STATUTORY INSTRUMENTS

1982 No. 1640 (S. 178)

WATER SUPPLY, SCOTLAND

The Dumfries and Galloway Regional Council (Wanlockhead) Water Order 1982

Made - - - - - 17*th November* 1982

Coming into Operation 24*th November* 1982

The Secretary of State, in exercise of the powers conferred on him by sections 17(2) and 29(1) of the Water (Scotland) Act 1980**(a)** and of all other powers enabling him in that behalf, on the application of the Dumfries and Galloway Regional Council, hereby makes the following order:—

PART I

Citation and commencement

1. This order may be cited as the Dumfries and Galloway Regional Council (Wanlockhead) Water Order 1982 and shall come into operation on 24th November 1982.

Interpretation

2.—In this order, unless the context otherwise requires:—

"the Act" means the Water (Scotland) Act 1980;

"approved" means approved by the Secretary of State;

"Council" means the Dumfries and Galloway Regional Council as water authority;

"day" means a period of 24 hours reckoned from midnight;

"deposited plans" means the two plans each prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked respectively "The Dumfries and Galloway Regional Council (Wanlockhead) Water Order 1982 Plan of Catchment Areas" and "The Dumfries and Galloway Regional Council (Wanlockhead) Water Order 1982 Plan and Sections of Works", one copy of each of which is deposited in the office of the Scottish Development Department, New St. Andrew's House, Edinburgh, and the other in the office of the Chief Executive to the Council at Dumfries;

"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 Council for the purpose of the undertaking;

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

(a) 1980 c. 45.

"works" means the works described in Schedule 1 to this order, which the Council, in exercise of the powers conferred on them by section 21 of the Act, and in the lines and situations and according to the levels shown on the deposited plan marked "The Dumfries and Galloway Regional Council (Wanlockhead) Water Order 1982 Plan and Sections of Works", propose to construct and maintain for the purpose of providing a supply of water within their limits of supply when they have acquired the necessary land or sufficient rights therein.

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

3. The provisions of section 2 of Part II and of section 10(3) and (4) of Part III of the Fourth Schedule to the Act modified and adapted in terms of section 29(1) of the Act and set out in Schedule 2 to this order apply to the undertaking in so far as affected by the provisions of this order.

PART II

Water rights

4. Subject to the provisions of this order, the Council may, for the purposes of the undertaking and by means of the works, take water from the streams known as the Mossy Burn, an unnamed tributary stream of the Little Arthur Grain, the Little Arthur Grain, and the Meikle Arthur Grain in the Parish of Sanquhar in the Nithsdale District in the Dumfries and Galloway Region.

5.—(1) During the construction of the works the Council may take from the aforesaid streams such water as they may require for such construction.

(2) After the completion of the works the Council shall not:—

(*a*) take any water from the said Mossy Burn through Work No 1 during any period when the rate of flow is less than 20,000 litres (4,400 gallons) per day measured through or over an approved gauge situated in Work No 1;

(*b*) take any water from the said unnamed tributary of the Little Arthur Grain through Work No 2 during any period when the rate of flow is less than 10,000 litres (2,200 gallons) per day measured through or over an approved gauge situated in Work No 2;

(*c*) take any water from the said Little Arthur Grain through Work No 3 during any period when the rate of flow is less than 20,000 litres (4,400 gallons) per day measured through or over an approved gauge situated in Work No 3;

(*d*) take any water from the said Meikle Arthur Grain through Work No 4 during any period when the rate of flow is less than 25,000 litres (5,500 gallons) per day measured through or over an approved gauge situated in Work No 4;

(*e*) in any one day take from the said Mossy Burn a quantity of water greater than 70,000 litres (15,400 gallons) measured through or over an approved gauge situated in Work No 1;

(*f*) in any one day take from the said unnamed tributary of the Little Arthur Grain a quantity of water greater than 70,000 litres (15,400 gallons) measured through or over an approved gauge situated in Work No 2;

(*g*) in any one day take from the said Little Arthur Grain a quantity of water greater than 70,000 litres (15,400 gallons) measured through or over an approved gauge situated in Work No 3;

(*h*) in any one day take from the said Meikle Arthur Grain a quantity of water greater than 70,000 litres (15,400 gallons) measured through or over an approved gauge situated in Work No 4.

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

PART III

Miscellaneous

7. The Council shall at all times after the expiration of six months from the date on which this order comes into operation keep at the office of the Chief Executive to the Council a copy thereof and one copy of each of the deposited plans.

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

L.S.

Scottish Development Department,
New St. Andrew's House,
Edinburgh.
17th November 1982.

Eric H. Nicoll,
Deputy Chief Engineer.

SCHEDULE 1 Article 2

The works referred to in this order and shown on the deposited plan marked "The Dumfries and Galloway Regional Council (Wanlockhead) Water Order 1982 Plan and Sections of Works" are:—

Work No 1

Weir, intake and gauges (*a*) for residual flow in, and (*b*) for abstraction from the Mossy Burn situated at a point 100 metres or thereby north-east or upstream of the confluence of the Little Arthur Grain and the Mossy Burn.

Work No 2

Weir, intake and gauges (*a*) for residual flow in, and (*b*) for abstraction from an unnamed tributary of the Little Arthur Grain situated at a point 50 metres or thereby east or upstream of the confluence of this unnamed stream and the Little Arthur Grain.

Work No 3

Weir, intake and gauges (*a*) for residual flow in, and (*b*) for abstraction from the Little Arthur Grain situated at a point 100 metres or thereby south-east or upstream of the confluence of the Little Arthur Grain and the Mossy Burn.

Work No 4

Weir, intake and gauges (*a*) for residual flow in, and (*b*) for abstraction from the Meikle Arthur Grain situated at a point 950 metres or thereby north-east of the point where the water flowing down Whitestone Cleuch meets the Mennock Water.

Work No 5

A pipe connecting the abstraction from Work No 3 to the abstraction from Work No 2.

Work No 6

A pipe connecting the abstraction from Works Nos 3 and 2 to the abstraction from Work No 1.

SCHEDULE 2 Article 3

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

Section 2

In the construction of the works the Council may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plan marked "The Dumfries and Galloway Regional Council (Wanlockhead) Water Order 1982 Plan and Sections of Works" and they may also deviate vertically from the levels shown on the deposited sections to any extent:

Provided that:—

(*a*) no weir across a watercourse shall be constructed at a greater height above the general bed level of the watercourse than that shown on the said plan and 300 millimetres in addition thereto; and

(*b*) except for the purpose of crossing a stream, canal, dyke, watercourse or railway, or of crossing any lands where the consent of all persons interested in those lands has been obtained, no pipe or other conduit or aqueduct shall be raised above the surface of the ground otherwise than in accordance with the said plans.

Section 10(3)

If the Council—

(*a*) fail to install or maintain in good order any such gauge as is mentioned in the Dumfries and Galloway Regional Council (Wanlockhead) Water Order 1982 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 the Dumfries and Galloway Regional Council (Wanlockhead) Water Order 1982,

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 in respect of each such day.

Section 10(4)

For the purposes of the Dumfries and Galloway Regional Council (Wanlockhead) Water Order 1982 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 the said order in relation to any such stream.

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