

1989 No. 1923 (S.136)

**WATER SUPPLY, SCOTLAND**

**The Highland Regional Council (Allt Bail'an Tuim  
Bhuidhe) Water Order 1989**

*Made* - - - - - *13th October 1989*

*Coming into force* *20th October 1989*

The Secretary of State, in exercise of the powers conferred on him by sections 17(2) and 29(1) of the Water (Scotland) Act 1980(a) and of all other powers enabling him in that behalf, on the application of the Highland Regional Council, hereby makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Highland Regional Council (Allt Bail'an Tuim Bhuidhe) Water Order 1989 and shall come into force on 20th October 1989.

**Interpretation**

2. In this Order—

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

“approved” means approved by the Secretary of State;

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

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

“deposited plan” means the plan, prepared in duplicate, docquetted and signed as relative to this Order and marked “The Highland Regional Council (Allt Bail'an Tuim Bhuidhe) Water Order 1989 Plans and Sections of Works and Plan of Catchment Area”, one copy of which is deposited in the Scottish Office, New St Andrew's House, Edinburgh, and the other in the office of the Chief Executive of the Council at Inverness;

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

“intake” includes any work by which water is taken by the Council for the purpose 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 21 of the Act, and in the lines and situations and according to the levels shown on the deposited plan, propose to construct and maintain for the purpose of providing a supply of water when they have acquired the necessary lands or sufficient rights therein.

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

3. The provisions of section 2 of Part II and sections 10(3) and (4) of Part III of Schedule 4 to the Act(b) as modified and adapted in terms of section 29(1) of the Act and as set out in Schedule 2 to this Order apply to the undertaking insofar as affected by the provisions of this Order.

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(a) 1980 c.45.

(b) Section 2 was amended by the Roads (Scotland) Act 1984 (c.54), Schedule 9, paragraph 81(15)(a); section 10(3) was amended by the Criminal Justice Act 1982 (c.48), Schedule 6, paragraph 62 and Schedule 15, paragraph 27.

### **Water rights**

4. Subject to the provisions of this Order, the Council may, for the purposes of the undertaking and by means of an intake (part of Work No. 3), take water from the stream known as the Allt Bail'an Tuim Bhuidhe in the Inverness District of the Highland Region.

5.—(1) During the construction of the works, the Council may take from the said Allt Bail'an Tuim Bhuidhe such water as they may require for such construction.

(2) After completion of the works the Council shall not—

(a) take any water into supply from the said Allt Bail'an Tuim Bhuidhe through a chamber (Work No.2) so as to reduce the rate of flow through the discharge pipe (Work No.4) below 90 cubic metres per day as measured through or over an approved gauge (part of Work No.2);

(b) in any one day take into supply from the said Allt Bail'an Tuim Bhuidhe through a chamber (Work No.2) a quantity of water greater than 50 cubic metres per day as measured through or over an approved gauge (part of Work No. 2).

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 force the said power shall cease.

### **Miscellaneous**

7. The Council shall at all times after the expiration of six months from the date on which this Order comes into force keep at the office of the Chief Executive of the Council a copy thereof and a copy of the deposited plan.

Scottish Development Department,  
27 Perth Street, Edinburgh  
13th October 1989

*Alasdair C. Paton*  
Deputy Chief Engineer,  
Scottish Office

## SCHEDULE 1

## Article 2

The works referred to in this Order and shown on the deposited plan marked "The Highland Regional Council (Allt Bail'an Tuim Bhuidhe) Water Order 1989 Plans and Sections of Works and Plan of Catchment Area" are—

- Work No. 1 A weir with a lowest sill level of 179.0 metres or thereby above Ordnance Datum situated 680 metres or thereby measured in a straight line upstream from the point where the road between the properties of Balintombuie and Balnacarn crosses the Allt Bail'an Tuim Bhuidhe (NGR NH 2857 1348).
- Work No. 2 A chamber incorporating approved gauges situated 4 metres or thereby south-east of Work No. 1.
- Work No. 3 An intake pipe extending generally north-westwards from Work No. 2 for a distance of 8 metres or thereby and incorporating an intake situated 1 metre or thereby upstream from Work No. 1.
- Work No. 4 A discharge pipe extending 3 metres or thereby south-westwards from Work No. 2 and incorporating an outlet to the Allt Bail'an Tuim Bhuidhe.

## SCHEDULE 2

## Article 3

The provisions of Schedule 4 to the Act referred to in, and as modified and adapted for the purposes of, 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 Highland Regional Council (Allt Bail'an Tuim Bhuidhe) Water Order 1989 Plans and Sections of Works and Plan of Catchment Area", and they may also deviate vertically from the levels shown on the deposited plan to any extent:

Provided that—

- (a) no weir across a watercourse shall be constructed at a greater height above the general bed level of the watercourse than that shown on the said plan and 150 millimetres in addition thereto; and
- (b) except for the purpose of crossing a stream or watercourse, 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 plan.

### SECTION 10(3)

If the Council—

- (a) fail to install or maintain in good order any such gauge as is mentioned in the Highland Regional Council (Allt Bail'an Tuim Bhuidhe) Water Order 1989, 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 the Highland Regional Council (Allt Bail'an Tuim Bhuidhe) Water Order 1989,

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 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.

### SECTION 10(4)

For the purposes of the Highland Regional Council (Allt Bail'an Tuim Bhuidhe) Water Order 1989, a fishery district board shall be deemed to be interested in the flow of water in, and the discharge of water into, 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 the said Order in relation to any such stream.