STATUTORY INSTRUMENTS

1977 No. 80 (S. 18)

WATER SUPPLY, SCOTLAND

The Shetland Islands Council (Roer Water, Northmavine) 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 section 75 of the said Water (Scotland) Act 1946, 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 (Roer Water, Northmavine) 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 (Roer Water, Northmavine) 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;

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

"works" means the existing work and the proposed 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, have constructed and maintained or 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 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.

Revocation of order of 1965

4. The Zetland County Council (Roer Water, Northmavine) Water Order 1965(**a**) shall cease to have effect on the date when the Council commence taking water under Article 6(2) of this order.

PART II

Water rights

5. 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 loch known as Roer Water in the area of the Shetland Islands Council.

6.—(1) During the construction of the works the Council may take from the said Roer Water such water as they may require for such construction.

(2) After the completion of the works the Council may, from the date when they commence to take water under the provisions of Article 4, as read with Article 5(2) of the Shetland Islands Council (Moshella Lochs) Water Order 1977(**b**), in any one day of 24 hours reckoned from midnight, take from the said Roer Water a quantity of water not exceeding 4,500 cubic metres measured through or over an existing approved gauge 'B' (Work No. 5) in conjunction with an approved gauge 'C' (Work No. 6).

(3) After the completion of the works the Council shall discharge into the stream known as the Burn of Roer Water a sufficient quantity of water to maintain a minimum flow therein of 900 cubic metres during every day of 24 hours reckoned from midnight in a uniform and continuous flow measured through or over an approved gauge 'A' incorporated in the gauging chamber (Work No. 4).

7. 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.

(**a**) S.I. 1965/2034. (**b**) S.I. 1977/79.

PART III

Miscellaneous

8. 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.

John Kerr,
Assistant Secretary.

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

Article 2

SCHEDULE 1

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

Work No. 1

A sill, level 106·5 metres or thereby above Local Ordnance Datum, situated in the stream known as the Burn of Roer Water 15 metres or thereby in a north easterly direction from the place where the said Burn of Roer Water leaves the loch known as Roer Water.

Work No. 2

An intake chamber, intake level 105·15 metres or thereby above Local Ordnance Datum, situated in the said Roer Water 50 metres or thereby in a westerly direction from the sill (Work No. 1).

Work No. 3

A connecting pipe leading 4 metres or thereby in a north easterly direction from the supply pipe from the intake chamber (Work No. 2) to the gauging chamber (Work No. 4).

Work No. 4

A gauging chamber and discharge outlet situated on the south bank of the said Burn of Roer Water 120 metres or thereby downstream of the sill (Work No. 1), incorporating an approved gauge 'A' for measuring the quantity of water discharged by the Council into the said Burn of Roer Water.

Work No. 5

An existing approved gauge 'B' for measuring in conjunction with an approved gauge 'C' (Work No. 6) the quantity of water taken by the Council from the said Roer Water, incorporated in the existing treatment works situated 1,152 metres or thereby to the southwest of the place where the public road A970 crosses the said Burn of Roer Water.

Work No. 6

An approved gauge 'C' for measuring in conjunction with the said existing approved gauge 'B' (Work No. 5), the quantity of water taken by the Council from the said Roer Water, incorporated in the treatment works situated on the north side of the public road B.9079, 135 metres or thereby in a north easterly direction from the junction of the said road with the public road A970.

SCHEDULE 2

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

Section 10(3)

If the Council—

(*a*) fail to install 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.

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