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STATUTORY INSTRUMENTS

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**1992 No. 393 (S.37)**

**WATER SUPPLY, SCOTLAND**

**The Grampian Regional Council (Spey  
Abstraction Scheme) Water Order 1992**

*Made* - - - - - *25th February 1992*

*Coming into force* - - - - - *3rd March 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<sup>(1)</sup> and of all other powers enabling him in that behalf, on the application of the Grampian Regional Council, hereby makes the following Order:

**Citation and commencement**

1. This Order may be cited as the Grampian Regional Council (Spey Abstraction Scheme) Water Order 1992 and shall come into force on 3rd March 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 Grampian Regional Council as water authority;

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

“deposited plans” means the two plans, prepared in duplicate, docqueted and signed as relative to this Order and marked, “The Grampian Regional Council (Spey Abstraction Scheme) Water Order 1992 Plan of Works” and “The Grampian Regional Council (Spey Abstraction Scheme) Water Order 1992 Part of Work No 1: Proposed Wellhead Chamber, Work No 2: Control Building Incorporating Recording Apparatus for Approved Gauges at Work No 4, Work No 3: Control Building, Work No 4: Chamber containing Approved Gauges” 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 Aberdeen;

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

“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 plans, 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 sections 2 and 10(3) and (4) of Schedule 4 to the Act<sup>(2)</sup>, 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 the Wellfield (Work No 1) take water from the gravels adjacent to the river known as the River Spey in the Moray District of the Grampian Region.

5.—(1) During the construction of the works the Council may take from the gravels adjacent to the said River Spey such water as they may require for such construction.

(2) After the completion of the works the Council shall not take from the said gravels adjacent to the River Spey a quantity of water greater than 27,000 cubic metres in any one day as measured through or over approved gauges (part of Work No 4).

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.

The Scottish Office Environment Department,  
27 Perth Street,  
Edinburgh  
25th February 1992

*T. D. Macdonald*  
Deputy Chief Engineer, Scottish Office

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(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 plans marked “The Grampian Regional Council (Spey Abstraction Scheme) Water Order 1992 Plan of Works” and “The Grampian Regional Council (Spey Abstraction Scheme) Water Order 1992 Part of Work No 1: Proposed Wellhead Chamber, Work No 2: Control Building Incorporating Recording Apparatus for Approved Gauges at Work No 4, Work No 3: Control Building, Work No 4: Chamber containing Approved Gauges” are—

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Work No 1	A wellfield comprising up to 36 wells situated adjacent to the west bank of the River Spey between Ordnance Survey Grid Reference NJ 3325 5706 and NJ 3389 5939.
Work No 2	A control building incorporating recording apparatus for approved gauges at Work No 4 to indicate the quantity of water abstracted, situated at Ordnance Survey Grid Reference NJ 3344 5845.
Work No 3	A control building, situated at Ordnance Survey Grid Reference NJ 3336 5760.
Work No 4	A chamber containing approved gauges to measure the quantity of water abstracted, situated at Ordnance Survey Grid Reference NJ 3349 5813.

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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 plans marked “The Grampian Regional Council (Spey Abstraction Scheme) Water Order 1992 Plan of Works” and “The Grampian Regional Council (Spey Abstraction Scheme) Water Order 1992 Part of Work No 1: Proposed Wellhead Chamber, Work No 2: Control Building Incorporating Recording Apparatus for Approved Gauges at Work No 4, Work No 3: Control Building, Work No 4: Chamber containing Approved Gauges” and they may also deviate vertically from the levels shown on the deposited plans to any extent:

Provided that—

- (a) no control buildings shall be constructed at a greater height above the surface of the ground than that shown on the second aforementioned plan and 2 metres 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 that plan.

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

### **Section 10(3)**

If the Council—

- (a) fail to install or maintain in good order any such gauge as is mentioned in the Grampian Regional Council (Spey Abstraction Scheme) 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 Grampian Regional Council (Spey Abstraction Scheme) 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 purpose of this section as applied by the Grampian Regional Council (Spey Abstraction Scheme) 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.