

**2005 No. 578**

**WATER SUPPLY**

**The Scottish Water (Loch Bealach na Gaoithe) Water  
Order 2005**

*Made* - - - - - *9th November 2005*

*Coming into force* - - - - - *11th November 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 17(1), 29(1) and 107(1)(b) of the Water (Scotland) Act 1980(a) and of all other powers enabling them in that behalf, on the application of Scottish Water, hereby make the following Order:-

**Citation and commencement**

1. This Order may be cited as the Scottish Water (Loch Bealach na Gaoithe) Water Order 2005 and shall come into force on 11th November 2005.

**Interpretation**

2. In this Order-

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

“approved” means approved by the Scottish Ministers;

“day” means a period of 24 hours reckoned from midnight;

“deposited plan” means the plan, prepared in triplicate, docqueted and signed as relative to this Order and marked “The Scottish Water (Loch Bealach na Gaoithe) Water Order 2005”, one copy of which is deposited in the office of the Scottish Executive, Victoria Quay, Edinburgh, one in the head office of Scottish Water at Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife, and one in the Scottish Water Fort William Area Office at Carrs Corner Industrial Estate, Lochy Bridge, Fort William;

“gauge” includes a gauge, weir or other apparatus for measuring the flow of water;

“intake” includes any work by which water is taken by Scottish Water for the purpose of the undertaking;

“Scottish Water” means the body corporate established by section 20(1) of the Water Industry (Scotland) Act 2002(b);

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(a) 1980 c.45. Section 17(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and (2), Schedule 13, paragraph 119(10)(a) and Schedule 14, and by the Water Industry (Scotland) Act 2003 (asp 3) Schedule 6, paragraph 14(1) and (2).

Section 29(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and (2), Schedule 13, paragraph 19(a)(b) and Schedule 14, and by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 23(a)(b)(c).

Section 107(1)(b) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and (2), Schedule 13, paragraph 52(a) and by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 61(a)(b). See section 109(1) for the definition of “local enactment”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 2002 asp 3. The 2002 Act was amended by the Water Services etc. (Scotland) Act 2005 (2005 asp 3).

“undertaking” means the water undertaking for the time being of Scottish Water; and  
“works” means the works described in Schedule 1 to this Order and shown on the deposited plan.

### **Incorporation and application of provisions of Schedule 4 to the Act**

3. The provisions of paragraphs 2 and 10(3) of Schedule 4 to the Act<sup>(a)</sup>, modified and adapted to read as set out in Schedule 2 to this Order shall apply to the undertaking insofar as affected by the provisions of this Order, and the terms used in the provisions of that paragraph, as so modified and adapted, which are defined in this Order, shall have the same meaning as in this Order.

### **Water rights**

4. Subject to the provisions of this Order, Scottish Water may for the purposes of the undertaking and by means of an existing intake situated at Ordnance Survey National Grid Reference 168345 776681, take water from Loch Bealach na Gaoithe in the area of the Highland Council.

5.—(1) During the construction of the works, Scottish Water may take from Loch Bealach na Gaoithe such water as it may require for such construction.

(2) After completion of the works, Scottish Water may, in any day, take from Loch Bealach na Gaoithe a quantity of water not greater than 160 cubic metres, as measured and recorded by an approved gauge (Work No. 3).

6. If the power to take water conferred by this Order has not been exercised by 31st December 2007 the said power shall cease.

### **Revocation**

7. The Inverness-shire Water Board (Bealach na Gaoithe) Water Order 1969<sup>(b)</sup> is revoked with effect from 31st December 2007.

*ANDREW SCOTT*

A member of the staff of the Scottish Ministers

Victoria Quay,  
Edinburgh  
9th November 2005

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(a) Paragraph 2 of Schedule 4 was amended by the Roads (Scotland) Act 1984 (c.54), Schedule 9, paragraph 81(15)(a); paragraph 10(3) was amended by the Criminal Justice Act 1982 (c.48), Schedule 15, paragraph 27 and by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 2.

(b) S.I. 1969/193.

## SCHEDULE 1

The works referred to in this Order and shown on the deposited plan are—

Works No. 1:

Installation of a staging post, marked at 10 millimetre intervals (referenced to datum on the existing weir sill) within an existing raw water intake structure located at NGR 168345 776681.

Works No. 2:

Installation of a raw water pipeline.

Works No. 3:

Installation of an approved gauge and instrumentation to measure and record the amount of water taken from Loch Bealach na Gaoithe, to be situated within a new water treatment works located at NGR 167286 777228 (the construction of which treatment works is not authorised hereunder).

## SCHEDULE 2

The modifications and adaptations of Schedule 4 to the Act referred to in this Order are—

1. For paragraph 2 of Schedule 4 substitute—

“In the construction of the works described in Schedule 1 to the Scottish Water (Loch Bealach na Gaoithe) Water Order 2005, Scottish Water may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plan and it may deviate vertically from the levels shown on the said plan to any extent:

Provided that—

- (a) no control building shall be constructed at a greater height above the general surface of the ground than that shown on the deposited plan and 2 metres in addition thereto; and
- (b) except for the purposes 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 deposited plan.”.

2. For paragraph 10(3) of Schedule 4 substitute—

“If Scottish Water—

- (a) fails to construct or maintain in good order any such gauge as is mentioned in the Scottish Water (Loch Bealach na Gaoithe) Water Order 2005, or refuses to allow any person interested to inspect and examine any such gauge or any records made thereby or kept by it in connection therewith or to take copies of any such records; or
- (b) takes any water contrary to the provisions of the Scottish Water (Loch Bealach na Gaoithe) Water Order 2005,

it shall, without prejudice to its civil liability, if any, to a person aggrieved, be liable, in the case of an offence under sub-paragraph (a) of this paragraph, on summary conviction to a fine not exceeding level 3 on the standard scale, and, in the case of an offence under sub-paragraph (b) of this paragraph—

- (i) on summary conviction, to a fine not exceeding the statutory maximum; and
- (ii) on conviction on indictment to a fine.”.

£3.00

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