STATUTORY INSTRUMENTS

1978 No. 208 (S. 28)

WATER SUPPLY, SCOTLAND

The Grampian Regional Council (River Dee) Water Order 1978

Made - - - - 13*th February* 1978

Coming into Operation 20*th February* 1978

The Secretary of State, in exercise of the powers conferred on him by section 32(1)(*b*) of the Water (Scotland) Act 1967(**a**) as amended by section 148 and paragraph 45(*a*) of Schedule 17 of the Local Government (Scotland) Act 1973(**b**), and section 44(2) of the Water (Scotland) Act 1946(**c**) as amended by the said Water (Scotland) Act 1967 and as read with section 148 and Schedule 17 of the said Local Government (Scotland) Act 1973 and section 38(1) and paragraph 56 of Part II of Schedule 6 of the Local Government (Scotland) Act 1975(**d**) and of all other powers enabling him in that behalf, on the application of the Grampian Regional Council hereby makes the following order:—

Citation and commencement

1. This order may be cited as the Grampian Regional Council (River Dee) Water Order 1978 and shall come into operation on 20th February 1978.

Interpretation

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

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

"Council" means the Grampian Regional Council as water authority;

"approved" means approved by the Secretary of State;

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

"the Order of 1937" means the order confirmed by the Aberdeen Corporation (Water, Gas, Electricity and Transport) Order Confirmation Act 1937(**e**);

"the Order of 1955" means the order confirmed by the Aberdeen Corporation Order Confirmation Act 1955(**f**).

Amendment of the Order of 1937

3. For section 8 of the Order of 1937, as substituted by section 47 of the Order of 1955, there shall be substituted the following section:—

"**8.**—(1) Subject to the provisions of subsection (2) of this section the Council may for the purposes of their water undertaking take, by means

(**a**) 1967 c. 78. (**b**) 1973 c. 65. (**c**) 1946 c. 42.
(**d**) 1975 c. 30. (**e**) 1937 c. cii. (**f**) 1955 c. iii.

of the works, from the River Dee at Cairnton in the City of Aberdeen District in the Grampian Region

(i) until 31 December 1985 a quantity of water not exceeding 91,000 cubic metres in any one day,

(ii) from 1 January 1986 a quantity of water not exceeding 70,000 cubic metres in any one day.

(2) When the flow in the said River Dee is less than 680,000 cubic metres per day for seven consecutive days the said Council shall prohibit or restrict, within the City of Aberdeen District and surrounding areas supplied with water by means of the works, the use, for the purpose of watering private gardens or washing private motor cars, of any water supplied by them and drawn through a hosepipe or similar apparatus. Such prohibition or restriction may only be lifted by the said Council when the flow in the said River Dee is not less than 770,000 cubic metres per day for seven consecutive days.

(3) If by reason of the operation of this section the Dee District Salmon Fishery Board suffer damage, the Board shall be entitled to payment of compensation; any question arising under this subsection as to the fact of damage or as to the amount of compensation shall in case of dispute be determined by arbitration, such arbitration to be by a single arbiter appointed by agreement between the parties or in default of agreement by the Secretary of State.

(4) As from 1 January 1986 the provisions of subsection (2) and (3) of this section and the words "Subject to the provisions of subsection (2) of this section" where they appear in subsection (1) of this section shall cease to have effect.

(5) For the purpose of securing compliance with the provisions of subsections (1) and (2) above:—

(*a*) all water taken from the said River Dee by the said Council by means of the works shall be measured through or over the existing meter constructed in pursuance of the repealed Acts, situated at Invercannie Water Works at N.G. Ref NO 661964.

(*b*) flows in the said River Dee for any day shall be measured through or over the gauge situated on the said river at Woodend at N.G. Ref NO 632960 owned by the North East River Purification Board.

(6) For the purposes of this section:—

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

"private motor car" means a mechanically propelled vehicle intended or adapted for use on roads and includes any vehicle drawn by a private motor car, but does not include a public service vehicle within the meaning of section 117(1) of the Road Traffic Act 1960(a) or a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted;

"works" means the waterworks vested in the said Council by section 6 of this order, and the authorised water works.".

4. Section 11 of the Order of 1937 shall cease to have effect.

(a) 1960 c. 16.

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

5. The provisions of section 10(3) and (4) of Part III of the Fourth Schedule to the Act modified and adapted in terms of section 44(2) of the Act and set out in the Schedule to this order apply to the provisions of Part II of the Order of 1937 as hereby amended.

Miscellaneous

6. 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.

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

(L.S.)

J. B. More,
Assistant Secretary.

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

13th February 1978.

SCHEDULE *Article 5*

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

Section 10(3)

If the Council—

(*a*) fail to maintain in good order the gauge mentioned in section 8(5)(*a*) of the Order of 1937 or any replacement thereof or refuse to allow any person interested to inspect and examine that gauge or any records of that gauge, or where available the records of the gauge mentioned in section 8(5)(*b*) of the said Order of 1937, made thereby or kept by them in connection therewith, or to take copies of any such records; or

(*b*) in the event of the gauge mentioned in section 8(5)(*b*) being abandoned or not maintained, fail to provide and thereafter maintain in good order an approved gauge in or as near as possible to the site of the gauge mentioned in section 8(5)(*b*), or refuse to allow any person interested to inspect or examine that gauge or examine any records made thereby or kept by them in connection therewith or to take copies of any such records; or

(*c*) take any water contrary to the provisions of Part II of the Order of 1937,

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 day.

Section 10(4)

For the purposes of this section 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 section 10(3) in relation to any such stream.

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