SCOTTISH STATUTORY INSTRUMENTS

2007 No. 554

WATER SUPPLY

The Scottish Water (Loch Horn and Loch Lunndaidh) Water Order 2007

Made - - - -	*7th December 2007*
Coming into force - -	*10th December 2007*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 17(2), 29(1) and 107(1)(b) of the Water (Scotland) Act 1980(**a**) and all other powers enabling them to do so.

Citation and commencement

1. This Order may be cited as the Scottish Water (Loch Horn and Loch Lunndaidh) Water Order 2007 and shall come into force on 10th December 2007.

Interpretation

2. In this Order–

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

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

"deposited plan" means the plan, prepared in triplicate, docqueted and signed as relative to this Order and marked "The Scottish Water (Loch Horn & Loch Lunndaidh) Water Order 2007", one copy of which is deposited in the office of the Scottish Ministers at Victoria Quay, Edinburgh; one in the head office of Scottish Water at Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife; and one in the Scottish Water area office at 31 Henderson Drive, Longman North, Inverness;

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

"Scottish Water" means the body corporate established by section 20(1) of the Water Industry (Scotland) Act 2002(**b**);

"undertaking" means the water undertaking for the time being of Scottish Water; and

"works" means the works described in Schedule 1 to this Order and shown on the deposited plan.

(**a**) 1980 c.45. Section 17(2) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and (2), Schedule 13, paragraph 119(10)(b) and Schedule 14; by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 14(3)(a), (b), (c); and by the Water Environment (Consequential and Savings Provisions) (Scotland) Order 2006 (S.S.I. 2006/181), paragraph 4 of Part IV of the Schedule to the Order. Section 29(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and (2), Schedule 13, paragraph 119(19)(a) and (b) and Schedule 14, and by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 23(a), (b) and (c). Section 107(1)(b) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and (2), Schedule 13, paragraph 119(52)(a) and Schedule 14 and by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 61(a) and (b). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998(c.46).

(**b**) 2002 asp 3, as amended by the Water Services, etc. (Scotland) Act 2005 (asp 3).

Incorporation and application of provisions of Schedule 4 to the Act

3. The provisions of paragraphs 10(3) and 10(4) (provisions as to compensation water) of Schedule 4 to the Act(**a**), modified and adapted to read as set out in Schedule 2 to this Order, shall apply to the undertaking insofar as affected by the provisions of this Order, and the terms used in the provisions of those paragraphs, as so modified and adapted, which are defined in this Order, shall have the same meaning as in this Order.

Water rights

4. Subject to the provisions of this Order, Scottish Water may, for the purposes of the undertaking and by means of the intake structures shown on the deposited plan, located at Ordnance Survey National Grid References NC 8016 0558 and NC 7909 0053, take water from Loch Horn and Loch Lunndaidh in the area of the Highland Council.

5.—(1) During the construction of the works, Scottish Water may take from Loch Horn and Loch Lunndaidh, such water as it may require for such construction.

(2) After completion of the works, in any day, Scottish Water–

(a) (i) may take from Loch Horn, a quantity of water not greater than 1730 cubic metres, as measured and recorded by a flowmeter (Works No. 1); and

(ii) shall ensure that not less than 240 cubic metres of water is discharged from Loch Horn into the Allt Burn, as regulated and measured by an existing v-notch weir and gauging post located at Ordnance Survey National Grid Reference NC 8009 0554; and

(b) (i) may take from Loch Lunndaidh, a quantity of water not greater than 1570 cubic metres, as measured and recorded by a flowmeter (Works No. 2); and

(ii) shall ensure that not less than 690 cubic metres of water is discharged from Loch Lunndaidh into the Culmaily Burn, as regulated and measured by an existing v-notch weir and gauging post located at Ordnance Survey National Grid reference NC 7928 0030.

6. If any power to take water conferred by this Order has not been exercised by 31st December 2008 the power shall cease.

Revocation

7. The Sutherland County Council (Loch Horn) Water Order 1960(**b**), the County Council of the County of Sutherland (Caen Burn) Water Order 1949(**c**), the County Council of the County of Sutherland (Culgower Burn) Water Order 1950(**d**) are revoked with effect from 31st December 2008.

R N IRVINE
A member of the staff of the Scottish Executive

Victoria Quay,
Edinburgh
7th December 2007

(**a**) Paragraph 10(3) of Schedule 4 was amended by the Criminal Justice Act 1982 (c.48), Schedule 15, paragraph 27, and by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 2.
(**b**) S.I. 1960/1803.
(**c**) S.I. 1949/1947.
(**d**) S.I. 1950/813.

SCHEDULE 1

The works referred to in this Order and shown on the deposited plan are–

Works No. 1:

Installation of a flowmeter housed within the existing water treatment works located at Ordnance Survey National Grid Reference NC 8292 0275 to measure the flow abstracted from Loch Horn.

Works No. 2:

Installation of a flowmeter housed within the said water treatment works to measure the flow abstracted from Loch Lunndaidh.

Works No. 3:

Installation of a flowmeter to measure the total combined flow abstracted from both Loch Horn and Loch Lunndaidh, housed within the said water treatment works.

SCHEDULE 2

The modifications and adaptations of Schedule 4 to the Act referred to in this Order are–

1. 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 (Loch Horn and Loch Lunndaidh) Water Order 2007, 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 (Loch Horn and Loch Lunndaidh) Water Order 2007,

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 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.".

2. 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 flowmeter to be installed as part of Works Nos. 1 to 3 specified in Schedule 1 to the Scottish Water (Loch Horn and Loch Lunndaidh) Water Order 2007.".

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