
STATUTORY INSTRUMENTS

1992 No. 30 (S.2)

WATER SUPPLY, SCOTLAND

**The Highland Regional Council
(Kilfinnan Burn) Water Order 1992**

Made - - - - 8th January 1992

Coming into force - - 15th January 1992

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⁽¹⁾ 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 (Kilfinnan Burn) Water Order 1992 and shall come into force on 15th January 1992.

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 plans” means the two plans, each prepared in duplicate, docketed and signed as relative to this Order and marked respectively “The Highland Regional Council (Kilfinnan Burn) Water Order 1992 Plan of Catchment Area” and “The Highland Regional Council (Kilfinnan Burn) Water Order 1992 Location Plan and Plans and Sections of Works Nos.1, 2, 3, 4 and 5”, one copy of each 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 purposes of the undertaking;

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

(1) 1980 c. 45.

“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 plans, propose to construct and maintain for the purpose of providing a supply of water when they have acquired the necessary land or sufficient rights therein.

Incorporation and application of provisions of Schedule 4 to the Act

3. The provisions of sections 2 and 10(3) and (4) of Schedule 4 to the Act⁽²⁾, modified and adapted to read as set out in Schedule 2 to this Order, shall apply to the undertaking in so far as affected by the provisions of this Order, and the terms used in those provisions, 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, the Council may, for the purposes of the undertaking and by means of an intake pipe (Work No.5), take water from the stream known as the Kilfinnan Burn in the Lochaber District of the Highland Region.

5.—(1) During the construction of the works the Council may take from the said Kilfinnan Burn such water as they may require for such construction.

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

- (a) take water from the said Kilfinnan Burn through the supply pipe (Work No.4) so as to reduce the rate of flow of water through the discharge pipe (Work No.3) below 170 cubic metres per day as measured through or over an approved gauge (part of Work No.2);
- (b) in any one day take from the said Kilfinnan Burn through the supply pipe (Work No.4) a quantity of water greater than 250 cubic metres 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 each of the deposited plans.

Scottish Office Environment Department,
27 Perth Street,
Edinburgh
8th January 1992

T. D. Macdonald
Deputy Chief Engineer, Scottish Office

(2) 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 Procedure (Scotland) Act 1975 (c. 21), Schedule 7D, paragraph 62 (as inserted by the Criminal Justice Act 1982 (c. 48) “the 1982 Act”, Schedule 6) and Schedule 15, paragraph 27 of the 1982 Act.

SCHEDULE 1

Article 2

The works referred to in this Order and shown on the deposited plan marked “The Highland Regional Council (Kilfinnan Burn) Water Order 1992 Location Plan and Plans and Sections of Works Nos.1, 2, 3, 4 and 5” are—

Work No.1	A weir, at National Grid Reference NN 272 962, with a sill level of 110 metres or thereby above Ordnance Datum, on the Kilfinnan Burn at a point 600 metres or thereby measured in a straight line north-west of Kilfinnan Farm.
Work No.2	A chamber with approved gauges situated some 7 metres or thereby in an easterly direction from the south-eastern end of Work No.1.
Work No.3	A discharge pipe extending 7 metres or thereby in a southerly direction from Work No.2 to the Kilfinnan Burn, incorporating an approved gauge located within Work No.2.
Work No.4	A supply pipe extending in an easterly direction from Work No.2, incorporating an approved gauge located within Work No.2.
Work No.5	An intake pipe extending 7 metres or thereby in an easterly direction from Work No.1 to Work No.2.

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 (Kilfinnan Burn) Water Order 1992 Location Plan and Plans and Sections of Works Nos.1, 2, 3, 4 and 5” and they may also deviate vertically from the levels shown on that 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 100 millimetres 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 plan.

Section 10(3)

If the Council—

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

- (a) fail to install or maintain in good order any such gauge as is mentioned in the Highland Regional Council (Kilfinnan Burn) Water Order 1992, 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 (Kilfinnan Burn) Water Order 1992,

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 this section as applied by the Highland Regional Council (Kilfinnan Burn) Water Order 1992 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 section as applied by the said Order in relation to any such stream.