Aberdeen Corporation Order Confirmation Act, 1957

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CHAPTER xvi

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Aberdeen Corporation. [17th July 1957.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has after inquiry held before Commissioners been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936 and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the Queen's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the Aberdeen Corporation Order Confirmation Act 1957. Short title.

SCHEDULE

ABERDEEN CORPORATION

Provisional Order to authorise the Corporation of the city of Aberdeen to acquire lands and to make a street improvement and to use the said lands together with certain other lands for the purposes thereof and for the provision of new municipal buildings and for other purposes.

WHEREAS the lord provost magistrates and town council of the city and royal burgh of Aberdeen (hereinafter referred to as "the Corporation" and "the city" respectively) are vested with the municipal government of the city and are the local authority therein:

And whereas by the Aberdeen Corporation Order 1930 the Corporation were authorised to acquire the lands shown on the plans deposited with reference to the said Order of 1930 and to make and maintain the street improvements therein described including a widening and improvement of Broad Street on the south-west side thereof throughout its length from Union Street to Upperkirkgate:

And whereas by the Aberdeen Corporation (Administration Finance &c.) Order 1939 the provisions of the said Order of 1930 (so far as not previously repealed) were repealed but the Corporation were authorised by the said Order of 1939 to acquire the said lands and to make and maintain the said street improvements including the widening and improvement of Broad Street hereinbefore referred to:

And whereas in pursuance of the powers conferred on the Corporation by the said Order of 1939 the Corporation have acquired the greater part of the lands authorised to be acquired for the said widening and improvement of Broad Street and for the widening and improvement of Upperkirkgate described in the said Order of 1930 and in the said Order of 1939:

And whereas in pursuance of the powers conferred on the Corporation by the said Order of 1939 the Corporation have widened and improved Upperkirkgate:

And whereas it is expedient that in place of the widening and improvement of Broad Street authorised by the said Order of 1939 the Corporation should be authorised to make the widening and improvement of Broad Street described in this Order and that the powers contained in this Order in connection therewith should be conferred on the Corporation:

And whereas it is expedient that new municipal buildings should be erected for the transaction of the business of the Corporation and that the Corporation should be empowered to utilise certain of the lands which they were authorised by the said Order of 1939 to acquire for the widening and improvement of Broad Street and for the widening and improvement of Upperkirkgate and also the sites of

certain streets lanes and courts closed and discontinued and vested in the Corporation pursuant to the said Order of 1939 for the purposes of new municipal buildings and for the widening and improvement of Broad Street authorised by this Order:

And whereas it is expedient that the Corporation should be authorised to acquire certain further lands which the Corporation were authorised to acquire for the widening and improvement of Broad Street originally authorised by the said Order of 1930 but which have not been acquired by the Corporation and to utilise such lands together with the sites of the streets and lanes which the Corporation are by this Order authorised to close and discontinue for the purposes aforesaid:

And whereas it is expedient that the further provisions contained in this Order should be enacted:

And whereas an estimate has been prepared by the Corporation in relation to the following purposes and such estimate is as follows:—

For the purchase of lands	£24,000
For the widening and improvement authorised by this Order	£17,600

And whereas a plan and section showing the lines and levels of the said street improvement and also a book of reference to the said plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Order were duly deposited with the sheriff clerk of the county of Aberdeen and with the town clerk of the city and such plan section and book of reference are hereinafter respectively referred to as the deposited plan the deposited section and the deposited book of reference:

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows:—

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Order may be cited as the Aberdeen Corporation Order 1957.

(2) This Order and the Aberdeen City Acts 1936 to 1955 may be cited together as the Aberdeen City Acts 1936 to 1957.

Interpretation.

2. Subject to the provisions of this Order and unless there be something in the subject or context repugnant to such construction terms words and expressions to which meanings are assigned by the Aberdeen City Acts 1936 to 1955 shall have the same meanings respectively in this Order and the expressions "Order of 1939" and "Act of 1947" mean the Aberdeen Corporation (Administration Finance &c.) Order 1939 and the Local Government (Scotland) Act 1947 respectively.

PART I —*cont.*

Order to be deemed to be special Act for certain purposes.

3. This Order shall be deemed to be a special Act within the meaning of the Lands Clauses Acts as incorporated with this Order by virtue of section 4 (Incorporation of Lands Clauses Acts) of the Aberdeen Corporation Order 1955.

PART II

LANDS

Compulsory acquisition of lands.

4.—(1) Subject to the provisions of this Order the Corporation may enter upon take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as they may require for or in connection with the purposes mentioned in section 14 (Lands and sites may be used for erection of municipal offices and street improvement) of this Order.

(2) The powers of the Corporation for the compulsory purchase of lands under this section shall cease upon the thirty-first day of December one thousand nine hundred and sixty.

Correction of errors in deposited plan and book of reference.

5.—(1) If any omission misstatement or wrong description of any land or of the owner lessee or occupier of any land is found to have been made on the deposited plan or in the deposited book of reference the Corporation after giving ten days' notice to the owner lessee and occupier of the land in question may apply to the sheriff for the correction thereof.

(2) If on any such application it appears to the sheriff that the omission misstatement or wrong description arose from mistake he shall certify the fact accordingly and shall in his certificate state the particulars of the omission or in what respect any matter is misstated or wrongly described.

(3) Any such certificate shall be deposited with the sheriff clerk and a copy thereof shall be deposited with the town clerk and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Corporation to take the land in accordance with the certificate.

(4) Any certificate or copy deposited under this section with any person shall be kept by him with the other documents to which it relates.

Application of provisions of Order of 1939 to acquisition of lands etc.

6. The sections hereinafter specified of the Order of 1939 shall apply and have effect for the purposes of or in connection with the acquisition of lands under the powers of this Order and for the other purposes of this Order as if the said sections had with any necessary modifications been re-enacted in and formed part of this Order (that is to say):—

Section 199 (Extinction of private rights of way);
Section 200 (Persons under disability may grant servitudes &c.);
Section 210 (Benefits to be set off against compensation);
Section 211 (Power to enter upon property for survey and valuation);
Section 212 (Power of entry);
Section 213 (Power to reinstate owners of property);
Section 214 (Land thrown into streets to be public highway).

PART II —*cont.*

Disregard of recent improvements and interests.

7. In determining any question of disputed compensation or purchase money in respect of land acquired under this Part of this Order the arbiter shall not take into account—

(*a*) any improvement or alteration made or building erected after the twentieth day of November one thousand nine hundred and fifty-six ; or

(*b*) any interest in the land created after the said date ;

which in the opinion of the arbiter was not reasonably necessary and was made erected or created with a view to obtaining or increasing the compensation or purchase money.

Notices to treat previously served to apply to purposes of Order.

8. All notices to treat served by the Corporation with respect to the purchase for the purposes of the Order of 1939 of the lands numbered 8 9 and 20 on the plans deposited with reference to the Aberdeen Corporation Order 1930 (and numbered 5 6 and 10 on the deposited plan) shall have effect as if for the references in such notices to the purposes of the Aberdeen Corporation (Administration Finance &c.) Order Confirmation Act 1940 or of the Order of 1939 there were substituted references to the purposes of this Order and the Corporation may accordingly proceed under the said notices with the acquisition of the said lands for the purposes of this Order.

PART III

STREET IMPROVEMENT

Power to make street improvement.

9. Subject to the provisions of this Order the Corporation may make and maintain in the lines and according to the levels shown upon the deposited plan and the deposited section the street improvement in the city hereinafter described with all proper works and conveniences connected therewith or incidental thereto (that is to say):—

A widening and improvement of Broad Street on the south-west side thereof throughout its length from Union Street to Upperkirkgate.

Limits of deviation for street improvement.

10. In the construction of the street improvement authorised by this Order the Corporation may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plan and they may deviate vertically from the levels shown on the deposited section to any extent not exceeding five feet.

Power to close streets and lanes.

11.—(1) The Corporation may in making the street improvement authorised by this Order and for the purposes of section 80 (Power to erect new municipal buildings) of the Order of 1939 and of section 74 of the Act of 1947 in so far as relating to offices close and discontinue as public streets thoroughfares or public places the following streets and lanes shown on the deposited plan (namely):—

Blairton Lane Ragg's Lane Guestrow Barnett's Close and the unnamed lane connecting Broad Street with Guestrow and situated between Blairton Lane and Ragg's Lane ;

and the site and soil thereof when closed and discontinued shall be and the same are hereby vested in the Corporation freed and discharged from the public use thereof and all rights of way over the same shall cease:

PART III —*cont.*

Provided that any such street or lane or portion of street or lane shall not be closed unless the Corporation are owners in possession of all houses and lands having doorways or ways abutting thereon except so far as the owners lessees and occupiers of those houses and lands may otherwise agree or as may in default of agreement be determined by the sheriff:

Provided also that the Corporation shall make full compensation to all parties interested in respect of any private rights of way extinguished by virtue of this section and such compensation shall be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by agreement.

(2) Section 180 (Power to close courts &c.) of the Order of 1939 is hereby repealed except in so far as it relates to the closing of Wales Street and Hanover Place.

Application of certain provisions of Order of 1939 to street improvement.

12. The sections hereinafter specified of the Order of 1939 shall so far as the same are not varied by or inconsistent with the provisions of this Order extend and apply to and in respect of the street improvement authorised by this Order as fully and effectually as if the said sections had with any necessary modifications been re-enacted in and formed part of this Order (that is to say):—

Section 181 (Subsidiary works in connection with authorised street improvements);

Section 182 (Corporation may form carriageways footways gardens and cellars);

Section 184 (Temporary stoppage of streets);

Section 185 (Underpinning of walls of houses).

Street Work No. 1 authorised by Order of 1930 not to be constructed.

13. The construction of Work No. 1 described in section 179 (Power to make authorised street improvements) of the Order of 1939 (and originally authorised by the Aberdeen Corporation Order 1930) shall not be proceeded with and the powers of the Corporation under the said section so far as relating to the said Work No. 1 shall cease and determine.

Lands and sites may be used for erection of municipal offices and street improvement.

14. The Corporation may use—

(*a*) the lands (including the lands referred to in section 8 (Notices to treat previously served to apply to purposes of Order) of this Order) acquired by them under the powers conferred on them by the Order of 1939 with respect to Work No. 1 and Work No. 2 described in section 179 (Power to make authorised street improvements) of the Order of 1939 (and originally authorised by the Aberdeen Corporation Order 1930);

(*b*) the lands acquired by them under the powers of this Order;

(*c*) the sites of the streets lanes and courts mentioned in section 180 (Power to close courts &c.) of the Order of 1939 in connection with Work No. 1 described in section 179 (Power to make authorised street improvements) of the Order of 1939 which have been closed and discontinued; and

PART III —*cont.*

(*d*) the sites of the streets and lanes mentioned in section 11 (Power to close streets and lanes) of this Order;

or any part of any of such lands and sites—

(i) for the purposes of section 80 (Power to erect new municipal buildings) of the Order of 1939 and of section 74 of the Act of 1947 in so far as relating to offices; and

(ii) (subject to the provisions of this Order) for the purposes of the street improvement authorised by this Order or purposes connected therewith or incidental thereto.

For protection of Postmaster-General.

15.—(1) Where any street or lane or part of a street or lane is stopped up in pursuance of section 11 (Power to close streets and lanes) of this Order the following provisions shall unless otherwise agreed in writing between the Corporation and the Postmaster-General have effect in relation to any telegraphic line belonging to or used by the Postmaster-General which is under in upon over along or across such street or lane or part of such street or lane at the time of such stopping up:—

(*a*) The power of the Postmaster-General to remove the line shall be exercisable notwithstanding the stopping up of the street or lane or part of the street or lane so however that the said power shall not be exercisable as respects the whole or any part of the line after the expiration of a period of three months from the date mentioned in subsection (2) of this section unless before the expiration of that period the Postmaster-General has given notice to the Corporation of his intention to remove the line or that part thereof as the case may be;

(*b*) The Postmaster-General may by notice to the Corporation in that behalf abandon the said line or any part thereof and shall be deemed as respects the line or any part thereof to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it:

Provided that where the Postmaster-General has given notice as aforesaid of his intention to remove the said line or any part thereof such line or such part thereof shall be removed by him within six months from the date of such notice and if not so removed shall be deemed to be abandoned;

(*c*) The Postmaster-General shall be entitled to recover from the Corporation the expense of providing in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line a telegraphic line in such other place as the Postmaster-General may require;

(*d*) Where under paragraph (*b*) of this subsection the Postmaster-General abandons the whole or any part of a telegraphic line it shall vest in the Corporation and the provisions of the

PART III —*cont.*

Telegraph Acts 1863 to 1954 shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

(2) As soon as the whole or any part of any street or lane has been stopped up the Corporation shall send by post to the Postmaster-General a notice informing him of such stopping up and the period of three months mentioned in subsection (1) of this section shall commence to run from the date on which such notice is sent.

(3) In this section the expression "telegraphic line" has the same meaning as in the Telegraph Act 1878.

For protection of hydro-electric and gas boards.

16. The following provisions for the protection of the North of Scotland Hydro-Electric Board and the Scottish Gas Board (each of whom is for their respective interests hereafter in this section referred to as "the board") shall unless otherwise agreed in writing between the Corporation and the board apply and have effect (that is to say):—

(1) In this section—

"apparatus" means—

(*a*) in relation to the North of Scotland Hydro-Electric Board all or any electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to that Board; and

(*b*) in relation to the Scottish Gas Board all or any mains pipes and other works and apparatus belonging to that board;

"in" includes in a context relating to apparatus under over across along and upon;

"position" includes depth;

"stopped-up street" means any street or lane or any portion of a street or lane in which there is any apparatus and which is closed and discontinued by the Corporation under section 11 (Power to close streets and lanes) of this Order:

(2) The Corporation shall give to the board not less than one month's notice in writing of their intention to stop up and discontinue the use by the public of any of the streets or lanes mentioned in section 11 (Power to close streets and lanes) of this Order:

(3) (*a*) Whenever by reason of the exercise or proposed exercise by the Corporation of the powers conferred on them by this Order it is reasonably necessary for any apparatus in any stopped-up street to be removed or for the use thereof to be discontinued the board may and if so required by the Corporation shall in the board's option either—

(i) remove the apparatus and relay or replace it to such extent if any as the board may deem necessary in any other street or in such position as may be agreed between the board and the Corporation; or

(ii) discontinue the use of the apparatus and in lieu thereof provide and lay or place in any other street or

in such other position as aforesaid other apparatus to such extent as aforesaid; or

(iii) proceed partly in one of the foregoing ways and partly in the other;

(*b*) Whenever any apparatus in a stopped-up street is rendered derelict useless or unnecessary the Corporation shall except as provided in the second proviso to paragraph (4) of this section forthwith pay to the board such a sum as may be agreed between the Corporation and the board or as failing agreement between them may be determined by arbitration under the provisions of this section to be the value of the apparatus so rendered derelict useless or unnecessary and such apparatus shall upon such payment become the property of the Corporation:

(4) The Corporation shall repay to the board the reasonable expenses incurred by the board of or in connection with the removal and relaying or replacing of any apparatus and the provision and laying or placing of any new apparatus under the provisions of paragraph (3) of this section and the reasonable cost of and incidental to—

(i) the cutting off of any apparatus from any other apparatus; and

(ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this paragraph:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act 1950 (which imposes limitations on undertakers' rights to payments) shall so far as applicable extend and apply to any payment to be made by the Corporation under this paragraph as if the works therein mentioned were undertakers' works within the meaning of subsection (2) of the said section 23 and as if in the said subsection (3) the words from "existing apparatus was" to "then" were omitted:

Provided further that where other apparatus is provided and laid or placed in lieu of any existing apparatus in accordance with the provisions of paragraph (3) of this section the Corporation shall not be required to make any payment to the board for any such existing apparatus which has been rendered derelict useless or unnecessary and such last-mentioned apparatus shall so soon as the new apparatus has been laid become the property of the Corporation:

(5) The board shall not be entitled to any payment under paragraph (4) of this section in respect of any apparatus laid or placed in any stopped-up street after the date of the passing of the Act confirming this Order other than apparatus so laid in replacement of or in substitution for apparatus laid in such street prior to that date:

(6) Subject to the right of the Corporation under paragraph (3) of this section to require the board to remove any apparatus in any stopped-up street the board shall continue to have

PART III —*cont.*

the same powers and rights in respect of any apparatus on the site of any stopped-up street (other than apparatus rendered derelict and becoming the property of the Corporation under the provisions of sub-paragraph (*b*) of paragraph (3) of this section) as if the same had continued to be a street and if at any time after the stopping up thereof the board deem it necessary to remove or to alter the position of any such apparatus they shall be at liberty to do so and the expenses incurred by them in so doing shall be repaid to them by the Corporation in accordance with the provisions of paragraph (4) of this section :

(7) Notwithstanding the temporary closing diversion or interference with any street lane or court under the powers of section 184 (Temporary stoppage of streets) of the Order of 1939 as extended and applied by section 12 (Application of certain provisions of Order of 1939 to street improvement) of this Order the board and persons authorised by them shall be at liberty at all times to execute and do all such works and things in upon or under any such street lane or court as may be reasonably necessary for inspecting repairing maintaining renewing or removing any apparatus :

(8) (*a*) Any difference which may arise between the Corporation and the board under this section shall be referred to and determined by an arbiter to be mutually agreed upon between the Corporation and the board or failing agreement to be appointed on the application of either party (after notice in writing to the other) by the president of the Institution of Civil Engineers ;

(*b*) In settling any difference under this section the arbiter shall have regard to any duties or obligations which the board may be under in respect of any apparatus and may if he thinks fit require the Corporation to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used ;

(*c*) Nothing in this section shall entitle the arbiter in settling any difference thereunder to make any determination which would prevent or materially prejudice the use by the Corporation of any of the lands and sites referred to in section 14 (Lands and sites may be used for erection of municipal offices and street improvement) of this Order for any of the purposes mentioned in that section.

PART IV

MISCELLANEOUS

As to repayment of borrowed money for purposes of Order.

17. The provisions contained in section 122 (Period for repayment of borrowed money) of the Order of 1939 relative to the period of redemption for sums borrowed by the Corporation for the purposes mentioned in paragraphs (*a*) and (*b*) of the said section 122 shall notwithstanding anything in any enactment extend and apply with respect to the period of redemption for sums borrowed by the Corporation under the powers of the City Acts or of the Act

of 1947 for the purposes of the street improvement authorised by this Order and for the respective purposes of section 80 (Power to erect new municipal buildings) of the Order of 1939 and of section 74 of the Act of 1947 in so far as relating to offices. PART IV —*cont.*

Saving for town and country planning.

18. This Order shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning (Scotland) Act 1947 for the purposes of subsection (4) of section 11 and subsection (1) of section 112 of that Act.

Costs of Order.

19. The costs charges and expenses of and incidental to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Corporation out of the burgh fund of the Corporation in such manner as the Corporation may determine.

Table of Statutes referred to in this Act

Short title	Session and chapter
Telegraph Act 1878...	41 & 42 Vict. c. 76.
Electric Lighting Act 1882	45 & 46 Vict. c. 56.
Private Legislation Procedure (Scotland) Act 1936	26 Geo. 5 & 1 Edw. 8. c. 52.
Local Government (Scotland) Act 1947 ...	10 & 11 Geo. 6. c. 43.
Town and Country Planning (Scotland) Act 1947	10 & 11 Geo. 6. c. 53.
Public Utilities Street Works Act 1950 ...	14 Geo. 6. c. 39.

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