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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 576**

**WATER SUPPLY**

**The Scottish Water (Allt nan Corp) Water Order 2005**

*Made* - - - - *9th November 2005*

*Coming into force* - - *11th November 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 17(1), 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 (Allt nan Corp) Water Order 2005 and shall come into force on 11th November 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, docketed and signed as relative to this Order and marked “The Scottish Water (Allt nan Corp) Water Order 2005”, one copy of which is deposited in the office of the Scottish Executive, Victoria Quay, Edinburgh, one copy in the head office of Scottish Water at Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife, and one copy in the Scottish Water Inverness Area Office at 31 Henderson Drive, Longman North, Inverness;

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

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(1) 1980 c. 45. Section 17(1) was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), section 180(1) and (2), Schedule 13, paragraph 119(10)(a) and Schedule 14, and by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 14(1) and (2). Section 29(1) was amended by the Local Government etc. (Scotland) Act 1994 (c. 39), section 180(1) and (2), Schedule 13, paragraph 19(a)(b) and Schedule 14, and by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 23(a)(b)(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 52(a) and by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 61(a)(b). See section 109(1) for the definition of “local enactment”. 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<sup>(2)</sup>;

“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.

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

3. The provisions of paragraphs 2, 10(3) and 10(4) 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 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 intake (Works No. 4), take water from the Allt nan Corp in the area of the Highland Council.

5.—(1) During the construction of the works, Scottish Water may take from the said Allt nan Corp such water as it may require for such construction.

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

(a) Scottish Water shall ensure that a minimum flow of 351 cubic metres is discharged from Loch a'Chaisteil into the Allt nan Corp as regulated by a hydrobrake (part of Works No. 1) and v-notch weir (part of Works No. 2), and as measured by a gauging post (part of Works No. 2); and

(b) when the flow in the Allt nan Corp, as measured at the abstraction point (Works No. 3 and No. 4), is—

(i) equal to or greater than 407 cubic metres, Scottish Water may take from the Allt nan Corp a quantity of water not greater than 176 cubic metres, as measured and recorded by an approved gauge (Works No. 5); and

(ii) less than 407 cubic metres, Scottish Water may take water from the said Allt nan Corp, subject to Scottish Water ensuring that a flow of not less than 231 cubic metres of water, all as regulated by a v notch weir, and as measured by a gauging post (Works No. 3), is maintained.

6. If the power to take water conferred by this Order has not been exercised by 31st December 2007 the said power shall cease.

### **Revocation**

7. The County Council of the County of Ross and Cromarty (Allt nan Corp) Water Order 1955<sup>(4)</sup> is revoked with effect from 31st December 2007.

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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 4th April 1955 and gives effect to the agreement dated 6th and 15th December 1954 between Arnold Wills and the County Council of the County of Ross and Cromarty. The agreement was registered in the Division of the

Victoria Quay, Edinburgh  
9th November 2005

*ANDREW SCOTT*  
A member of the staff of the Scottish Ministers

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE 1

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

Works No. 1

Installation of a new concrete weir across the Allt nan Corp at Ordnance Survey National Grid Reference NG 7276 4151. Within the weir is an outlet chamber, with a hydrobrake to control the water discharged in to the Allt nan Corp from Loch a'Chaisteil, and a discharge chamber which allows for water to pass to Works No. 2.

Works No. 2

Installation of a new v-notch weir and gauging post at the outlet of the new discharge chamber (part of Works No. 1) to measure the flow discharged into the Allt nan Corp from Loch a'Chaisteil.

Works No. 3

Installation of a new v-notch weir and gauging post, to control and measure the flow returned to the Allt nan Corp after the abstraction point at Ordnance Survey National Grid Reference NG 7174 4075 (Works No. 4).

Works No. 4

Installation of an intake chamber with an outlet pipe to Works No. 5.

Works No. 5

Installation of an approved gauge, within a new water treatment works to be constructed at Ordnance Survey National Grid Reference NG 7156 4056, (the construction of which treatment works is not authorised under this Order).

## 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 substitute–

“In the construction of the works described in Schedule 1 to the Scottish Water (Allt nan Corp) 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 said 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 substitute–

“If Scottish Water–

- (a) fails to construct or maintain in good order any such gauge as is mentioned in the Scottish Water (Allt nan Corp) 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 (Allt nan Corp) Water Order 2005,

it shall, without prejudice to its civil liability, if any, to a person aggrieved, be liable, in the case of an offence under sub paragraph (a) of this paragraph, on summary conviction to a fine not exceeding level 3 on the standard scale, and, in the case of an offence under sub paragraph (b) of this paragraph—

- (i) on summary conviction, to a fine not exceeding the statutory maximum; and
- (ii) on conviction on indictment to a fine.”.

**3.** In paragraph 10(4) of Schedule 4, for the definition of “gauge” substitute—

“In this paragraph, the expression “gauge” includes a gauge, weir or other apparatus for measuring the flow of water and the v notch weir and gauging post to be installed as part of Works Nos. 2 and 3 as described in Schedule 1 to the Scottish Water (Allt nan Corp) Water Order 2005.”.