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STATUTORY INSTRUMENTS

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1982 No. 1791 (S.194)

**WATER SUPPLY, SCOTLAND**

**The Tayside Regional Council (Dowally Burn, Dunkeld and Dowally) Water Order 1982**

*Made - - - - -* 8th December 1982  
*Coming into Operation* 15th December 1982

The Secretary of State, in exercise of the powers conferred on him by sections 17(2) and 29(1) of the Water (Scotland) Act 1980 (a) and of all other powers enabling him in that behalf, on the application of the Tayside Regional Council, hereby makes the following Order:—

PART I

*Citation and commencement*

1. This Order may be cited as the Tayside Regional Council (Dowally Burn, Dunkeld and Dowally) Water Order 1982 and shall come into operation on 15th December 1982.

*Interpretation*

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

“the Act” means the Water (Scotland) Act 1980;

“approved” means approved by the Secretary of State;

“Council” means the Tayside Regional 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 Tayside Regional Council (Dowally Burn, Dunkeld and Dowally) Water Order 1982 Plan of Catchment Areas” and “The Tayside Regional Council (Dowally Burn, Dunkeld and Dowally) Water Order 1982 Plans and Sections 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 principal office of the Council at Tayside House, Crichton Street, Dundee;

“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 21 of the Act, and in the lines and situations and according to the levels shown on

the deposited plans, propose to construct and maintain or in the case of those existing works continue to maintain, for the purpose of providing a supply of water within their limits of supply when they have acquired the necessary lands or sufficient rights therein.

*Incorporation and application of provisions of the Fourth Schedule to the Act*

3. The provisions of section 2 of Part II and sections 10(3) and (4) of Part III of the Fourth Schedule to the Act modified and adapted in terms of section 29(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 Loch Ordie and from the stream known as the Dowally Burn, in the District of Perth and Kinross in the Tayside Region.

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

(2) Any quantity of water taken from Loch Ordie by means of the outlet pipe (Work No. 1) shall be discharged into the Dowally Burn.

(3) After the completion of the works the Council shall not—

- (a) take from the said Dowally Burn a quantity of water greater than 1,820 cubic metres in any one day measured through or over an approved gauge (Work No. 6),
- (b) restrict the flow of water through the outlet pipe (Work No. 1) so as to reduce the flow of water in the said Dowally Burn between the outlet pipe (Work No. 1) and the collecting reservoir and intake (Work No. 3) to a rate of less than 2,300 cubic metres per day measured through or over the gauge (Work No. 2),
- (c) take from the said Dowally Burn such a quantity of water as will reduce the flow of water therein to a rate of less than 455 cubic metres per day measured through or over an approved gauge (Work No. 4) to be installed by the Council at or immediately below the said collecting reservoir and intake (Work No. 3).

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 their principal office a copy thereof and of each of the deposited plans.

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



*Eric H. Nicoll,*  
Deputy Chief Engineer.

Scottish Development Department,  
New St Andrew's House,  
Edinburgh.  
8th December 1982.

#### SCHEDULE 1

#### Article 2

The works referred to in this Order and shown on the deposited plan marked "The Tayside Regional Council (Dowally Burn, Dunkeld and Dowally) Water Order 1982 Plans and Sections of Works" are:—

- Work No. 1 An outlet pipe situated in Loch Ordie and in the east bank and bed of the Dowally Burn where the said burn emerges from the said loch.
- Work No. 2 An existing gauge for measuring the rate of flow in the Dowally Burn situated on the said burn 27.5 metres or thereby downstream from the outlet pipe (Work No. 1).
- Work No. 3 An existing collecting reservoir with weir and intake, the sill level of the said weir being 227.21 metres or thereby above Ordnance Datum, situated on the Dowally Burn at a point 2.95 kilometres or thereby downstream from the gauge (Work No. 2).
- Work No. 4 A gauge weir with a sill level of 224.05 metres or thereby above Ordnance Datum for measuring the rate of flow in the Dowally Burn situated on the said burn 48 metres or thereby downstream from the weir and intake (part of Work No. 3).
- Work No. 5 An existing pipe leading from the intake (part of Work No. 3) to the gauge (Work No. 6) for conveying the water taken.
- Work No. 6 A gauge for measuring the quantity of water taken by the Council situated in the pipe (Work No. 5) at a point 48 metres or thereby downstream from the weir and intake (part of Work No. 3).

#### SCHEDULE 2

#### Article 3

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

##### Section 2

In the construction of the works the Council may deviate laterally to any extent not exceeding the limits of deviation shown on the plan marked "The Tayside Regional Council (Dowally Burn, Dunkeld and Dowally) Water Order 1982 Plans and Sections of Works" and they may also deviate vertically from the levels shown on the deposited sections to any extent:

Provided that—

- (a) no weir across a watercourse shall be constructed at a greater height above the general bed level of the watercourse than that shown on the plan and 200 millimetres in addition thereto; and
- (b) except for the purpose of crossing a stream, canal, dyke, watercourse or railway, or of crossing any lands where the consent of all persons interested in those lands has been obtained, no pipe or other conduit or aqueduct shall be raised above the surface of the ground otherwise than in accordance with the said plans.

#### Section 10(3)

If the Council—

- (a) fail to install or maintain in good order any such gauge as is mentioned in the Tayside Regional Council (Dowally Burn, Dunkeld and Dowally) Water Order 1982, 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 the Tayside Regional Council (Dowally Burn, Dunkeld and Dowally) Water Order 1982,

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 in respect of each such day.

#### Section 10(4)

For the purposes of the Tayside Regional Council (Dowally Burn, Dunkeld and Dowally) Water Order 1982 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 the said Order in relation to any such stream.