STATUTORY INSTRUMENTS

1973 No. 1656 (S.122)

WATER SUPPLY, SCOTLAND

The North-East of Scotland Water Board (Riereach Burn) Water Order 1973

Made - - - *28th September* 1973

Coming into Operation *5th October* 1973

The Secretary of State, in exercise of the powers conferred on him by sections 21(2) and 44(1) of the Water (Scotland) Act 1946(a), as amended by the Water (Scotland) Acts 1949(b) and 1967(c), and of all other powers enabling him in that behalf, on the application of the North-East of Scotland Water Board, hereby makes the following order:—

PART I

Citation and commencement

1. This order may be cited as the North-East of Scotland Water Board (Riereach Burn) Water Order 1973 and shall come into operation on 5th October 1973.

Interpretation

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

"the Act" means the Water (Scotland) Act 1946;

"approved" means approved by the Secretary of State;

"Board" means the North-East of Scotland Water Board;

"deposited plans" means the two plans prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked respectively "The North-East of Scotland Water Board (Riereach Burn) Water Order 1973 Catchment Area" and "The North-East of Scotland Water Board (Riereach Burn) Water Order 1973 Plans and Sections of the Works", one copy of each of which is deposited in the office of the Scottish Development Department, St. Andrew's House, Edinburgh, and the other in the office of the Clerk to the Board at Aberdeen;

"gauge" includes a gauge, weir or other apparatus for measuring the flow of water;

"intake" includes any work by which water is taken by the Board for the purposes of the undertaking;

"undertaking" means the water undertaking for the time being of the Board;

(a) 1946 c. 42.
(b) 1949 c. 31.
(c) 1967 c. 78.

"works" means the works described in Schedule 1 to this order which the Board in exercise of the powers conferred on them by section 24 of the Act, with the consent of the Secretary of State, and in the lines and situations and according to the levels shown on the deposited plan marked "The North-East of Scotland Water Board (Riereach Burn) Water Order 1973 Plans and Sections of the Works", propose to construct and maintain for the purpose of providing a supply of water within their region when they have acquired the necessary lands or sufficient rights therein.

(2) Where any provision of this order specifies both a metric measurement and an imperial measure, the imperial measure shall for the purposes of the said provision be deemed to be equivalent to the metric measurement.

Incorporation and application of provisions of the Fourth Schedule to the Act

3. The provisions of section 2 of Part II of the Fourth Schedule to the Act and the provisions of section 10(3) and (4) of Part III of the Fourth Schedule to the Act, all modified and adapted in terms of section 44(1) of the Act and set out in Schedule 2 to this order apply to the water undertaking to which this order relates.

PART II

Water rights

4. Subject to the provisions of this order the Board may, for the purposes of the undertaking, and by means of the works take water from the Riereach Burn in the Parish of Cawdor and County of Nairn.

5.—(1) During the construction of the works the Board may take from the said Riereach Burn such water as they may require for such construction.

(2) After the completion of the works the Board shall not—

(*a*) take any water from the Riereach Burn during any period between 1st October and 30th April when the rate of flow therein is less than 26·3 litres per second (500,000 gallons per day) the said rate of flow being measured through or over an approved gauge 'A' in the intake chamber (part of the works);

(*b*) take any water from the Riereach Burn during any period between 1st May and 30th September when the rate of flow therein is less than 36·8 litres per second (700,000 gallons per day) the said rate of flow being measured through or over the said gauge 'A' in the said intake chamber;

(*c*) in any one day of 24 hours reckoned from midnight, take from the Riereach Burn a quantity of water greater than 96,000 cubic metres (21,000,000 gallons) measured through or over an approved gauge 'B' in the said intake chamber;

(*d*) take any water from the Riereach Burn when the Clunas reservoir is overflowing.

6. If the power to take water conferred by this order has not been exercised within 10 years from the date on which this order comes into operation the said power shall cease.

PART III

Miscellaneous

7. The Board shall at all times after the expiration of 6 months from the date on which this order comes into operation keep at their principal office a copy thereof and of each of the deposited plans.

Given under the seal of the Secretary of State for Scotland.

(L.S.)

J. E. Stark,
Assistant Secretary.

Scottish Development Department,
St. Andrew's House,
EDINBURGH.

28th September 1973.

Article 2

SCHEDULE 1

The works referred to in this order and shown on the deposited plan marked "The North-East of Scotland Water Board (Riereach Burn) Water Order 1973 Plans and Sections of the Works" are:—

a weir, sill level 262·44 metres (861·02 feet) or thereby above Ordnance Datum, intake and intake chamber incorporating

(i) an approved gauge 'A' for measuring the rate of flow of water in the said Riereach Burn, and

(ii) an approved gauge 'B' for measuring the quantity of water taken by the Board,

all situated on the said Riereach Burn at a point (National Grid Reference NH 847444) 820 metres (897 yards) or thereby downstream of the point where the stream known as Caochan nan Seangan joins the said Burn.

Article 3

SCHEDULE 2

The provisions of the Fourth Schedule to the Act referred to in this order are:—

Section 2

In the construction of the works the Board may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plan marked "The North-East of Scotland Water Board (Riereach Burn) Water Order 1973 Plans and Sections of the Works" and they may also deviate vertically to the extent shown on the deposited sections.

Section 10(3)

If the Board—

(*a*) fail to install or maintain in good order any such gauge as is mentioned in this order, or refuse to allow any person interested to inspect or examine any such gauge or any records made thereby or kept by them in connection therewith or to take copies of any such records; or

(*b*) take any water contrary to the provisions of this order,

they shall without prejudice to their civil liability, if any, to a person aggrieved, be liable, in the case of an offence under paragraph (*a*) of this subsection, on summary conviction to a fine not exceeding £50 in respect of each day on which the offence has been committed or has continued, and in the case of an offence under paragraph (*b*) of this subsection—

(i) on summary conviction to a fine not exceeding £50 in respect of each such day; and

(ii) on conviction on indictment to a fine not exceeding £500 in respect of each such day.

Section 10(4)

For the purposes of this order a fishery district board shall be deemed to be interested in the flow of water in any stream within their fishery district or any stream feeding such a stream and shall be deemed to be aggrieved by the commission of an offence under this order in relation to any such stream.

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