STATUTORY INSTRUMENTS

# 1975 No. 860 (S. 151)

# WATER SUPPLY, SCOTLAND

## The North of Scotland Water Board (Eela Water) Water Order 1975

*Made* - - - *9th May* 1975

*Coming into Operation* *16th May* 1975

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 of all other powers enabling him in that behalf, on the application of the North of Scotland Water Board, hereby makes the following order:—

PART I

*Citation and commencement*

**1.** This order may be cited as the North of Scotland Water Board (Eela Water) Water Order 1975 and shall come into operation on 16th May 1975.

*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;

"Board" means the North of Scotland Water Board;

"deposited plans" means the two plans prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked respectively "The North of Scotland Water Board (Eela Water) Water Order 1975 Plan of Catchment Area" and "The North of Scotland Water Board (Eela Water) Water Order 1975 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 Clerk to the Board at Wick;

"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 Board for the purposes of the undertaking;

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

(a) 1946 c. 42. (b) 1949 c. 31. (c) 1967 c. 78.

"works" means the works described in Schedule 1 to this order which the Board in exercise of the powers conferred on them by section 24 of the Act, with the consent of the Secretary of State and in the lines and situations and according to the levels shown on the deposited plan marked "The North of Scotland Water Board (Eela Water) Water Order 1975 Plan of Works", propose to construct and maintain for the purpose of providing a supply of water within their region 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 Board may, for the purposes of the undertaking and by means of the works, take water from the loch known as Eela Water in the Parish of North Mavine and County of Zetland.

**5.**—(1) During the construction of the works the Board may take from the said Eela Water such water as they may require for such construction.

(2) After the completion of the works the Board shall discharge into the stream known as the Burn of Eela Water from the said Eela Water a sufficient quantity of water to maintain a minimum flow therein of 360 cubic metres during every day of 24 hours reckoned from midnight in a uniform and continuous flow as measured through or over an approved gauge incorporated in the weir (Work No. 1).

(3) After the completion of the works the Board shall not in any one day of 24 hours reckoned from midnight take from the said Eela Water a quantity of water greater than 1,900 cubic metres as measured through or over an approved gauge incorporated in the pump house (Work No. 2).

**6.** If the power to take water conferred by this order has not been exercised within 10 years from the date on which this order comes into operation the said power shall cease.

## PART III

*Miscellaneous*

**7.** The Board shall at all times after the expiration of 6 months from the date on which this order comes into operation keep at their principal office a copy thereof and one copy of each of the deposited plans.

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.
9th May 1975.

## SCHEDULE 1 Article 2

The works referred to in this order and shown on the deposited plan marked "The North of Scotland Water Board (Eela Water) Water Order 1975 Plan of Works" are:—

Work No. 1 A weir, sill level 66.66 metres or thereby above Ordnance Datum, situated at the outlet of the stream known as the Burn of Eela Water from the loch known as Eela Water, incorporating an approved gauge to measure the quantity of water discharged from the said Eela Water into the said Burn of Eela Water.

Work No. 2 A pumphouse, situated on the south shore of the said Eela Water 180 metres or thereby north west of the point where the public road A970 crosses the unnamed stream running due north into the said Eela Water incorporating an approved gauge to measure the quantity of water taken by the Board from the said Eela Water.

Work No. 3 An intake at level 66.06 metres or thereby above Ordnance Datum and 90 metres or thereby in length leading in a southerly direction from the said Eela Water to the pumphouse (Work No. 2).

## SCHEDULE 2 Article 3

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

*Section* 10(3)

If the Board—

(*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 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.