)
<i>Enactment</i>	<i>Extent of repeal</i>
The 1859 Act The 1967 Order The 1983 Order.	Section XIII. Section 3(3)(g). Section 5.

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