STATUTORY INSTRUMENTS

1973 No. 1695 (S.128)

WATER SUPPLY, SCOTLAND

The North of Scotland Water Board (Sandy Loch, Hoy) Water Order 1973

Made - - - 10*th October* 1973

Coming into Operation 17*th 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) Act 1949(**b**) and the Water (Scotland) Act 1967(**c**), and of all other powers enabling him in that behalf, on the application of the North of Scotland Water Board, hereby makes the following order:—

PART I

Citation and commencement

1. This order may be cited as the North of Scotland Water Board (Sandy Loch, Hoy) Water Order 1973 and shall come into operation on 17th 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 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 of Scotland Water Board (Sandy Loch, Hoy) Water Order 1973 Plan of Catchment Area" and "The North of Scotland Water Board (Sandy Loch, Hoy) Water Order 1973 Plan of 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 Wick;

"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 underaking;

"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 of Scotland Water Board (Sandy Loch, Hoy) Water Order 1973 Plan of 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 10(3), (4) and (5) of Part III of the Fourth Schedule to the Act 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, impound and take water from Sandy Loch, Hoy in the Parish of Hoy and Graemsay and County of Orkney.

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

(2) After the completion of the works the Board shall by means of a discharge pipe (Work No. 3) discharge from the said Sandy Loch into the stream known as the Breibuster Burn in a uniform and continuous flow a minimum of 91 cubic metres (20,000 gallons) during every day of 24 hours reckoned from midnight as measured through or over an approved gauge incorporated in the gauging chamber (part of Work No. 1).

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 one copy 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.
10th October 1973.

Article 2

SCHEDULE 1

The works referred to in this order and shown on the deposited plan marked "The North of Scotland Water Board (Sandy Loch, Hoy) Water Order 1973 Plan of Works" are:—

WORK No. 1 A dam, having an overflow level of 101·2 metres (332 feet) or thereby above Ordnance Datum, and a gauging chamber, incorporating an approved gauge for measuring the quantity of water discharged from Sandy Loch into the stream known as the Breibuster Burn by means of a discharge pipe (Work No. 3), situated at the outlet of Sandy Loch at a point where the Breibuster Burn leaves Sandy Loch.

WORK No. 2—An intake pipe with the mouth situated in Sandy Loch 20 metres (22 yards) or thereby south-east of the point where the Breibuster Burn leaves Sandy Loch and at level 100 metres (328 feet) or thereby above Ordnance Datum and extending 23 metres (25 yards) or thereby from the said mouth to the gauging chamber (part of Work No. 1).

WORK No. 3 A discharge pipe 10 metres (11 yards) or thereby in length leading from the gauging chamber (part of Work No. 1) to the Breibuster Burn.

Article 3

SCHEDULE 2

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

Section 10(3)

If the Board—

(*a*) fail to instal or maintain in good order any such gauge as is mentioned in this order, or refuse to allow any person interested to inspect and 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.

Section 10(5)

The provisions of this order shall be deemed to have been accepted by all persons interested as providing full compensation for all water impounded by the works.

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