STATUTORY INSTRUMENTS

1975 No. 1285

WATER, ENGLAND AND WALES

The Northumbrian Water Authority (River Tees Regulation) Order 1975

Made - - - - 1*st August* 1975

Coming into Operation 13*th August* 1975

The Secretary of State for the Environment, in exercise of the powers conferred by section 67 of the Water Resources Act 1963(a), section 36 of the Compulsory Purchase Act 1965(b), section 1 of the Water Resources Act 1971(c) and now vested in him(d) and of all other powers enabling him in that behalf, hereby orders as follows:—

Citation.

1.—(1) This order may be cited as the Northumbrian Water Authority (River Tees Regulation) Order 1975.

(2) This order shall be included among the enactments which may be cited together as the Northumbrian Water Authority Orders 1974 and 1975.

Interpretation.

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

"the Authority" means the Northumbrian Water Authority;

"the deposited plan No. 1" and "the deposited plan No. 2" mean the two plans prepared in duplicate, each signed by an Under Secretary in the Department of the Environment and marked "Plans referred to in the Northumbrian Water Authority (River Tees Regulation) Order 1975" and further marked "Plan No. 1" and "Plan No. 2" respectively, of which one duplicate is deposited and available for inspection at the offices of the Secretary of the Authority and the other at the offices of the Secretary of State for the Environment.

(2) References in this order to reference points shall be construed as references to the national grid reference points.

(3) Unless the context otherwise requires, references in this order to any enactment shall be construed as references to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this order.

(4) The Interpretation Act 1889(e) shall apply for the interpretation of this order as it applies for the interpretation of an Act of Parliament.

Application of enactments.

3.—(1) In its application to this order Part I of the Compulsory Purchase Act 1965 shall have effect subject to the following exceptions and modifications—

(a) 1963 c. 38. (b) 1965 c. 56. (c) 1971 c 34.
(d) S.I. 1970/1681(1970 III, p. 5551). (e) 1889 c. 63.

[DOE 20651]

(*a*) at the end of section 4 there shall be added the following proviso—

"Provided that such powers shall in relation to any of the land be deemed to have been exercised if before the expiration of the said three years notice to treat has been served in respect of that land.";

(*b*) in section 11(1) for the words "fourteen days" there shall be substituted the words "one month";

(*c*) in section 11(2), at the end of the first paragraph thereof, there shall be inserted the words "(other than paragraph 3(3) thereof)";

(*d*) in section 11(3) for the words "not less than three nor more than fourteen days' notice" there shall be substituted the words "not less than seven days' notice in the case of the first entry and not less than twenty-four hours' notice in the case of a subsequent entry"; and

(*e*) section 27 shall be omitted.

(2) For the purposes of this order the provisions of section 8 (Persons under disability may grant easements &c.) and section 91 (Mode of reference to arbitration) of the Third Schedule to the Water Act 1945 shall apply to the Authority as the undertakers therein referred to and are hereby incorporated with this order.

Power to acquire land.

4.—(1) The Authority may purchase compulsorily for the purpose of the works authorised by sub-paragraphs (*a*) and (*c*) of paragraph (1) of article 5 (Power to construct works) of this order, including the purpose of obtaining access thereto and the deposit of spoil, all or any of the lands described in Schedule 1 to this order.

(2) Notwithstanding the provisions of paragraph (1) of this article, the Authority shall not so purchase any land if the owner of that land is able and willing to grant or sell to the Authority (at a price to be agreed or, failing agreement, to be determined in accordance with the provisions of the Land Compensation Act 1961(a)) such easements and rights over and in that land as the Authority may require for the purpose of constructing and maintaining or operating the said works.

Power to construct works.

5. Subject to the provisions of this order, the Authority may—

(*a*) construct and maintain two boreholes for the abstraction of water in the Parish of Brafferton in the District of Darlington in the County of Durham, one on the lands numbered 1300 and the other on the lands numbered 3168 on the 1/2500 ordnance map NZ 3120 (1962 edition) together with means of access thereto from a road leading from the road from Darlington to Bishopton and a pipe and outfall in the said lands numbered 3168 and the lands numbered 1300, 3357 and 6346 on the said 1/2500 ordnance map for the discharge of water into Newton Beck in the said Parish of Brafferton at reference point NZ 313205;

(*b*) continue and maintain for the abstraction of water each of the boreholes (including the two boreholes authorised by sub-paragraph (*a*) of this paragraph) named and numbered in column (1) of Schedule 2 to this order in the district in the County of Durham and the parish or town in that district specified in columns (2) and (3) of that Schedule, on the lands bearing

(a) 1961 c. 33.

the enclosure number for that parish or town specified in column (4) of that Schedule as shown on the 1/2500 ordnance map sheet specified in column (5) of the said Schedule;

(*c*) construct and maintain an improvement of Newton Beck in the said Parish of Brafferton and in the Parish of Whessoe in the said District of Darlington consisting of an alteration, widening, deepening, strengthening, straightening, or diversion of portions of the bed and banks of so much of the said watercourse as lies between reference points NZ 313205 and NZ 307191.

General power to construct subsidiary works.

6.—(1) Subject to the provisions of this order, the Authority in connection with, and for the purposes of, the works authorised by this order, in or over any lands in which they have sufficient interests or rights for the purposes of those works, may—

(*a*) make and maintain junctions and communications between any of those works and any watercourses and any existing streets, roads, droves, ways, fords, bridges, towing paths and footpaths;

(*b*) make, provide and maintain all necessary and convenient walls, banks, embankments, lagoons, piling, fences, gates, facilities for watering cattle and other animals, culverts, drains, intakes, syphons, channels, weirs, gauges, sluices, wharves, mattresses, pitching roads, droves, bridges, towing paths and footpaths, and all such buildings, sheds, meter valve and other chambers, mains, pipes, cables, radio masts and aerials, wires, pumps, meters, machinery, works and appliances as may be required;

(*c*) dispose of spoil or other material;

(*d*) execute any works for the protection of any adjoining lands or buildings; and

(*e*) fell, lop or cut and remove any tree, bush, shrub or other vegetation.

(2) In the exercise of the powers conferred by this article, the Authority shall cause as little detriment and inconvenience to any person as circumstances admit.

Temporary stoppage of watercourses, highways, etc.

7.—(1) The Authority during and for the purposes of the execution of any of the works authorised by this order may temporarily stop up, alter, divert or otherwise interfere with any watercourse or highway or any private right of way, and, in the case of any highway or right of way, may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the highway or right of way from passing along and using the same.

(2) The Authority shall provide reasonable access for foot passengers bona fide going, with or without animals, to or from any such land, house or building.

(3) (*a*) The powers of paragraph (1) of this article shall not be exercised in relation to a highway without the consent of the highway authority, which consent shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority may require, and any question whether such consent is unreasonably withheld, or any conditions so imposed are unreasonable, shall be determined by the Secretary of State for the Environment.

(*b*) The powers of paragraph (1) of this article shall not be exercised

in relation to any watercourse without providing a proper substitute before interrupting the passage of water in or through such watercourse and the Authority shall make compensation for any damage caused to any person by the exercise of such powers in relation to any watercourse, the amount of such compensation being, in case of dispute, determined by arbitration.

(4) (*a*) The exercise of the powers conferred by this article in relation to a highway shall not affect the powers of the Post Office under the Telegraph Acts 1863 to 1916 to maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that highway for any of those purposes;

(*b*) In this paragraph the expression "telegraphic line" has the same meaning as in the Telegraph Act 1878(a).

Power to discharge water.

8. The Authority are hereby authorised to discharge water at any of the points, or thereabouts, identified by a reference point specified in column (1) of the following table into the watercourse specified opposite thereto in column (2) of the said table at a rate not exceeding the rate specified opposite thereto in column (3) of the said table:—

Reference Point (1)	Watercourse (2)	Maximum rate of discharge (Million gallons per day) (3)
NZ 258138 ..	River Tees	4.0
NZ 256145 ..	Baydale Beck	4.0
NZ 261155 ..	Baydale Beck	0.5
NZ 252176 ..	Tributary of Cocker Beck	0.5
NZ 283214 ..	River Skerne	0.5
NZ 313205 ..	Newton Beck	4.5

SCHEDULE 1

DESCRIPTION OF LANDS

1. Lands in the Parish of Brafferton in the District of Darlington in the County of Durham shown coloured red on the deposited plan No. 1, being—

(*a*) land comprising 602 square metres or thereabouts forming part of the enclosure numbered 1300 in the said parish on the 1/2500 ordnance map NZ 3120 (1962 edition);

(*b*) land comprising 481 square metres or thereabouts forming part of the enclosure numbered 3168 in the said parish on the 1/2500 ordnance map NZ 3120 (1962 edition).

2. Lands in the said Parish of Brafferton and in the Parish of Whessoe in the said District of Darlington shown coloured brown on the deposited plans Nos. 1 and 2 being land comprising 2.94 hectares or thereabouts forming parts of the enclosures numbered 0572, 0657, 1300, 1700, 3168, 3357, 3550, 3946, 5426, 6346 and 6742 in the said Parish of Brafferton and the enclosure numbered 3526 in the said Parish of Whessoe on the 1/2500 ordnance maps NZ 3019 to 3122 (1962 editions) and NZ 2819 to 2919 (1966 edition).

(a) 1878 c. 76.

3. Lands in the said Parishes of Brafferton and Whessoe shown coloured blue on the deposited plans Nos. 1 and 2, being land comprising 4.70 hectares or thereabouts forming parts of the enclosures numbered 0005, 0572, 0632, 1000, 1017, 1700, 1950, 2736, 3357, 3550, 3654, 5965, 6748, 7436, 7804, 8353, 8413, 8969 and 9286 in the said Parish of Brafferton and numbered 5625 in the said Parish of Whessoe on the 1/2500 ordnance maps NZ 3019 to 3122 (1962 editions) and NZ 2819 to 2919 (1966 edition).

SCHEDULE 2

BOREHOLES FOR ABSTRACTION OF WATER

Borehole	District	Parish or Town	Enclosure number	1/2500 Ordnance Map Sheet—Number
(1)	(2)	(3)	(4)	(5)
Broken Scar No. 1 ..	Darlington	Darlington	6225	NZ 2514 (1966 edition)
Broken Scar No. 2 ..	Darlington	Darlington	6225	NZ 2514 (1966 edition)
Mowden Bridge ..	Darlington	Darlington	1551	NZ 2615 (1967 edition)
Archdeacon Newton	Darlington	Archdeacon Newton	2956	NZ 2517 (1966 edition)
Hill House	Sedgefield	Great Aycliffe	3125	NZ 2821 (1972 edition)
Newton Ketton No 1	Darlington	Brafferton	1300	NZ 3120 (1962 edition)
Newton Ketton No. 2	Darlington	Brafferton	3168	NZ 3120 (1962 edition)

Signed by authority of the
Secretary of State
1st August 1975.

J. R. Niven,
An Under Secretary in the
Department of the Environment.