STATUTORY INSTRUMENTS

1980 No. 1270 (S.101)

WATER SUPPLY, SCOTLAND

The Strathclyde Regional Council (Loch a'Phearsain, Kilmelford) Water Order 1980

Made - - - - 19*th August* 1980

Coming into Operation 26*th August* 1980

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 Strathclyde Regional Council, hereby makes the following order:—

PART I

Citation and commencement

1. This order may be cited as the Strathclyde Regional Council (Loch a'Phearsain, Kilmelford) Water Order 1980 and shall come into operation on 26th August 1980.

Interpretation

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

"the Act" means ths Water (Scotland) Act 1980;

"approved" means approved by the Secretary of State;

"Council" means the Strathclyde Regional 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 Strathclyde Regional Council (Loch a'Phearsain, Kilmelford) Water Order 1980 one copy of which is deposited in the office of the Scottish Development Department, New St. Andrew's House, Edinburgh, and the other at the office of the Chief Executive to the Council at Glasgow;

"gauge" includes a gauge weir or other apparatus for measuring the flow of water;

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

"work" means the work 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 shown on the deposited plan propose to construct and maintain for the purpose of providing a supply of water within their area when they have acquired the necessary lands or sufficient rights therein;

"intake" includes any work by which water is taken by the Council for the purpose of the undertaking.

(a) 1980 c. 45.

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

3. The provisions of 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 the order, the Council may, by means of the works when constructed, take water from the loch known as Loch a'Phearsain, in the Parish of Kilninver and Kilmelford and District of Argyll and Bute of the Strathclyde Region.

5. The Council shall not in any one day of twenty-four hours reckoned from midnight take from the said loch a quantity of water in excess of 91 cubic metres measured through or over an approved gauge.

6. Subject to the provisions of this order the Council may take from the loch such water as they require for the construction of the works.

7. If the power to take water conferred by this order has not been exercised within ten years fom the date on which this order comes into operation the said powers shall cease.

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.

Eric H. Nicoll,

Deputy Chief Engineer.

Scottish Development Department,
New St. Andrew's House,
Edinburgh.

L.S.

19th August 1980.

SCHEDULE 1 *Article* 2

The work referred to in this order and shown on the deposited plan is:—

An intake, incorporating an approved gauge, situated on the shore of Loch a'Phearsain, at the south end of the west side and located 90 metres or thereby to the east of the mouth of the outlet burn known as Abhainn na Cille.

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 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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