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SCOTTISH STATUTORY INSTRUMENTS

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**1999 No. 128**

**WATER SUPPLY**

The West of Scotland Water Authority  
(Kilberry, Allt Dail A'Chairn) Water Order 1999

*Made* - - - - - *19th October 1999*

*Coming into force* - - - - - *12th November 1999*

The Scottish Ministers, in exercise of the powers conferred on them by sections 17(2) and 29(1) of the Water (Scotland) Act 1980(1) and of all other powers enabling them in that behalf, on the application of the West of Scotland Water Authority, hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the West of Scotland Water Authority (Kilberry, Allt Dail A'Chairn) Water Order 1999 and shall come into force on 12th November 1999.

**Interpretation**

2. In this Order—

“the Act” means the Water (Scotland) Act 1980;

“approved” means approved by the Scottish Ministers;

“the Authority” means the West of Scotland Water Authority established under section 64 of the Local Government etc. (Scotland) Act 1994(2);

“day” means a period of 24 hours reckoned from midnight;

“deposited plan” means the plan, prepared in duplicate, docqueted and signed as relative to this Order and marked “The West of Scotland Water Authority (Kilberry, Allt Dail A'Chairn) Water Order 1999, Plan of Catchment Area, Location Plan and Plans and Sections of Works Nos 1 and 2”, one copy of which is deposited in the Scottish Executive, Victoria Quay, Edinburgh, and the other in the office of the Chief Executive of the Authority at 419 Balmore Road, Glasgow, G22 6NU;

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

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(1) 1980 c. 45; section 17(2) was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), Schedule 13, paragraph 119. 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).

(2) 1994 (c. 39).

“intake” includes any work by which water is taken by the Authority for the purposes of the undertaking;

“undertaking” means the water undertaking for the time being of the Authority;

“works” means the works described in Schedule 1 to this Order, which the Authority, in exercise of the powers conferred on them by section 21 of the Act, and in the lines and situations and according to the general dimensions shown on the deposited plan, propose to construct and maintain for the purpose of providing a supply of water when they have acquired the necessary land or sufficient rights therein.

### **Incorporation and application of the provisions of Schedule 4 to the Act**

3. The provisions of section 10(3) of Schedule 4 to the Act<sup>(3)</sup>, modified and adapted to read as set out in Schedule 2 to this Order, shall apply to the undertaking in so far as affected by the provisions of the Order, and the terms used in the provisions of that section, 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, the Authority may, for the purposes of the undertaking, take water from the river known as the Allt Dail A'Chairn, in the Argyll and Bute Council Area, by means of the intake structure of the works.

5.—(1) During the construction of the works the Authority may take from the said Allt Dail A'Chairn such water as they may require for such construction.

(2) After completion of the work, the Authority may take from the Allt Dail A'Chairn, in any day, a quantity of water not exceeding 17.2 cubic metres, as measured and recorded by an approved gauge (part of Works No. 2), provided the residual flow in the Allt Dai A'Chairn, as measured by an approved weir (part of Works No. 1), is greater than 76 cubic metres per day.

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

### **Miscellaneous**

7. The Authority 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 Authority a copy thereof and a copy of the deposited plan.

Victoria Quay,  
Edinburgh  
19th October 1999

*M NEILSON*  
A member of the staff of the Scottish Ministers

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(3) Section 10(3) was amended by the Criminal Justice Act 1982 (c. 40), Schedule 15, paragraph 27 and the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), Schedule 2

SCHEDULE 1

Article 2

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

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Works No. 1	An intake pipe 40 metres or thereby in length leading from an intake structure on the Allt Dail A'Chairn incorporating an approved side weir and line of flow weir arranged to limit abstraction from the river such that a supply is taken only when stream flow exceeds the specified residual flowrate.
Works No. 2	A treatment works containing an approved gauge and instrumentation to measure and record the amount of water taken from the intake.

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SCHEDULE 2

Article 3

The modifications and adaptations of Schedule 4 to the Act referred to in Article 3 of this Order are—

**Section 10(3)**

“If the West of Scotland Water Authority—

- (a) fail to construct or maintain in good order any such gauge as is mentioned in the West of Scotland Water Authority (Kilberry, Allt Dail A'Chairn) Water Order 1999, or refuse to allow any person interested to inspect and examine any such gauge or any records made thereby or kept them in connection therewith or to take copies of any such records; or
- (b) take any water contrary to the provisions of the West of Scotland Water Authority (Kilberry, Allt Dail A'Chairn) Water Order 1999,

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.”