

1973 No. 1399 (S.103)

**WATER SUPPLY, SCOTLAND**

**The Fife and Kinross Water Board (Castlehill Reservoir)  
Water Order 1973**

*Made - - - - -* 3rd August 1973  
*Coming into Operation* 10th August 1973

The Secretary of State, in exercise of the powers conferred upon him by (a) sections 21(2) and 44(1) of the Water (Scotland) Act 1946(a), as amended by the Water (Scotland) Act 1949(b) and the Water (Scotland) Act 1967(c), (b) section 23 of the Water (Scotland) Act 1949 as amended by the Water (Scotland) Act 1967 and (c) section 32 of the Water (Scotland) Act 1967, and of all other powers enabling him in that behalf, on the application of the Fife and Kinross Water Board, hereby makes the following order:—

PART I

*Citation and commencement*

1. This order may be cited as the Fife and Kinross Water Board (Castlehill Reservoir) Water Order 1973 and shall come into operation on 10th August 1973.

*Interpretation*

2.—(1) In this order unless the context otherwise requires—

“the Act” means the Water (Scotland) Act 1946;

“approved” means approved by the Secretary of State;

“the Board” means the Fife and Kinross Water Board;

“day” means a period of twenty-four hours reckoned from nine o'clock in the forenoon;

“deposited plans” means the plans comprising Sheets Nos. 1 to 7 each prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked “The Fife and Kinross Water Board (Castlehill Reservoir) Water Order 1973”, one copy of each of which is deposited in the office of the Scottish Development Department, St. Andrew’s House, Edinburgh, and the other in the office of the Clerk to the Board at Glenrothes;

“existing Devon Reservoirs” means the Glensherup Reservoir, the Glenquey Reservoir, the Glendevon Reservoir and the Upper Glendevon Reservoir

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(a) 1946 c. 42.

(b) 1949 c. 31.

(c) 1967 c. 78.

of the Board described in section 11 of the Dunfermline Water Act, 1876(a), section 5 of the Dunfermline District Water Order 1904(b), section 6 of the Dunfermline District Water Order 1913(c) and section 43 of the Fife County Council Order 1949(d) respectively;

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

“land” includes any interest in land and any right or servitude in, to or over land;

“the reservoir” means the Castlehill Reservoir;

“the river” means the River Devon;

“undertaking” means the undertaking for the time being of the Board;

“works” means the works described in Schedule 1 to this order which the Board in exercise of the powers conferred on them by section 24 of the Act, with the consent of the Secretary of State, and in the lines and situations and according to the levels shown on the deposited plans Sheets Nos. 4 to 7, propose to construct and maintain for the purposes of providing a supply of water within their region when they have acquired the necessary land or sufficient rights therein.

(2) A work identified by the number of the work shall be construed as a reference to the work of that number described in Schedule 1 to this order.

(3) All distances and lengths stated in any description of works, powers or lands shall be construed as if the words “or thereby” were inserted after each such distance or length.

(4) Where any provision of this order specifies both a metric measurement and an imperial measure, the imperial measure shall for the purposes of the said provision be deemed to be equivalent to the metric measurement.

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

3. The provisions of section 2 (permissible limits of deviation) and section 9 (extinction of private rights of way) of Part II, and of section 10(3), (4) and (5) (supplementary provisions relating to compensation water) of Part III, and section 11 (relating to underlying minerals) of Part IV of the Fourth Schedule to the Act, all modified and adapted in terms of section 44(1) of the Act and set out in Schedule 2 to this order, apply to the water undertaking to which this order relates.

#### *Incorporation and application of provisions of the Railway Clauses Consolidation (Scotland) Act 1845 and the Lands Clauses Acts*

4. For the purposes of this order, section 6 of the Railways Clauses Consolidation (Scotland) Act 1845(e) and the Lands Clauses Acts, with the exception of section 127 of the Lands Clauses Consolidation (Scotland) Act 1845(f), are hereby incorporated with this order, and those Acts and the enactments relating to compensation payable in respect of the compulsory purchase of lands shall apply accordingly, subject to the aforesaid exception and to the exceptions and modifications specified in Parts I and II of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947(g).

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(a) 1876 c.clxix.

(c) See 1913 c.clvi.

(e) 1845 c. 33.

(b) See 1904 c.cxlvi.

(d) See 1949 c.lvii.

(f) 1845 c. 19.

(g) 1947 c. 42.

## PART II

### *Water rights*

5. Subject to the provisions of this order, the Board may for the purposes of their undertaking—

- (a) by means of the dam (Work No. 1) and the reservoir (Work No. 2) impound the waters of the river in the parish of Glendevon in the County of Perth, and of all streams flowing into the said reservoir;
- (b) as from the date of issue of the preliminary certificate given by the Engineer acting in terms of the Reservoirs (Safety Provisions) Act 1930(a) stating that water may be impounded within the reservoir (Work No. 2) take water from the said reservoir.

6. During the construction of the works the Board may take such water as they require for such construction from the river.

7.—(1) Subject to the provisions of this article, during the first filling and after the completion of the reservoir (Work No. 2) the Board shall discharge water in a uniform and continuous flow from the reservoir into the river at a point not more than 200 metres (219 yards) downstream from the foot of the dam (Work No. 1) forming the reservoir (hereinafter referred to as “the said point of discharge”) at a rate not less than 29,600 cubic metres per day (6,500,000 gallons per day).

(2) When on first filling the level of the reservoir has reached a height of 195 metres (640 feet) above ordnance datum (Newlyn), the Board shall, without prejudice to the continuous flow provided for in paragraph (1) of this article, in the periods specified below discharge additional quantities of water from the reservoir into the river at the said point of discharge, either as an additional continuous rate of flow during any such period, or any part thereof, or as freshets, or both, at such rates and at such times as in the terms of this article may be required by the parties hereinafter mentioned provided that such rates shall not exceed the maximum rates per day or the aggregate quantities hereinafter specified:—

- (a) by the Forth River Purification Board and their successors as river purification authority for the river (i) a quantity not exceeding 22,700 cubic metres (5,000,000 gallons) per day or an aggregate of 91,000 cubic metres (20,000,000 gallons) in any calendar year at any time to deal with any gross pollution of the river or any part thereof or any other emergency situation or for the protection of fishing interests; and (ii) a quantity not exceeding 227,000 cubic metres (50,000,000 gallons) per day or an aggregate of 1,140,000 cubic metres (250,000,000 gallons) in the period from 1st October to 31st December in each year; and
- (b) by The Distillers Company Limited or their nominees and successors in respect of their interest in Glenochil Yeast Factory (owned and occupied by their subsidiary company, The Distillers Company (Yeast) Limited) and in Cambus Distillery and in Menstrie and Blackgrange Warehouses (owned and occupied by their subsidiary company, Scottish Grain Distillers Limited) at such rate not exceeding 227,000 cubic metres (50,000,000 gallons) per day as the said Distillers Company Limited or

their nominees and successors may require or an aggregate of 910,000 cubic metres (200,000,000 gallons) during the period from 1st January to 30th September in each year.

Provided that the additional quantity of water required to be discharged between the date of the first filling of the reservoir to 195 metres (640 feet) above ordnance datum (Newlyn) and the end of the period (1st January to 30th September or 1st October to 31st December) within which that date falls, shall not exceed a quantity proportionate to the unexpired part of the relative period, and provided that the additional quantity of water required to be discharged in the period specified in sub-paragraph (a)(ii) of this paragraph shall not exceed:—

- (i) on any day in that period, a quantity equal to the product of 13,700 cubic metres (3,000,000 gallons) multiplied by the number of days, counting part of a day as a complete day, since the beginning of the period after deduction of any quantity previously discharged under this paragraph since the beginning of the period; and
- (ii) on and after 1st December in that period, a quantity of 455,000 cubic metres (100,000,000 gallons).

(3) For the purpose of measuring the quantities of water discharged from the reservoir for compliance with the requirements of this article the Board shall construct and thereafter maintain an approved gauge (Work No. 10); and for the purpose of measuring the level of water in the reservoir for the purposes of this article the Board shall construct and thereafter maintain an approved gauge (Work No. 11).

(4) The provisions of this article shall have effect notwithstanding the existing enactments relating to the discharge of compensation water from the existing Devon reservoirs, but nothing in this article shall affect the obligations of the Board under the said existing enactments with respect to the discharge of compensation water from any of those reservoirs as affecting the river above the reservoir (Work No. 2).

8. 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

#### *Acquisition of Lands*

9. Subject to the provisions of this order the Board are hereby authorised to purchase compulsorily for the purpose of constructing the works the areas of land coloured red and the wayleave coloured blue on the deposited plans Sheets Nos. 2 and 3 and described in Schedule 3 to this order.

#### *Period for compulsory purchase of lands*

10. The powers of the Board under this order for the compulsory purchase of lands for the purposes of this order shall cease on the expiry of 5 years from the date on which this order comes into operation.

## PART IV

### *Provisions as to Work No. 8*

11. Notwithstanding anything in Schedule 1 to this order the following provisions of this article shall have effect as to Work No. 8:—

(1) Before commencing construction of Work No. 8 the Board shall submit to Perth and Kinross County Council for their approval (which approval shall not be unreasonably withheld) plans, sections and particulars relating thereto and, notwithstanding anything shown on the deposited plans Sheets Nos. 4 and 7, the said works shall not be constructed otherwise than in accordance with such plans, sections and particulars as approved by the said County Council.

(2) In the event of any dispute between the Board and Perth and Kinross County Council arising out of or in connection with any of the matters referred to in this article the same shall be settled by arbitration.

### *Works to form part of undertaking*

12. The works specified in Schedule 1 to this order, other than the road diversion (Work No. 8), shall for all purposes form part of the undertaking.

### *Construction and maintenance of road diversion*

13. The road diversion (Work No. 8) shall, when completed, be maintained and repaired by, and at the expense of, the Board until the expiry of a period of one year from the date of the first overflowing of the reservoir (Work No. 2).

## PART V

### *Miscellaneous*

14. The Board shall at all times after the expiration of six months from the date on which this order comes into operation keep at their principal office a copy thereof and of the deposited plans.

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

(L.S.)

Scottish Development Department,  
St. Andrew's House,  
Edinburgh.

3rd August 1973.

*J. E. Stark,*  
Assistant Secretary.

## SCHEDULE 1

## Article 2

The works referred to in this order and shown on the deposited plans Sheets Nos. 4 to 7 are:—

Work No. 1—A dam 115 metres (126 yards) in length and ancillary works in the parish of Glendevon crossing the river at a point 400 metres (438 yards) upstream from the bridge carrying the road (B.934) leading from Yetts of Muckhart to Dunning over the river.

Work No. 2—A reservoir in the parish of Glendevon commencing at the dam (Work No. 1) and terminating in the river 1,920 metres (2,100 yards) upstream from the centre of the said dam.

Work No. 3—A pumping station in the parish of Glendevon situated not more than 50 metres (55 yards) downstream from the foot of the dam (Work No. 1).

Work No. 4—An access road in the parish of Glendevon commencing by a junction with the public road (A.823) at a point 312 metres (341 yards) measured in a north westerly direction from the point where the said public road crosses the Auchlinsky Burn and terminating at the dam (Work No. 1).

Work No. 5—Treatment works in the parish of Muckhart in the enclosure numbered 8144 on the 1/2500 ordnance map of Perth, Sheet NN 9902 (edition of 1968).

Work No. 6—A service reservoir or reservoirs in the parish of Muckhart in the enclosure numbered 8144 on the said 1/2500 ordnance map of Perth, Sheet NN 9902 (edition of 1968).

Work No. 7—An access road in the parish of Muckhart commencing by a junction with the public road (A.823) at a point 10 metres (11 yards) measured in a northerly direction from the point where the said public road crosses Auchlinsky Burn and terminating at the service reservoir or reservoirs (Work No. 6).

Work No. 8—A diversion of the public road (A.823) in the parish of Glendevon commencing 275 metres (301 yards) south of Blacklinn Bridge and extending southwards for a distance of 385 metres (421 yards).

Work No. 9—A pipe or drain in the parishes of Glendevon and Muckhart commencing at the treatment works (Work No. 5) and terminating by an out-fall at the dam (Work No. 1).

Work No. 10—An approved gauge in the parish of Glendevon situated on the river at a point not more than 200 metres (219 yards) downstream from the foot of the dam (Work No. 1).

Work No. 11—An approved gauge situated within the reservoir (Work No. 2) for the purpose of determining the level of water in the said reservoir.

## SCHEDULE 2

## Article 3

The provisions of the Fourth Schedule to the Act referred to in this order are:—

### Section 2

In the construction of the works the Board may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plans Sheets Nos. 4 to 7 and, where on any street no such limits are shown, the boundaries of the street (including for this purpose any verge or roadside waste adjoining it) shall be deemed to be such limits, and they may also deviate vertically from the levels shown on the deposited sections.

Provided that—

- (a) no embankment for a reservoir shall be constructed at a greater height above the general surface of the ground than that shown on the said plans and 2 metres (6 feet) in addition thereto; and

(b) 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 plans.

#### Section 9

- (1) Any private right of way over land which the Board are authorised to acquire compulsorily shall, if they so resolve and give notice of their resolution to the owner of the right, be extinguished as from the acquisition by them of the land, or as from the expiration of one month from the service of the notice, whichever may be the later.
- (2) The Board shall pay compensation to all persons interested in respect of any such right so extinguished, and such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with respect to the taking of lands otherwise than by agreement.

#### Section 10(3)

If the Board—

- (a) fail to install or maintain in good order any such gauge as is mentioned in this order, 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 this order,
- 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 £50 in respect of each day on which the offence has been committed or has continued, and in the case of an offence under paragraph (b) of this subsection—
- (i) on summary conviction to a fine not exceeding £50 in respect of each such day; and
  - (ii) on conviction on indictment to a fine not exceeding £500 in respect of each such day.

#### Section 10(4)

For the purposes of this order a fishery district board shall be deemed to be interested in the flow of water in any stream within their fishery district or any stream feeding such a stream and shall be deemed to be aggrieved by the commission of an offence under this order in relation to any such stream.

#### Section 10(5)

The provisions of this order shall be deemed to have been accepted by all persons interested as providing full compensation for all water impounded by the works.

#### Section 11

When the Board purchase any land, they shall become entitled to such parts of any mines of coal, ironstone, slate or other minerals under that land as it may be necessary for them to dig, carry away or use in the construction of any works referred to in this order but, save as aforesaid, they shall not by virtue only of their purchase of the land become entitled to any such mines or minerals which shall, save as aforesaid, be deemed to be excepted from the conveyance of the land unless expressly mentioned therein as conveyed thereby.

The lands and wayleave in the parishes of Glendevon and Muckhart in the County of Perth which the Board are authorised to purchase compulsorily referred to in this order and shown on the deposited plans Sheets Nos. 2 and 3.

Reference on deposited plan	Quantity, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (other than tenants for one month or less period than one month)
	In the parish of Glendevon—in the County of Perth.			
1.	Area of 0.32 hectare (0.80 acre) or thereby of rough pasture and burn part of Enclosure 0005.	Geo. Allan Snr., Auchlinsky, Glendevon, Dollar.		Geo. Allan Jr., Glenquey, Glendevon, Dollar.
2.	Thirteen areas amounting in all to 21.20 hectares (52.38 acres) or thereby of pasture, rough pasture, woodland, marshland, riverbank, cliffs, spring and burns, Enclosures 3700, 3779, 6556, 5562, 5458, 6835, 7425, 7925 and 0800 and parts of Enclosures 0004, 2700, 2675 and 0072.	Geo. Allan Snr., Auchlinsky, Glendevon, Dollar.		Geo. Allan Jr., Glenquey, Glendevon, Dollar.
3.	Six areas amounting in all to 1.40 hectares (3.45 acres) or thereby of River Devon, parts of Enclosures 8256, 6855, 0806, 1898, 2702 and 6782.	Geo. Allan Snr., Auchlinsky, Glendevon, Dollar.	River Devon Angling Assoc. Sec., D. M. Beveridge, 5, Dirleton Gardens, Alloa.	Geo. Allan Jr., Glenquey, Glendevon, Dollar.
4.	Two areas amounting in all to 0.64 hectare (1.59 acres) or thereby of River Devon, parts of Enclosures 8256 and 6855.	North British Trust Hotels Limited, Strickland-gate, Kendal.	River Devon Angling Assoc. Sec., D. M. Beveridge, 5, Dirleton Gardens, Alloa.	Owner.
5.	Ten areas amounting in all to 6.48 hectares (16.01 acres) or thereby of pasture, rough pasture, woodland, riverbank, cliffs, tracks, springs, ditches and burn, Enclosures 7149, 0012, 2107 and 1800 and parts of Enclosures 7158, 0023, 8238, 4400, 5700 and 8429.	Mrs. M. E. Simpson, Arntomie, Port of Menteith.		Mrs. S. John-man, Easter Downhill, Glendevon, Dollar.
6.	Two areas amounting in all to 0.59 hectare (1.45 acres) or thereby of rough pasture and woodland, parts of Enclosures 4700 and 5479.	Col. G. R. Simpson, Arntomie, Port of Menteith.		Mrs. S. John-man, Easter Downhill, Glendevon, Dollar.



Reference on deposited plan	Quantity, description and situation of the land	Owners or reputed owners	Lessees or reputed lessees	Occupiers (other than tenants for one month or less period than one month)
7.	Area of 0.49 hectare (1.20 acres) or thereby of Public Highway A.823 part of Enclosure 5248.	Perth and Kinross Joint County Council, Perth.		
8.	Two areas amounting in all to 2.37 hectares (5.86 acres) or thereby of rough pasture, woodland, track, riverbank, cliffs, ditch and generator, Enclosure 5174 and part of Enclosure 4000.	North British Trust Hotels Limited, Stricklandgate, Kendal.		Owner.
9.	Five areas amounting in all to 0.75 hectare (1.85 acres) or thereby of River Devon, parts of Enclosures 0806, 6855, 1898, 2702 and 6782.	Mrs. M. E. Simpson, Arntomie, Port of Menteith.	River Devon Angling Assoc. Sec., D. M. Beveridge, 5, Dirleton Gardens, Alloa.	Mrs. S. Johnman, Easter Downhill, Glendevon, Dollar.
10.	Area of 0.02 hectare (0.04 acre) or thereby of pasture, part of Enclosure 0072.	Geo. Allan Snr., Auchlinsky, Glendevon, Dollar.		Geo. Allan Jnr., Glenquey, Glendevon, Dollar.
11.	Wayleave for 223 metres (244 linear yards) through Enclosure 0072.	Geo. Allan Snr., Auchlinsky, Glendevon, Dollar.		Geo. Allan Jnr., Glenquey, Glendevon, Dollar.
12.	Area of 0.29 hectare (0.72 acre) or thereby of woodland, rough pasture and burn, part of Enclosure 2971.	James H. W. Locke and Mrs. Sheila M. Locke, Balmony, Glendevon, Dollar.		Owner.
	In the parish of Muckhart—in the County of Perth.			
13.	Four areas amounting in all to 7.56 hectares (18.69 acres) or thereby of pasture, rough pasture, woodland, sheepfold and burn, Enclosure 8144 and parts of Enclosures 7861, 0048 and 0850.	A. J. R. Izat, Balliliesk, Muckhart.		Owner.