STATUTORY INSTRUMENTS

1979 No. 445 (S. 46)

WATER SUPPLY, SCOTLAND

The Western Isles Islands Council (Maaruig River, Harris) Water Order 1979

Made - - - - - 30*th March* 1979

Coming into Operation - - 6*th April* 1979

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 read with section 148 of, and paragraph 1 of Schedule 17 to the Local Government (Scotland) Act 1973(b) and of all other powers enabling him in that behalf, on the application of the Western Isles Islands Council, hereby makes the following order:—

PART I

Citation and commencement

1. This order may be cited as the Western Isles Islands Council (Maaruig River, Harris) Water Order 1979 and shall come into operation on 6th April 1979.

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 Western Isles Islands Council as water authority;

"day" means a period of 24 hours reckoned from midnight.

"deposited plans" means the two plans each prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked respectively "The Western Isles Islands Council (Maaruig River, Harris) Water Order 1979 Plan of Catchment Area" and "The Western Isles Islands Council (Maaruig River, Harris) Water Order 1979 Plan of Works", one copy of each 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 Director of Administration and Legal Services of the Council at Stornoway;

(a) 1946 c. 42

(1) section 21(2)

(i) amended by the Water (Scotland) Act 1949 c. 31, section 30(b);

(ii) partly repealed by section 39(4), Schedule 2, Part II of that Act; and

(iii) amended by the Water (Scotland) Act 1967 c. 78, section 35(1), Schedule 5, paragraph 27.

(2) section 44(1) was amended by the Water (Scotland) Act 1967, section 4(3), Schedule 2, paragraph 11.

(b) 1973 c. 65

Schedule 17, paragraph 1 was amended by section 38(1), and Schedule 6, Part II, paragraph 56 of the Local Government (Scotland) Act 1975 c. 30.

"gauge" includes a gauge 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 marked "The Western Isles Islands Council (Maaruig River, Harris) Water Order 1979 Plan of Works", 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.

Part II

Water rights

4. Subject to the provisions of this order, the Council may, for the purposes of the undertaking and by means of the works, take water from the river known as the Maaruig River in the island of Harris in the Western Isles Islands Area.

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

(2) After the completion of the works the Council shall not:—

(a) take water from the said Maaruig River so as to reduce the rate of flow therein below 3 cubic metres in any day as measured through or over an approved gauge incorporated in the intake (work No. 1).

(*b*) in any one day take from the said Maaruig River a quantity of water greater than 30 cubic metres as measured through or over an approved gauge (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 Director of Administration and Legal Services of the Council at Stornoway a copy thereof and one copy of each of the deposited plans.

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

D. A. Campbell,
Assistant Secretary.

Scottish Development Department,
New St. Andrew's House,
Edinburgh.
30th March 1979.

SCHEDULE 1

Article 2

The works referred to in this order and shown on the deposited plan marked "The Western Isles Island Council (Maaruig River, Harris) Water Order 1979 Plan of Works" are:—

Work No. 1 An intake, situated in the river known as the Maaruig River at a point 60 metres or thereby, measured along the said Maaruig River, upstream of the point where the stream known as Allt Tomnaval meets the said Maaruig River, incorporating an approved gauge for measuring the residual flow in the said Maaruig River.

Work No. 2 An approved gauge for measuring the quantity of water taken by the Council, situated on the raw water main leading from the intake 350 metres or thereby in an east-north easterly direction of the intake (work No. 1).

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 or examine any such gauge or any records made thereby or kept by them in connection therewith or 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.