
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 509

WATER SUPPLY

**The Scottish Water (Loch a'Bhaid
Luachraich) Water Order 2005**

Made - - - - 12th October 2005

Coming into force - - 14th October 2005

The Scottish Ministers, in exercise of the powers conferred on them by sections 17(2), 29(1) and 107(1)(b) of the Water (Scotland) Act 1980(1) and of all other powers enabling them in that behalf, on the application of Scottish Water, hereby make the following Order:—

Citation and Commencement

1. This Order may be cited as the Scottish Water (Loch a'Bhaid Luachraich) Water Order 2005 and shall come into force on 14th October 2005.

Interpretation

2. In this Order:—

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

“approved” means approved by the Scottish Ministers;

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

“deposited plan” means the plan, prepared in triplicate, docquetted and signed as relative to this Order and marked “the Scottish Water (Loch a'Bhaid Luachraich) Water Order 2005”, one copy of which is deposited in the office of the Scottish Executive, Victoria Quay, Edinburgh, one copy at the head office of Scottish Water at Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife, and one copy at Scottish Water’s Inverness Area Office, 31 Henderson Drive, Longman North, Inverness, IV1 1TR;

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

(1) 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, and by the [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#) Schedule 6, paragraph 14(3)(a), (b), (c). 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 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).

“intake” includes any work by which water is taken by Scottish Water for the purpose of the undertaking;

“Scottish Water” means the body corporate established by section 20(1) of the Water Industry (Scotland) Act 2002(2);

“undertaking” means the water undertaking for the time being of Scottish Water;

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

Incorporation and Application of Provisions of Schedule 4 to the Act

3. The provisions of paragraphs 2 and 10(3) of Schedule 4 to the Act(3) 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 that paragraph, 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 an existing intake located at Ordnance Survey National Grid Reference NG 891 879 take water from Loch a'Bhaid Luachraich in the Highland Council area.

5.—(1) During the construction of the works, Scottish Water may take from the said Loch a'Bhaid Luachraich such water as it may require for such construction.

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

- (a) may take from the said Loch a'Bhaid Luachraich a quantity of water not greater than 750 cubic metres as measured and recorded by an approved gauge (Works No. 4); and
- (b) shall ensure that not less than 3940 cubic metres of water is discharged into the Allt Beithe from Loch a'Bhaid Luachraich, as regulated by notch plates (part of Works No. 1), and as measured by a gauging post (part of Works No. 3).

6. If the power to take water conferred by this Order has not been exercised by 1st April 2006 the said power shall cease.

Revocation

7. The County of Ross and Cromarty (Allt Beitha, Aultbea) Water Order 1961(4), the County of Ross and Cromarty (Loch na Ba) Water Order 1961(5), and the Ross and Cromarty Water Board (Allt Loch a'Choire) Water Order 1972(6) are revoked with effect from 1st April 2006.

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- (2) [2002 asp 3](#), as amended by the [Water Services etc. \(Scotland\) Act 2005 \(asp 3\)](#).
 - (3) Paragraph 2 of Schedule 4 was amended by the Roads (Scotland) Act 1984 (c. 54), Schedule 9, paragraph 81(15)(a); paragraph 10(3) 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.
 - (4) The Order was made on 20th February 1961. A copy of the Order is available from Scottish Water, Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife.
 - (5) The Order was made on 23rd May 1961. A copy of the Order is available from Scottish Water, Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife.
 - (6) The Order was made on 29th August 1972. A copy of the Order is available from Scottish Water, Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife.

Victoria Quay, Edinburgh
12th October 2005

ANDREW SCOTT
A member of the staff of the Scottish Ministers

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SCHEDULE 1

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

Works No. 1:

Installation of a new fish pass, which houses galvanised steel notch plates to control the compensation flow into the Allt Beithe.

Works No. 2:

Installation of a new raw water pipeline extending to the new water treatment works which is to be located at Ordnance Survey National Grid Reference NG 879 882 (the construction of which treatment works is not authorised hereunder).

Works No. 3:

Installation of a new steel notch weir, including provision for a fish pass, on the Allt Beithe situated at Ordnance Survey National Grid Reference NG 889 880. Installation of a new gauging post attached to the weir to allow the flow in the Allt Beithe to be measured.

Works No. 4:

Installation of an approved gauge to measure and record the flow abstracted from the Loch a'Bhaid Luachraich, to be housed in the said new water treatment works located at Ordnance Survey National Grid Reference NG 879 882.

SCHEDULE 2

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

1. For paragraph 2 of Schedule 4 there is substituted–

“In the construction of the works described in Schedule 1 to the Scottish Water (Loch a'Bhaid Luachraich) Water Order 2005, Scottish Water may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plan and it may deviate vertically from the levels shown on the deposited plan to any extent:

Provided that–

- (a) no control building shall be constructed at a greater height above the general surface of the ground than that shown on the deposited plan and 2 metres in addition thereto; and
- (b) except for the purposes 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 deposited plan.”.

2. For paragraph 10(3) of Schedule 4 there is substituted–

“If Scottish Water–

- (a) fails to construct or maintain in good order any such gauge as is mentioned in the Scottish Water (Loch a'Bhaid Luachraich) Water Order 2005, 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 a'Bhaid Luachraich) Water Order 2005,

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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.”.