

2005 No. 513

WATER SUPPLY

The Scottish Water (Abhainn Chro Bheinn) Water Order 2005

Made - - - - *18th October 2005*

Coming into force - - *21st October 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 17(1), 29(1) and 107(1)(b) of the Water (Scotland) Act 1980(a) and of all other powers enabling them in that behalf, on the application of Scottish Water, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Scottish Water (Abhainn Chro Bheinn) Water Order 2005 and shall come into force on 21st October 2005.

Interpretation

2. In this Order—

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

“approved” means approved by the Scottish Ministers;

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

“deposited plan” means the plan, prepared in triplicate, docqueted and signed as relative to this Order and marked “Scottish Water (Abhainn Chro Bheinn) Water Order 2005”, one copy of which is deposited in the office of the Scottish Executive, Victoria Quay, Edinburgh, one in the head office of Scottish Water at Castle House, 6 Castle Drive, Carnegie Campus, Dunfermline, Fife; and one in Scottish Water Inverness Area Office, 31 Henderson Drive, Longman North, Inverness, IV1 1TK;

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

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

“Scottish Water” means the body corporate established by section 20(1) of the Water Industry (Scotland) Act 2002(b);

“undertaking” means the water undertaking for the time being of Scottish Water; and

(a) 1980 c.45. Section 17(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and (2), Schedule 13, paragraph 119(10)(a) and Schedule 14, and by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 14(1) and (2).

Section 29(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and (2), Schedule 13, paragraph 19(a) and (b) and Schedule 14, and by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 23(a), (b) and (c).

Section 107(1)(b) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1) and (2), Schedule 13, paragraph 52(a) and by the Water Industry (Scotland) Act 2002 (asp 3) Schedule 6, paragraph 61(a) and (b). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 2002 asp 3. The 2002 Act was amended by the Water Services etc. (Scotland) Act 2005 (asp 3).

“works” means the works described in Schedule 1 to this Order and shown on the deposited plan.

Incorporation and application of provisions of Schedule 4 to the Act

3. The provisions of paragraphs 2, and 10(3) of Schedule 4 to the Act(a), modified and adapted to read as set out in Schedule 2 to this Order shall apply to the undertaking insofar as affected by the provisions of this Order, and the terms used in the provisions of that paragraph, 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, Scottish Water may for the purposes of the undertaking and by means of an intake (Work No. 3), take water from the Abhainn Chro Bheinn in the area of the Highland Council.

5.—(1) During the construction of the works, Scottish Water may take from the Abhainn Chro Bheinn, such water as it may require for such construction.

(2) After completion of the works, and when the flow in the Abhainn Chro Bheinn is equal to or greater than 621 cubic metres per day, Scottish Water may, in any day, take from the Abhainn Chro Bheinn, a quantity of water not greater than 181 cubic metres, as measured and recorded by an approved gauge (Work No. 5)

(3) After completion of the works, and when the flow in the Abhainn Chro Bheinn is less than 621 cubic metres per day, Scottish Water shall not, in any day, take water from the Abhainn Chro Bheinn, such as to cause less than 440 cubic metres of water to be discharged into the Abhainn Chro Bheinn, all as regulated by a v-notch weir (Work No. 1) and as measured by a staging post (Work No. 2).

6. If the power to take water conferred by this Order has not been exercised by 31st January 2007 the said power shall cease.

Revocation

7. The Argyll County Council (Amhainn Chro Beinn, Kilchoan) Water Order 1955(b) is revoked with effect from 31st January 2007.

ANDREW SCOTT

A member of the staff of the Scottish Ministers

St Andrew's House,
Edinburgh
18th October 2005

(a) Paragraph 2 of Schedule 4 was amended by the Roads (Scotland) Act 1984 (c.54), Schedule 9, paragraph 81(15)(a); paragraph 10(3) was amended by the Criminal Justice Act 1982 (c.48), Schedule 15, paragraph 27 and by the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40), Schedule 2.

(b) S.I. 1955/1229.

SCHEDULE 1

The works referred to in this Order and shown on the deposited plan are:–

Work No. 1:

Installation of a new weir plate to be affixed to the existing concrete weir at Ordnance Survey National Grid Reference NG 148461 765088.

Work No. 2:

Installation of a new staging post to be fixed to the existing concrete wall at Ordnance Survey National Grid Reference NG 148462 765088.

Work No. 3:

Installation of a new orifice plate to replace the existing weir plate in the existing abstraction chamber at Ordnance Survey National Grid Reference NG 148459 765089.

Work No. 4:

Installation of a new compensation flow upstand pipe.

Work No. 5:

Installation of an approved gauge to measure and record the flow abstracted from the Abhainn Chro Bheinn, to be located in a new water treatment works located at Ordnance Survey National Grid Reference NG 148010 764850 (the construction of which treatment works is not authorised hereunder).

SCHEDULE 2

The modifications and adaptations of Schedule 4 to the Act referred to in this Order are—

1. For paragraph 2 of Schedule 4 there is substituted—

“In the construction of the works described in Schedule 1 to the Scottish Water (Abhainn Chro Bheinn) Water Order 2005, Scottish Water may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plan and it may deviate vertically from the levels shown on the said deposited plan to any extent:

Provided that—

- (a) no control building shall be constructed at a greater height above the general surface of the ground than that shown on the deposited plan and 2 metres in addition thereto; and
- (b) except for the purposes 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 deposited plan.”.

For paragraph 10(3) of Schedule 4 there is substituted—

“If Scottish Water—

- (a) fails to construct or maintain in good order any such gauge as is mentioned in the Scottish Water (Abhainn Chro Bheinn) Water Order 2005, or refuses to allow any person interested to inspect and examine any such gauge or any records made thereby or kept by it in connection therewith or to take copies of any such records; or
- (b) takes any water contrary to the provisions of the Scottish water (Abhainn Chro Bheinn) Water Order 2005,

it shall, without prejudice to its 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.”.

£3.00

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