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STATUTORY INSTRUMENTS

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1977 No. 1961 (S. 149)

**WATER SUPPLY, SCOTLAND**

**The Fife Regional Council (River Earn) Water  
Order 1977**

*Made - - - - 28th November 1977*

*Coming into Operation 5th December 1977*

The Secretary of State, in exercise of the powers conferred on him by 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), as read with section 148 of Schedule 17 of the Local Government (Scotland) Act 1973(d), and conferred on him by section 23 of the Water (Scotland) Act 1949, as amended by the Water (Scotland) Act 1967 and the Local Government (Scotland) Act 1973, all as read with section 38(1) and paragraph 56 of Part II of Schedule 6 of the Local Government (Scotland) Act 1975(e), and of all other powers enabling him in that behalf, on the application of the Fife Regional Council, hereby makes the following order:—

PART I

*Citation and commencement*

1. This order may be cited as the Fife Regional Council (River Earn) Water Order 1977 and shall come into operation on 5th December 1977.

*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;

“Council” means the Fife Regional Council as water authority;

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

“deposited plans” means the three plans each prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked respectively “The Fife Regional Council (River Earn) Water Order 1977 Plan of Catchment Area”, “The Fife Regional Council (River Earn) Water Order 1977 Plan of Works and Sections” and “The Fife Regional Council (River Earn) Water Order 1977 Plan of Lands”, one copy of each of which is deposited in the office of the Scottish Development Department, New St. Andrew's House, Edinburgh, and the other in the office of the Chief Executive to the Council at Glenrothes;

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

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(a) 1946 c. 42.  
(d) 1973 c. 65.

(b) 1949 c. 31.  
(e) 1975 c. 30.

(c) 1967 c. 78.

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

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

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

“works” means the works described in Schedule 1 to this order which the Council, in exercise of the powers conferred on them by section 24 of the Act, and in the lines and situations and according to the levels shown on the deposited plan marked “The Fife Regional Council (River Earn) Water Order 1977 Plan of Works and Sections”, propose to construct and maintain for the purpose of providing a supply of water within their limits of supply when they have acquired the necessary lands 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.

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

3. The provisions of section 2 of Part II of the Fourth Schedule to the Act (permissible limits of deviation) and the provisions of section 10(3) and (4) of Part III of the Fourth Schedule to the Act (supplementary provisions relating to compensation water), 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 undertaking in so far as affected by the provisions of this order.

#### *Incorporation and application of provisions of the Railways 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(a) and the Lands Clauses Acts(b), with the exception of section 127 of the Lands Clauses Consolidation (Scotland) Act 1845(c), 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(d).

## PART II

### *Water rights*

5. Subject to the provisions of this order, the Council may, for the purposes of the undertaking and by means of the works, take water from the River Earn in the Parish of Forgandenny, County of Perth and the Tayside Region.

6.—(1) During the construction of the works the Council may take such water as they may require for such construction from the said River Earn.

(2) After the completion of the works:—

(a) At any time when the flow in the said River Earn is less than 214,000 cubic metres per day the Council shall not take any water.

(b) At any time when the flow in the said River Earn is at least 214,000 cubic metres per day and not more than 245,000 cubic metres per

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(a) 1845 c. 33.  
(d) 1947 c. 42.

(b) 1845 c. 19; 1860 c. 106.

(c) 1845 c. 19.

day, the Council may take (i) a quantity of water not exceeding 11,500 cubic metres per day, and (ii) an additional quantity of water not exceeding 1,760 cubic metres per day for every 1,000 cubic metres per day by which the flow exceeds 214,000 cubic metres per day.

(c) At any time when the flow in the said River Earn exceeds 245,000 cubic metres per day but is less than or equal to 309,000 cubic metres per day the Council may take a quantity of water not exceeding 68,000 cubic metres per day.

(d) At any time when the flow in the said River Earn exceeds 309,000 cubic metres per day the Council may take a quantity of water not exceeding 109,000 cubic metres per day.

Always provided that the Council shall not in any hour in any day abstract more than one twentieth of the total daily quantity of water which they are permitted to take in accordance with the provisions of paragraphs (b) to (d) above.

(e) The Council shall not take a quantity of water exceeding 27,300,000 cubic metres in any period of 12 consecutive months.

(3) For the purposes of this order, flows in the said River Earn shall be measured at the gauge of the Scottish Development Department at Kinkell Bridge (National Grid Reference NN 932167), and there shall be installed and maintained within the pump house (Work No. 2) such apparatus to be approved as will enable the measurement of the said gauge to be determined and continuously recorded there.

(4) The Council shall only take water by means of the intake (Work No. 1).

(5) Any water taken by the Council under the provisions of this order shall be measured and continuously recorded through or over an approved gauge incorporated in the pump house (Work No. 2).

7. 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*

8. Subject to the provisions of this order, the Council are hereby authorised to purchase compulsorily for the purpose of constructing the works the areas of land coloured red and the servitude right of access over the land delineated in blue on the deposited plan marked "The Fife Regional Council (River Earn) Water Order 1977 Plan of Lands" and described in Schedule 3 to this order.

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

9. The powers of the Council under this order for the compulsory purchase of lands for the purpose of this order shall cease on the expiry of five years from the date on which this order comes into operation.

### PART IV

#### *Provisions as to Work No. 1*

10. Before commencing the construction of the intake (Work No. 1) the Council shall submit to the Secretary of State for his approval plans, sections

and particulars relating thereto and, notwithstanding anything shown on the deposited plan marked "The Fife Regional Council (River Earn) Water Order 1977 Plan of Works and Sections", the said intake shall be constructed in accordance with such plans, sections and particulars as approved.

PART V

*Miscellaneous*

11. The Council shall at all times after the expiration of six months from the date on which this order comes into operation keep at the office of the Chief Executive a copy thereof and one copy of each of the deposited plans.

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

(L.S.)

*J. B. Fleming,*  
Under Secretary.

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

28th November 1977.

SCHEDULE 1

The works referred to in this order and shown on the deposited plan marked "The Fife Regional Council (River Earn) Water Order 1977 Plan of Works and Sections" are: —

Work No. 1—An intake, situated in the bed of the River Earn near Freeland 1560 metres or thereby upstream of the viaduct conveying the railway line from Perth to Ladybank over the said River Earn, and from it connecting pipes leading 25 metres or thereby in a south easterly direction to the pump house (Work No. 2).

Work No. 2—A pump house, incorporating an approved gauge to measure the quantity of water taken by the Council, situated on the south bank of the said River Earn 1560 metres or thereby upstream of the said viaduct.

Work No. 3—An access road extending 285 metres in a north easterly direction commencing at the eastern end of the existing access road to Freeland Farm Cottages and terminating at the south west side of the said pump house (Work No. 2).

SCHEDULE 2

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

*Section 2*

In the construction of the works the Council may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plan marked "The Fife Regional Council (River Earn) Water Order 1977 Plan of Works and Sections" and they may also deviate vertically from the levels shown on the said deposited plan to any extent:

Provided that—

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 had been obtained, no pipe or other conduit shall be raised above the surface of the ground otherwise than in accordance with the said plan.

*Section 10(3)*

If the Council—

(a) fail to instal 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.

SCHEDULE 3

Article 8.

The lands and servitude right of access in the Parish of Forgandenny, County of Perth and the Tayside Region which the Council are authorised to purchase compulsorily referred to in this order and shown on the deposited plan marked "The Fife Regional Council (River Earn) Water Order 1977 Plan of Lands" are:—

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)
1	In the Parish of Forgandenny, County of Perth and Tayside Region. Area of 0.14 hectare or thereby of bed of the River Earn, part of Enclosure 3539.	Mrs. L. MacGregor, Kirkton of Mailer, Craigend, Perth.	Perth and District Angling Association, Secretary, Mr. K. Bell, 30, Bruce Crescent, Perth.	Owner.
2	Area of 2.24 hectares or thereby of bed and bank of the River Earn, parts of Enclosures 3539 and 5046.	Mr. James and Miss Janet M. Duncan, Freeland Farm, Forgandenny.	Alistair J. Dickson, 10 Kingsknowe Avenue, Edinburgh, EH14 2JK.	Owners.
3	Servitude right of access for 1,625 metres or thereby from the Public Road (B935) leading from Bridge of Earn to Forteviot at Carmichael Cottages by way of the Farm service road through Enclosures 6718, 4753, 2878, 1200 by way of Freeland Farm Cottages.	Mr. James and Miss Janet M. Duncan, Freeland Farm, Forgandenny.		Owners.
4	Area of 0.31 hectare or thereby of arable land, part of Enclosure 3816.	Mr. James and Miss Janet M. Duncan, Freeland Farm, Forgandenny.		Owners.