STATUTORY INSTRUMENTS

1989 No. 204 (S.21)

WATER SUPPLY, SCOTLAND

The Highland Regional Council (Loch Beannach) Water Order 1989

Made - - - -	*15th February 1989*
Coming into force	*22nd February 1989*

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 Highland Regional Council, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Highland Regional Council (Loch Beannach) Water Order 1989 and shall come into force on 22nd February 1989.

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 Highland 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 Highland Regional Council (Loch Beannach) Water Order 1989 Location Plan and Plan of Catchment Area" and "The Highland Regional Council (Loch Beannach) Water Order 1989 Plans & 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 Inverness;

"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 or in the case of existing works continue to maintain for the purpose of providing a supply of water 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

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(**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 in so far 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 and by means of two intakes (part of Work No. 1), take water from Loch Beannach in the Sutherland District in the Highland Region.

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

(2) After the completion of the works the Council shall–

(a) in any day take from the said Loch Beannach sufficient water which, when discharged from Work No. 5 into the unnamed burn flowing south-westwards from the south-west side of the said Loch Beannach, will ensure a uniform and continuous flow of not less than 500 cubic metres in the said burn, measured through or over an approved gauge (part of Work No. 3);

(b) in any day take into supply from the said Loch Beannach an additional quantity of water not greater than 900 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 a copy of each of the deposited plans.

Alasdair C. Paton
Deputy Chief Engineer,
Scottish Office

St. Andrew's House, Edinburgh
15th February 1989

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 Highland Regional Council (Loch Beannach) Water Order 1989 Plans & 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 Highland Regional Council (Loch Beannach) Water Order 1989, 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 Highland Regional Council (Loch Beannach) Water Order 1989,

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 Highland Regional Council (Loch Beannach) Water Order 1989, a fishery district board shall be deemed to be interested in the flow of water in, and the discharge of water into, 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.

85p net

ISBN 0 11 096204 4

Printed in the United Kingdom by Her Majesty's Stationery Office at Edinburgh Press
800 WO 0257 C9 2/89 452/4 19593 PS 9901487 (266318)

SCHEDULE 1

Article 2

The works referred to in this Order and shown on the deposited plan marked "The Highland Regional Council (Loch Beannach) Water Order 1989 Plans & Sections of Works" are–

Work No. 1	An intake and an existing intake in Loch Beannach situated 55 metres or thereby east-north-east of the point where an unnamed burn leaves the south-west side of the said loch, an existing chamber and a pipe and an existing pipe extending in a westerly direction for 28 metres and 25 metres or thereby respectively from the said intakes and terminating in the said chamber.
Work No. 2	An existing pipe commencing in the said existing chamber (part of Work No. 1) and terminating in Work No. 4 270 metres or thereby south-west of the said chamber.
Work No. 3	A weir incorporating an approved gauge situated in the said unnamed burn 3 metres or thereby south-west of Work No. 4.
Work No. 4	A chamber with an approved gauge at the south-west termination of Work No. 2.
Work No. 5	A pipe commencing at a point on Work No. 2, 2 metres or thereby east of Work No. 4 and terminating at the said unnamed burn 2 metres or thereby south of Work No. 4.