STATUTORY INSTRUMENTS

1981 No. 1718 (S.178)

WATER SUPPLY, SCOTLAND

The Western Isles Islands Council (Loch Oichean and Loch Crogavat Reservoir, Loch Orasay Reservoir and Allt na Craoibhe) Water Order 1981

Made - - - -	*26th November* 1981
Coming into Operation	*3rd December* 1981

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 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 (Loch Oichean and Loch Crogavat Reservoir, Loch Orasay Reservoir and Allt na Craoibhe) Water Order 1981 and shall come into operation on 3rd December 1981.

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 Western Isles Islands Council as water authority;

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

"deposited plans" means the three plans, each prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked respectively "The Western Isles Islands Council (Loch Oichean and Loch Crogavat Reservoir, Loch Orasay Reservoir and Allt na Craoibhe) Water Order 1981 Plan of Works", "The Western Isles Islands Council (Loch Oichean and Loch Crogavat Reservoir, Loch Orasay Reservoir and Allt na Craoibhe) Water Order 1981 Sections of Works" and "The Western Isles Islands Council (Loch Oichean and Loch Crogavat Reservoir, Loch Orasay Reservoir and Allt na Craoibhe) Water Order 1981 Plan of Catchment Areas", one copy of each of which is deposited in the office of the Scottish Development Department, New St Andrew's House, Edinburgh,

(a) 1980 c.45.

and the other in the office of the Director of Administration and Legal Services of the Council at Stornoway;

"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 marked "The Western Isles Islands Council (Loch Oichean and Loch Crogavat Reservoir, Loch Orasay Reservoir and Allt na Craoibhe) Water Order 1981 Plan of Works" and "The Western Isles Islands Council (Loch Oichean and Loch Crogavat Reservoir, Loch Orasay Reservoir and Allt na Craoibhe) Water Order 1981 Sections 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), (4) and (5) 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:—

(*a*) by means of a dam (Work No.1) impound the waters of Loch Oichean and Loch Crogavat in the area of the Western Isles Islands Council.

(*b*) by means of an intake (part of Work No.1) take water from the reservoir known as Loch Oichean and Loch Crogavat (Work No.2).

(*c*) by means of a dam (Work No.3) impound the waters of Loch Orasay in the area of the Western Isles Islands Council.

(*d*) by means of an intake (Work No.5) take water from the reservoir known as Loch Orasay (Work No.4).

(*e*) by means of an intake (Work No.6) take water from the stream known as Allt na Craoibhe in the area of the Western Isles Islands Council, which water will be transferred via an aqueduct (Work No.7) to the said Loch Orasay Reservoir.

5—(1) During the construction of the works the Council may take from the Loch Oichean and Loch Crogavat Reservoir, Loch Orasay Reservoir and Allt na Craoibhe such water as they may require for such construction.

(2) (*a*) The Council shall from the date this order comes into operation discharge from the Loch Oichean and Loch Crogavat Reservoir into the stream known as Allt na Croich Ard, flowing from the south-east corner of the said reservoir, a quantity of water not less than 295 cubic metres per day in a uniform and continuous flow as measured through or over an approved gauge (part of Work No.1).

(*b*) (i) The Council shall not take any water from the Loch Oichean and Loch Crogavat Reservoir which will reduce the water level

below 51.35 metres above Ordnance Datum while the level of the dam (Work No.1) remains unaltered; and

(ii) subsequent to the raising of the said dam on the issue by the Engineer acting in terms of the Reservoirs (Safety Provisions) Act 1930(a) of a preliminary certificate stating that water may be impounded in the said reservoir, the Council shall not take any water from the said reservoir which will reduce the water level below 51.35 metres above Ordnance Datum.

(iii) On the issue by the Engineer acting in terms of the Reservoirs (Safety Provisions) Act 1930, of a preliminary certificate stating that water may be impounded in the Loch Orasay Reservoir the Council shall not take any water from the said reservoir which will reduce the water level below 55.45 metres above Ordnance Datum.

(*c*) Commencing not later than 6 months after the date of issue of the above mentioned certificate in respect of the Loch Orasay Reservoir, the Council shall discharge from the said reservoir into the unnamed stream flowing from the south end of Loch Orasay, a quantity of water not less than 148 cubic metres per day in a uniform and continuous flow as measured through or over an approved gauge (part of Work No.3).

(*d*) After the completion of Works 6 and 7, the Council shall not:—

(i) take any water from the Allt na Craoibhe so as to reduce the rate of flow of water therein below 496 cubic metres per day as measured through or over an approved gauge (part of Work No.6);

(ii) take water from the Allt na Craoibhe at a rate exceeding 85 per cent of the rate of flow of water in the said stream when the flow therein exceeds 496 cubic metres per day as measured through or over an approved gauge or gauges (part of Work No.6);

(iii) in any day take from the Allt na Craoibhe a quantity of water exceeding 18,640 cubic metres as measured through or over an approved gauge (part of Work No.7).

6. If the power to take water conferred by this order has not been exercised within twenty years from the date on which the 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 under the seal of the Secretary of State for Scotland.

L.S.

Scottish Development Department,
New St Andrew's House,
Edinburgh.
26th November 1981.

Eric H. Nicoll,
Deputy Chief Engineer.

(a) 1930 c.51.

SCHEDULE 1 — Article 2

The works referred to in this order and shown on the deposited plans marked "The Western Isles Islands Council (Loch Oichean and Loch Crogavat Reservoir, Loch Orasay Reservoir and Allt na Craoibhe) Water Order 1981 Plan of Works" and "The Western Isles Islands Council (Loch Oichean and Loch Crogavat Reservoir, Loch Orasay Reservoir and Allt na Craoibhe) Water Order 1981 Sections of Works" are:—

Work No.1

An existing dam, overflow level 52.44 metres or thereby above Ordnance Datum, to be raised 1.22 metres to an overflow level of 53.66 metres or thereby above Ordnance Datum incorporating an intake, approved gauge and discharge pipe, situated at the south east end of Loch Oichean at the point where Allt na Croich Ard leaves the said loch.

Work No.2

A reservoir (Loch Oichean and Loch Crogavat Reservoir) commencing at the dam (Work No.1) and extending over Loch Oichean and Loch Crogavat.

Work No.3

A dam, overflow level 56.67 metres or thereby above Ordnance Datum, incorporating an approved gauge and discharge pipe, situated at the south east end of Loch Orasay where an unnamed stream leaves the said loch.

Work No.4

A reservoir (Loch Orasay Reservoir) commencing at the dam (Work No.3) and extending over Loch Orasay.

Work No.5

An intake situated at the north east end of Loch Orasay Reservoir (Work No.4).

Work No.6

An intake, incorporating an approved gauge and discharge pipe, situated on the Allt na Craoibhe 30 metres or thereby downstream of the outlet from Loch Beag na Craoibhe.

Work No.7

An aqueduct extending from the intake (Work No.6) to a point of discharge into the north west end of Loch Orasay Reservoir (Work No.4) and incorporating, near the point of discharge, an approved gauge.

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 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 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.

Section 10(5)

The provisions of this order shall be deemed to have been accepted by all persons interested as providing full compensation for all water impounded and taken by the works.