STATUTORY INSTRUMENTS

1978 No. 1166 (S. 101)

WATER SUPPLY, SCOTLAND

The Grampian Regional Council (Allt A'Choire) Water Order 1978

Made - - - -	*3rd August* 1978
Coming into Operation	*10th August* 1978

The Secretary of State, in exercise of the powers conferred on him by sections 21(2) and 44(1) of the Water (Scotland) Act 1946(a), as amended by the Water (Scotland) Act 1949(b) and the Water (Scotland) Act 1967(c), and as read with section 148 of and Schedule 17 to the Local Government (Scotland) Act 1973(d) and section 38(1) of and paragraph 56 of Part II of Schedule 6 to the Local Government (Scotland) Act 1975(e), and of all other powers enabling him in that behalf, on the application of the Grampian Regional Council, hereby makes the following order:—

PART I

Citation and commencement

1. This order may be cited as the Grampian Regional Council (Allt A'Choire) Water Order 1978 and shall come into operation on 10th August 1978.

Interpretation

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

"the Act" means the Water (Scotland) Act 1946;

"approved" means approved by the Secretary of State;

"Council" means the Grampian 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 "The Grampian Regional Council (Allt A'Choire) Water Order 1978 Plan of Work and Catchment Area", one copy of which is deposited in the office of the Scottish Development Department, New St. Andrew's House, Edinburgh, and the other in the principal office of the Council at Aberdeen;

"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;

"work" means the work described in Schedule 1 to this order which the Council, in exercise of the powers conferred on them by section 24 of the Act and in the lines and situations and according to the levels shown on the deposited plan, 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.

(a) 1946 c. 42. (b) 1949 c. 31. (c) 1967 c. 78. (d) 1973 c. 65.
(e) 1975 c. 30.

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

3. The provisions of section 10(3) and (4) of Part III of the Fourth Schedule to the Act modified and adapted in terms of section 44(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 take water by means of the work from the burn known as Allt A'Choire in the Parish of Inveravon in the Moray District of the Grampian Region.

5.—(1) During the construction of the work the Council may take from the said Allt A'Choire such water as they may require for such construction.

(2) After the completion of the work the Council shall not:—

(*a*) take water from the said Allt A'Choire so as to reduce the rate of flow below 45.46 cubic metres in any day of 24 hours reckoned from midnight as measured through an approved gauge 'A' incorporated in the intake forming part of the work;

(*b*) in any one day of 24 hours reckoned from midnight take from the said Allt A'Choire a quantity of water greater than 45.46 cubic metres as measured through an approved gauge 'B' incorporated in the intake forming part of the work.

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 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 their principal office a copy thereof and one copy of the deposited plan.

Given under the seal of the Secretary of State for Scotland.

(L.S.)

John Kerr,
Assistant Secretary.

Scottish Development Department,
New St. Andrew's House,
Edinburgh.
3rd August 1978.

SCHEDULE 1 *Article 2.*

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

An intake, situated on the burn known as the Allt A'Choire at Ordnance Survey Grid Reference NJ194253 incorporating:—

(i) an approved gauge 'A' for measuring the rate of flow of water in the said Allt A'Choire, and

(ii) an approved gauge 'B' for measuring the quantity of water taken by the Council.

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.