

## SCHEDULE 2

Article 3

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 (Tomich Boreholes) Water Order 2006, 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 deposited 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 (Tomich Boreholes) Water Order 2006, 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 (Tomich Boreholes) Water Order 2006,

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

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

**3.** In paragraph 10(4) of Schedule 4, for the definition of “gauge”, substitute—

““gauge” includes a gauge, weir or other apparatus for measuring the flow of water and the flow meter to be installed as part of Works No. 2 specified in Schedule 1 to the Scottish Water (Tomich Boreholes) Water Order 2006.”.