STATUTORY INSTRUMENTS

1984 No. 1421 (S.118)

WATER SUPPLY, SCOTLAND

The Highland Regional Council (Tomatin Borehole, Tomatin) Water Order 1984

Made - - - -	30*th August* 1984
Coming into Operation	6*th September* 1984

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:—

PART I

Citation and commencement

1. This order may be cited as the Highland Regional Council (Tomatin Borehole, Tomatin) Water Order 1984 and shall come into operation on 6th September 1984.

Interpretation

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

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

"approved" means approved by the Secretary of State;

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

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

"deposited plan" means the plan prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked "The Highland Regional Council (Tomatin Borehole, Tomatin) Water Order 1984 Plan and Section of Works", 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 office of the Chief Executive to the Council at Inverness;

"gauge" includes a gauge weir or other apparatus for measuring the flow of water;

"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 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**) 1980 c.45.

Incorporation and application of provisions of Schedule 4 to the Act

3. The provisions of section 2 of Part II and section 10(3) (**a**) of Part III of Schedule 4 to the Act modified and adapted in terms of section 29(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 and by means of the borehole (Work No. 1), pump (Work No. 2), the control gear and pipe (part of Work No. 3) take water from an underground aquifer of undetermined extent in the District of Inverness in the Highland Region.

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

(2) After the completion of the works the Council shall not in any day take from the said aquifer a quantity of water greater than 600 cubic metres as measured through an approved gauge (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 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 the Office of the Chief Executive to the Council a copy thereof and a copy of the deposited plan.

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

L.S.

Eric H. Nicoll,
Deputy Chief Engineer.

Scottish Development Department,
New St. Andrew's House,
Edinburgh.
30th August 1984.

(**a**) Section 10(3) was amended by the Criminal Justice Act 1982 (c.48), Schedule 15, paragraph 27 and S.I. 1984/526.

SCHEDULE 1 Article 2

The works referred to in this order and shown on the deposited plan marked "The Highland Regional Council (Tomatin Borehole, Tomatin) Water Order 1984 Plan and Section of Works" are—

Work No. 1 A borehole of a depth of 20 metres or thereby situated 80 metres or thereby measured in a south westerly direction from Dell View (adjacent to old A9 Findhorn Bridge).

Work No. 2 A pump located below ground within Work No. 1.

Work No. 3 Control gear and a housing situated 2.5 metres or thereby in a north westerly direction from Work No. 1 and a pipe connected to Work No. 2.

Work No. 4 An approved gauge located within Work No. 3.

SCHEDULE 2 Article 3

The provisions of Schedule 4 to the Act referred to in 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 (Tomatin Borehole, Tomatin) Water Order 1984 Plan and Section of Works" and they may also deviate vertically from the levels shown on the said deposited plan to any extent:

Provided that except for the purpose 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 said 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 (Tomatin Borehole, Tomatin) Water Order 1984, 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 (Tomatin Borehole, Tomatin) Water Order 1984,

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 £400, and in the case of an offence under paragraph *(b)* of this subsection—

(i) on summary conviction, to a fine not exceeding £2,000; and

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