STATUTORY INSTRUMENTS

1977 No. 79 (S.17)

WATER SUPPLY, SCOTLAND

The Shetland Islands Council (Moshella Lochs) Water Order 1977

Made - - - -	18*th January* 1977
Coming into Operation	25*th January* 1977

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 as read with the Local Government (Scotland) Act 1973(d) and the Local Government (Scotland) Act 1975(e), and of all other powers enabling him in that behalf, on the application of the Shetland Islands Council, hereby makes the following order:—

PART I

Citation and commencement

1. This order may be cited as the Shetland Islands Council (Moshella Lochs) Water Order 1977 and shall come into operation on 25th January 1977.

Interpretation

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

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

"approved" means approved by the Secretary of State;

"Council" means the Shetland Islands Council as water authority;

"deposited plan" means the plan prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked "The Shetland Islands Council (Moshella Lochs) Water Order 1977 Plan of Catchment Area and Works", one copy 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 Lerwick;

"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 purposes of the undertaking;

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

"works" means the works described in Schedule 1 to this order, which the Council, in exercise of the powers conferred on them by section 24 of the Act and in the lines and situations and according to the levels shown on the deposited plan, propose to construct and maintain for the purpose

(a) 1946 c. 42. (b) 1949 c. 31. (c) 1967 c. 78.
(d) 1973 c. 65. (e) 1975 c. 30.

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 10(3) and (4) 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 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, take water by means of the works from the more northerly of the lochs known as Moshella Lochs in the area of the Shetland Islands Council.

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

(2) After the completion of the works the Council shall not in any one day of 24 hours reckoned from midnight take from the more northerly of the said Moshella Lochs a quantity of water greater than 2,400 cubic metres as measured through or over an approved gauge incorporated in the gauging chamber (Work No. 2).

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 of the deposited plan.

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

L.S.

John Kerr,
Assistant Secretary.

Scottish Development Department,
New St. Andrew's House,
Edinburgh.
18th January 1977.

SCHEDULE 1 Article 2.

The works referred to in this Order and shown on the deposited plan are:—

Work No. 1

An intake comprising an approach channel at level 131.42 metres or thereby above Local Ordnance Datum and pipe at level 131.72 metres or thereby above Local Ordnance Datum situated 225 metres or thereby north east of the place where the stream known as Moshella Burn enters the more northerly Moshella Loch and 40 metres or thereby in length leading due south from the more northerly of the said Moshella Lochs to the gauging chamber (Work No. 2).

Work No. 2

A gauging chamber situated at the southern end of the intake (Work No. 1) and adjacent to the more southerly Moshella Loch incorporating an approved gauge for measuring the quantity of water taken by the Council from the more northerly Moshella Loch.

SCHEDULE 2 Article 3.

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

Section 10(3)

If the Council—

(*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 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.