

1979 No. 1531 (S. 127)

WATER SUPPLY, SCOTLAND

**The Highland Regional Council
(Loch Brishimi and Loch Mhichie) Water Order 1979**

Made - - - - 27th November 1979

Coming into Operation 4th December 1979

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 read with section 148 of, and paragraph 1 of Schedule 17 to, the Local Government (Scotland) Act 1973(b) and of all other powers enabling him in that behalf, on the application of the Highland Regional Council, hereby makes the following order:—

PART I

Citation and commencement

1. This order may be cited as the Highland Regional Council (Loch Brishimi and Loch Mhichie) Water Order 1979 and shall come into operation on 4th December 1979.

Interpretation

2. 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 Highland Regional Council as water authority;

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

“deposited plans” means the two plans each prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked respectively “The Highland Regional Council (Loch Brishimi and Loch Mhichie) Water Order 1979 Plan of Works” and “The Highland Regional Council (Loch Brishimi and Loch Mhichie) Water Order 1979 Plan of Catchment Area”, 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 Inverness;

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

(a) 1946 c. 42; section 21(2) was amended by the Water (Scotland) Act 1949, c. 31, section 30(b) and section 39(4), Schedule 2, Part II and the Water (Scotland) Act 1967, c. 78, section 35(1), Schedule 5, paragraph 27. Section 44(1) was amended by the Water (Scotland) Act 1967, section 4(3), Schedule 2, paragraph 11.

(b) 1973 c. 65; Schedule 17, paragraph 1 was amended by section 38(1), and Schedule 6, Part II, paragraph 56 of the Local Government (Scotland) Act 1975, c. 30.

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

“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 Highland Regional Council (Loch Brishimi and Loch Mhichie) Water Order 1979 Plan of Works”, propose to construct and maintain or in the case of existing works propose to acquire and maintain for the purposes of providing a supply of water within their limits of supply when they have acquired the necessary land or sufficient rights therein.

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

3. The provisions of section 10(3), (4) and (5) of Part III of the Fourth Schedule to the Act 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 insofar as affected by the provisions of this order.

PART II

Water rights

4. Subject to the provisions of this order, the Council may, for the purposes of the undertaking:—

- (a) by means of a dam and intake (Work No. 1) impound and take water from the reservoir known as Loch Brishimi (Work No. 6) in the Sutherland District of the Highland Region;
- (b) by means of a dam (Work No. 5) impound the waters of Loch Mhichie in the Sutherland District of the Highland Region and by means of an intake (Work No. 4) take water from said Loch Mhichie which will be transferred via a connecting pipe (Work No. 4) to Loch Brishimi.

5.—(1) During the construction of the works the Council may take from the said Loch Brishimi and Loch Mhichie such water as they may require for such construction.

- (2) (a) After the completion of the works the Council shall discharge from the said Loch Brishimi into the un-named stream flowing south from Loch Brishimi a quantity of water not less than 10 cubic metres during every day in a uniform and continuous flow as measured through or over an approved gauge (part of Work No. 2);
- (b) Commencing not later than 6 months after 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 Loch Mhichie reservoir (Work No. 7) the Council shall discharge from the said Loch Mhichie into the un-named stream flowing from the north end of Loch Mhichie a quantity of water not less than 110 cubic metres during every day in a uniform and continuous flow as measured through or over an approved gauge (part of Work No. 5).

6. 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

Miscellaneous

7. The Council 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 one copy of each of the deposited plans.

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

L.S.

D. A. Campbell,
Assistant Secretary.

Scottish Development Department,
New St. Andrew's House,
Edinburgh.
27th November 1979.

Article 2

SCHEDULE 1

The works referred to in this order and shown on the deposited plan marked "The Highland Regional Council (Loch Brishimi and Loch Mhichie) Water Order 1979 Plan of Works" are:—

Work No. 1

An existing dam and intake situated at the south end of Loch Brishimi at the point where the un-named stream leaves the said Loch.

Work No. 2

An approved gauge and discharge pipe incorporated in the dam (Work No. 1).

Work No. 3

A regulating chamber at the end of the connecting pipe (part of Work No. 4) with a discharge pipe into Loch Brishimi, situated at north east corner of said Loch, at Ordnance Survey reference NC 1642 4602.

Work No. 4

An intake pipe situated at south west side of Loch Mhichie at Ordnance Survey reference NC 1658 4611 with connecting pipe leading from said Loch to regulating chamber (part of Work No. 3) at Loch Brishimi.

Work No. 5

A dam, incorporating an approved gauge and discharge pipe situated at the north of Loch Mhichie at the point where an un-named stream flowing to the north leaves the said Loch at Ordnance Survey reference NC 1675 4635.

Work No. 6

A reservoir (Loch Brishimi Reservoir) commencing at the dam (Work No. 1) and extending over the said Loch Brishimi.

Work No. 7

A reservoir (Loch Mhichie Reservoir) commencing at the dam (Work No. 5) and extending over the said Loch Mhichie.

SCHEDULE 2

Section 10(3)

If the Council—

- (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 sub-section, 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 sub-section—
 - (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.