STATUTORY INSTRUMENTS

1988 No. 222 (S.26)

WATER SUPPLY, SCOTLAND

The Central Regional Council (Kirkton Burn, Balquhidder) Water Order 1988

Made - - - -	*12th February 1988*
Coming into force	*19th February 1988*

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 Central Regional Council, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Central Regional Council (Kirkton Burn, Balquhidder) Water Order 1988 and shall come into force on 19th February 1988.

Interpretation

2. In this Order–

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

"approved" means approved by the Secretary of State;

"the Council" means the Central Regional Council as water authority;

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

"deposited plans" means the two plans, each prepared in duplicate, docqueted and signed as relative to this Order and marked respectively "The Central Regional Council (Kirkton Burn, Balquhidder) Water Order 1988 Plan of Catchment Area" and "The Central Regional Council (Kirkton Burn, Balquhidder) Water Order 1988 Plan and Sections of Works", one copy of each of which is deposited in the Scottish Office, New St. Andrew's House, Edinburgh, and the other in the office of the Chief Executive of the Council at Stirling;

"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 purpose 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, 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 lands or sufficient rights therein.

Incorporation and application of provisions of Schedule 4 to the Act

3. The provisions of section 2 of Part II and sections 10(3) and (4) of Part III of Schedule 4 to the Act(**b**) as modified and adapted in terms of section 29(1) of the Act and as set out

(**a**) 1980 c.45.

(**b**) Section 2 was amended by the Roads (Scotland) Act 1984 (c.54), Schedule 9, paragraph 81(15)(a); section 10(3) was amended by the Criminal Justice Act 1982 (c.48), Schedule 6, paragraph 62 and Schedule 15, paragraph 27.

in Schedule 2 to this Order apply to the undertaking insofar as affected by the provisions of this Order.

Water rights

4. Subject to the provisions of this Order, the Council may, for the purposes of the undertaking, by means of an intake weir (part of Work No. 2) take water from the stream known as the Kirkton Burn, Balquhidder in the Stirling District in the Central Region.

5.—(1) During the construction of the works the Council may take from the said Kirkton Burn such water as they may require for such construction.

(2) After the completion of the works the Council shall not–

(a) take any water from the said Kirkton Burn so as to reduce the rate of flow therein below 450 cubic metres in any one day as measured through or over an approved gauge (part of Work No. 2);

(b) in any one day take from the said Kirkton Burn a quantity of water greater than 180 cubic metres as measured through or over an approved gauge (part of Work No.4).

6. If the power to take water conferred by this Order has not been exercised within ten years from the date on which this Order comes into force the said power shall cease.

Miscellaneous

7. The Council shall at all times after the expiration of six months from the date on which this Order comes into force keep at the office of the Chief Executive of the Council a copy thereof and one copy of each of the deposited plans.

Alasdair C. Paton
Deputy Chief Engineer,
Scottish Office

New St. Andrew's House, Edinburgh
12th February 1988

SCHEDULE 1

Article 2

The works referred to in this Order and shown on the deposited plan marked "The Central Regional Council (Kirkton Burn, Balquhidder) Water Order 1988 Plan and Sections of Works" are–

Work No. 1	River training works incorporating a weir with crest level 0.3 metres or thereby above the general bed level of the Kirkton Burn situated at a point 1,250 metres or thereby measured in a straight line north-north-west of Kirkton Bridge where the Kingshouse to Balquhidder road crosses the said Kirkton Burn.
Work No. 2	An intake weir with crest level 0.1 metres or thereby above the general bed level of the said Kirkton Burn and a gauging chamber incorporating an approved gauge, situated immediately to the east of Work No. 1.
Work No. 3	A pipe to give residual flow in the said Kirkton Burn leading south from Work No. 2 for a distance of 20 metres or thereby.
Work No. 4	A chamber with approved gauge and a pipe extending 3 metres or thereby from the said chamber north-westwards to Work No. 2.

SCHEDULE 2

Article 3

The provisions of Schedule 4 to the Act referred to in, and as modified and adapted for the purposes of, this Order are–

SECTION 2

In the construction of the works the Council may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plan marked "The Central Regional Council (Kirkton Burn, Balquhidder) Water Order 1988 Plan and Sections of Works" and they may also deviate vertically from the levels shown on the last mentioned plan to any extent:

Provided that–

(a) no weir across a watercourse shall be constructed at a greater height above the general bed level of the watercourse than that shown on the last mentioned plan and 100 millimetres in addition thereto; and

(b) except for the purpose of crossing a stream or watercourse, 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 last mentioned plan.

SECTION 10(3)

If the Council–

(a) fail to install or maintain in good order any such gauge as is mentioned in the Central Regional Council (Kirkton Burn, Balquhidder) Water Order 1988, 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 the Central Regional Council (Kirkton Burn, Balquhidder) Water Order 1988,

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 level 3 on the standard scale and, in the case of an offence under paragraph (b) of this subsection–

(i) on summary conviction, to a fine not exceeding the statutory maximum; and

(ii) on conviction on indictment, to a fine.

SECTION 10(4)

For the purposes of the Central Regional Council (Kirkton Burn, Balquhidder) Water Order 1988 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 the said Order in relation to any such stream.