ELIZABETH II

1988 CHAPTER xxx

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to City of Glasgow District Council.

[20th December 1988]

WHEREAS the Provisional Order set forth in the Schedule hereunto annexed has 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: 1936 c. 52.

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 City of Glasgow District Council Order Confirmation Act 1988. Short title.

SCHEDULE

CITY OF GLASGOW DISTRICT COUNCIL

Provisional Order to re-enact with amendments certain local statutory provisions in force within the City of Glasgow District; to confer further powers on the City of Glasgow District Council; and for other purposes.

Whereas the City of Glasgow District Council (hereinafter referred to as "the Council") are vested with all the functions of a district council by virtue of section 2 of the Local Government (Scotland) Act 1973 (hereinafter referred to as "the Act of 1973") for the area of the City of Glasgow District as the said area is described in column 3 of Part III of Schedule 1 to the said Act:

1973 c. 65.

And whereas in pursuance of the Act of 1973 certain powers and functions which, before the coming into force of the said Act, were exercisable by and vested in the former Corporation of the City and Royal Burgh of Glasgow by virtue of the Glasgow Corporation Orders 1855 to 1974 and in the town council of the former Royal Burgh of Rutherglen by virtue of the Burgh Police (Scotland) Acts 1892 to 1911 and the Rutherglen Burgh Order 1954, are now exercisable by and vested in the Council:

1954 c. xii.

And whereas in pursuance of section 225 of the Act of 1973 and Orders made thereunder the provisions of the Glasgow Corporation Orders 1855 to 1974 and of the Rutherglen Burgh Order 1954 would cease to have effect at the end of 1988 and the provisions of the said Burgh Police (Scotland) Acts would then cease to apply within the former Royal Burgh of Rutherglen:

And whereas it is expedient that certain provisions of the Glasgow Corporation Orders 1855 to 1974 should be re-enacted with amendments and applied to the City of Glasgow District:

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

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:

1936 c. 52.

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

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Order may be cited as the City of Glasgow District Council Order 1988.

1977 c. xxii.

(2) The City of Glasgow District Council Order 1977 and this Order may be cited together as the City of Glasgow District Council Orders 1977 and 1988.

Interpretation.

2. In this Order the following words and expressions have the meanings hereby respectively assigned to them that is to say:—

1961 c. 62. "Act of 1961" means the Trustee Investments Act 1961;

1982 c. 45. "Act of 1982" means the Civic Government (Scotland) Act 1982;

"building" means any structure or erection of any kind or nature whatsoever or any part thereof;

PART I —*cont.*

"Burial Gounds Acts" means the Burial Grounds (Scotland) Act 1855 and any Acts amending or extending the same;

1855 c. 68.

"cemetery" includes a burial ground or any other place for the interment of the dead;

"commercial waste", "household waste" and "industrial waste" have the meanings respectively assigned to those expressions by the Control of Pollution Act 1974;

1974 c. 40.

"Commission" means the Commonwealth War Graves Commission;

"Commonwealth war burial" means a burial of any officer, rating or other rank of the naval, military or air forces of His Majesty who died in the war of 1914 to 1921 or in the war of 1939 to 1947 or of any other person accepted by the Commission as falling within the terms of its founding Royal Charters;

"Commonwealth war grave" means any grave containing a Commonwealth war burial;

"Council" means the City of Glasgow District Council;

"district" means the City of Glasgow District;

"existing" means existing at the commencement of this Order;

"footway" and "footpath" have the same respective meanings as in section 151 of the Roads (Scotland) Act 1984;

1984 c. 54.

"grave" includes a grave space;

"lair-holder" means the person for the time being having the exclusive right of burial in a grave and, where such right of burial has been exhausted, means the next of kin or the personal representative of the person whose remains were last interred in such grave;

"monument" includes a headstone, tombstone, memorial tablet, panel or plaque;

"proper officer" has the meaning assigned to that expression by section 235 of the Local Government (Scotland) Act 1973;

1973 c. 65.

"railing" includes any kerbstone, chain, wall or other material marking or enclosing a grave or a monument;

"railways board" means the British Railways Board;

"sheriff" means the sheriff principal or any sheriff of the sheriffdom of Glasgow and Strathkelvin.

PART II

FINANCIAL

Fire insurance fund.

3.—(1) The Council may maintain a fire insurance fund for the purpose of providing money to make good any loss by fire and damages, costs or expenses resulting therefrom to which the Council may be subject in consequence of any risk against which, in the absence of such fund, the Council would ordinarily insure.

(2) The Council may pay into the said fund from the general fund, the common good and any of the undertakings of the Council, such sums as they may fix as premiums of fire insurance.

(3) Pending the application of moneys in the said fund for the purposes authorised by subsection (1) above the moneys in the fund shall be invested in securities authorised by the Act of 1961.

(4) On the commencement of this Order the Corporation fire fund established under section 51 of the Glasgow Corporation (Sewage &c.) Act 1898 shall be transferred to and shall form part of the fire insurance fund referred to in subsection (1) above.

1898 c. ccxliii.

PART II —*cont.*

Reserve fund.

4.—(1) The Council may maintain a reserve fund (in this section called the social, cultural and recreational reserve fund) for the purpose of providing money to make such contributions as are otherwise authorised by statute to individuals or bodies deemed by the Council to be contributing to or enhancing the social, cultural or recreational life of the district.

(2) The Council may pay into the social, cultural and recreational reserve fund from the general fund such sums as they may determine.

(3) Pending the application of moneys in the social, cultural and recreational reserve fund for the purposes authorised in subsection (1) above, the moneys shall be invested in securities authorised by the Act of 1961.

Repairs and renewals fund.

5.—(1) The Council may maintain a repairs and renewals fund to be used for the purpose of defraying expenditure in repairing, maintaining, replacing and renewing any buildings, works, plant, equipment or articles relating to the markets undertakings of the Council.

(2) The Council may pay into the said fund such sums out of the tolls and charges of the markets undertakings referred to in subsection (1) above as they may determine.

(3) Pending the application of moneys in the said fund for the purposes authorised in subsection (1) above, the moneys shall be invested in securities authorised by the Act of 1961.

PART III

PUBLIC HEALTH

Cleansing of houses and clothing.

6.—(1) (*a*) The proper officer of the Council, exhibiting his authority if called upon so to do, may at any reasonable hour in the daytime request admission to any house where he has reason to believe that such house is in a filthy or verminous condition and may examine and inspect the house and, if he is of opinion that the house is in such a condition, he shall give notice in writing to the occupier of the house, or to the owner thereof in cases where there is no occupier, requiring such occupier or owner, as the case may be, to cleanse or whitewash the house in such manner as he shall direct and, if the person to whom such notice is given fails to comply therewith within 48 hours after the receipt thereof, he shall be guilty of an offence and the proper officer may, if he thinks fit, cause the house to be cleansed or whitewashed, and the Council may recover the expenses incurred in so doing from the person in default.

(*b*) If any such occupier or owner to whom such notice has been given shall within three months after the date of such notice allow such house to be again in a filthy or verminous condition he shall without further notice be guilty of an offence, and the proper officer may, if he thinks fit and without further notice, cause such house to be again cleansed or whitewashed, and the Council may recover the expenses incurred in so doing from the person in default.

(2) (*a*) The proper officer, exhibiting his authority if called upon so to do, may at any reasonable hour in the daytime request admission to any house where he has reason to believe that any articles of bed or body clothing or of furnishing therein or in any part thereof are in a filthy or verminous condition and may examine and inspect all such articles and, if the proper officer is of the opinion that any such articles are in such a condition, he shall give notice in writing to the occupier of the house requiring him to cleanse such articles of bed or body clothing or of furnishing in such manner as he shall direct, and if the person to whom such notice is given fails to comply therewith within 24 hours after receipt thereof he shall be guilty of an offence, and the proper officer may, if he thinks fit, cause any such articles of bed or body clothing or of furnishing in any such house or part thereof to be cleansed, and the Council may recover the expenses incurred in so doing from the person in default.

PART III —*cont.*

(*b*) If any such occupier to whom such notice has been given shall within three months after the date of such notice allow any articles of bed or body clothing or of furnishing in any house he occupies or in any part thereof to be again in a filthy or verminous condition he shall without further notice be guilty of an offence, and the proper officer may, if he thinks fit and without further notice, cause any such articles of bed or body clothing or of furnishing in any such house or part thereof to be again cleansed, and the Council may recover the expenses incurred in so doing from the person in default.

(3) For the purposes of this section, "house" includes the pertinents thereof and any cellar, vault or underground room used as a dwelling-house or sleeping apartment or any part thereof.

(4) (*a*) In the event of entry to a house being refused to the proper officer seeking to exercise the powers of entry conferred by subsection (1) or (2) above, the Council may apply to the sheriff or a justice of the peace with a statement on oath by the proper officer of his belief that the house or articles of bed or body clothing or of furnishing therein, as the case may be, are in a filthy or verminous condition, and such sheriff or justice may grant a warrant to the proper officer for immediate forcible entry into the house.

(*b*) If no occupier or owner, as the case may be, can be discovered, the proper officer may enter the house without a warrant, and may do so forcibly, if need be.

(*c*) If the proper officer enters a house forcibly under the provisions of this section and the house, or, as the case may be, articles of bed or body clothing or of furnishing therein, are not found to be in a filthy or verminous condition, the Council shall, at their own expense, make good any damage caused by them.

(5) In relation to any offence created by this section, it shall be a defence that any such occupier or owner was infirm or disabled to such an extent as to be unable to comply with such notice.

Interim precautions in case of dangerous buildings.

7. When in the opinion of the Council any building is in such a condition as to be a source of immediate danger to the public or to property in the neighbourhood, they may cause the occupiers thereof and of any adjoining building to remove and the streets and back courts adjoining or parts thereof to be closed and take such further steps as may be considered necessary in the circumstances while such source of danger exists.

Removal of household waste, etc.

8.—(1) The Council may, in such manner as they think fit, by notice require all the occupiers of premises within any part of the district named in such notice or adjoining any street in the district named in such notice—

(*a*) to deposit their household waste in containers on the outer side of the footway opposite the premises occupied by them or at such other place as the proper officer of the Council shall appoint and on such days and at such times as may be fixed by the proper officer for the collection and removal of such household waste and at no other time except with the consent of the proper officer; and

(*b*) to dispose of their household waste in accordance with the arrangements made and not otherwise.

(2) (*a*) The proper officer may supply on a replacement basis appropriate containers for use at all existing domestic premises within the district.

(*b*) It shall be the duty of every occupier of domestic premises which are newly built and occupied for the first time to provide at his own expense containers for household waste subject to such containers being approved by the proper officer.

(*c*) In any case in which any existing premises are altered in such a way as to increase the requirement for storage containers, it shall be the duty of the occupier to provide at his own expense such additional containers as may be

PART III —*cont.*

required by the proper officer. Thereafter any replacement required for such containers may be supplied by the proper officer in terms of paragraph (*a*) above.

(3) The provisions of this and the next following section shall be in addition to and not in derogation of the powers conferred by section 124 of the Act of 1982.

Disposal of commercial or industrial waste.

9.—(1) Every person who, in the course of his business, produces commercial waste or industrial waste on any premises in the district shall have the duty of regularly and timeously disposing thereof and ensuring that such arrangements as he may make for this purpose are to the satisfaction of the proper officer of the Council.

(2) Every such person may, subject to the agreement of the Chief Constable of Strathclyde, place refuse storage containers on the outer side of the footway opposite the premises occupied by him or at such other place as the proper officer shall agree while they await collection by such person's contractor provided that—

(*a*) the waste is fully and completely contained in containers of a type and style such as to avoid any spillage of the waste onto the public footway or street and that the containers in terms of size, type and style are to the satisfaction of the proper officer;

(*b*) the collection and disposal service provided by such person's contractor, particularly in terms of collection frequency and the maintenance of proper standards, are to the satisfaction of the proper officer; and

(*c*) such person accepts total responsibility for the actions of his contractor or the contractor's staff in removing all waste timeously and any spillage that may have resulted therefrom.

Cleansing of access areas.

10.—(1) The occupier of any land or heritage (or, if there be no occupier, the owner thereof) shall regularly and timeously cleanse all access areas from the common footway of the street to the land or heritage concerned (including landscaped areas and sunken or upraised areas which may be seen from the common footway) in so far as such areas are occupied or, as the case may be, owned by him.

(2) For the purposes of this section access areas shall include pends.

(3) All litter and other waste swept from such access areas by the occupier or the owner, as the case may be, of any land or heritage used for the purpose of trade, business or manufacture, shall be deposited by him in the container which he provides in respect of such land or heritage and shall be disposed of by him timeously and in such manner as may be approved by the proper officer of the Council.

(4) Any person who fails without reasonable excuse to comply with the provisions of this section shall be guilty of an offence.

Public conveniences at large, open-air events.

11.—(1) It shall be the duty of every person who promotes an open-air event, to which a large number of the public is admitted, so far as reasonably practicable in all the circumstances to provide or make arrangements for the provision in the near vicinity of the area of the event an adequate number of portable public conveniences which shall be available for the use of members of the public on any day or days on which the event is promoted and open to the public.

(2) Any person who fails without reasonable excuse to comply with the provisions of this section shall be guilty of an offence.

(3) For the purposes of this section "public conveniences" include water closets, urinals and washrooms.

PART III —*cont.*

Maintenance of open ground, yards, etc.

12.—(1) In any case in which in the opinion of the Council any open ground, whether fenced or not, or any yard or ground forming part of enclosed premises is in such a state of dereliction or is so encumbered with litter as to be detrimental to public health or to amenity, they may serve notice on the occupier (or, if there be no occupier, on the owner) thereof requiring him, within such reasonable time as may be specified in the notice (which shall not be less than 7 days) to take such steps as may therein be specified to remedy the condition of the ground to which the notice relates.

(2) If any person fails without reasonable excuse to comply with a notice given under this section he shall be guilty of an offence.

PART IV

MISCELLANEOUS

Extension of power to maintain cemeteries.

13.—(1) In the exercise of their functions under the Burial Grounds Acts the Council in relation to any cemetery vested in or administered by them shall have power—

(*a*) to put, and keep, in order any monument or railing therein;

(*b*) to level any grave therein;

(*c*) to remove the whole or any part of a monument or railing therein;

(*d*) to alter the position of any such monument or railing.

(2) (*a*) At least one month before exercising any of the powers conferred by subsection (1) above the Council shall give notice of their intention—

(i) to the lair-holder of any grave affected by the proposals (unless that person cannot be found);

(ii) where a church is situated within the cemetery, to the authorities of that church; and

(iii) to the Commission.

(*b*) If any monument or railing to which such proposal relates is in such a condition that, in the opinion of the Council it constitutes an imminent danger to persons resorting to the cemetery it shall not be necessary for them to give such notice, but in that case they shall, as soon as possible after the exercise by them of the powers conferred by subsection (1) above, give notice of such exercise to the persons and bodies referred to in the preceding paragraph.

(3) A notice given under paragraph (*a*) of subsection (2) above shall—

(*a*) contain brief particulars of the Council's proposals and, if necessary, specify an address at which full particulars of the proposals can be obtained;

(*b*) state the effect of subsection (5) below; and

(*c*) be deemed to have been properly addressed to any person if it is sent to such person by letter addressed to his last known address.

(4) The powers conferred by subsection (1) above shall not be exercised with respect to any Commonwealth war grave, or to any monument or railing pertinent to any such grave or provided by the Commission except with the consent of the Commission, and in accordance with such reasonable conditions with reference to such consent as the Commission may prescribe, including conditions to the effect that—

(*a*) no other monument or railing shall be placed or erected over any such grave;

(*b*) the Council shall not interfere with, or disturb, any Commonwealth war burial in any such grave, or cause or permit any interference with, or disturbance of, any such burial other than interference or disturbance authorised by an order of a competent court or other lawful authority after prior notification to the Commission of the application for such order or authority; and

PART IV —*cont.*

(*c*) in the case of any monument placed or erected by the Commission over any such grave, such monument shall be removed only in accordance with such arrangements and in such manner, including disposal of the monument, as shall be agreed in writing by the Commission.

(5) (*a*) If notice of objection to the proposals is given to the Council by any lair-holder or authority of a church concerned within the period specified in paragraph (*a*) of subsection (2) above and is not withdrawn the proposals to which the objection relates shall not be carried out without the consent of the sheriff.

(*b*) In any case where the Council apply to the sheriff for such consent—

(i) such application shall be served on the lair-holder or the authority of the church concerned, as the case may be, and where a Commonwealth war burial would be affected by a decision on such application, it shall be served on the Commission; and

(ii) they shall intimate the decision of the sheriff to such lair-holder or authority of the church concerned.

(*c*) The sheriff may prescribe such conditions as he considers appropriate with reference to any consent granted by him under paragraph (*a*) of this subsection, and where a Commonwealth war burial would be affected, he shall have regard to any representations thereunder made by the Commission within a period of 28 days from the receipt by the Commission of the application referred to in paragraph (*b*) above.

(6) If any monument or railing removed is not claimed within three months after the date of its removal the Council may put it to such use as they think fit, or they may destroy it.

(7) The Council shall, so far as reasonably practicable, keep a record of each monument removed under the powers of this section.

(8) Nothing in this section shall derogate from the provisions of—

1972 c. 52. (*a*) the Town and Country Planning (Scotland) Act 1972 relating to buildings of special architectural or historic interest, buildings which are the subject of a building preservation notice and conservation areas; and

1979 c. 46. (*b*) the Ancient Monuments and Archaeological Areas Act 1979 relating to scheduled monuments and monuments in the guardianship of the Secretary of State.

Appointment of wardens or rangers for parks.

14.—(1) The Council shall from time to time appoint such number of officers as they shall think fit to act as wardens or rangers for the purpose of enforcing or securing compliance with any byelaws or management rules made with respect to their functions in relation to parks under the Local Government and Planning (Scotland) Act 1982 or any other enactment.

1982 c. 43.

(2) Any officer of the Council so appointed, or any person called to the assistance of such officer, may without other warrant than this Order detain any person committing or having committed any offence against any such byelaws and deliver him to a police constable:

Provided that any officer of the Council acting under this section shall have with him a written authority from the Council to act and shall produce the same if required.

Saving for Health and Safety at Work etc. Act 1974.

15. Nothing in section 6 (Cleansing of houses and clothing) or section 9 (Disposal of commercial or industrial waste) of this Order shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the Health and Safety at Work etc. Act 1974.

1974 c. 37.

PART IV —*cont.*

Penalties.

16. A person guilty of an offence against this Order shall be liable on summary conviction to the under-mentioned penalties, namely—

(1) in the case of an offence under section 6 (Cleansing of houses and clothing), a fine not exceeding level 1 on the standard scale;

(2) in the case of an offence under section 10 (Cleansing of access areas) or section 12 (Maintenance of open ground, yards, etc.), a fine not exceeding level 2 on the standard scale; and

(3) in the case of an offence under section 11 (Public conveniences at large, open-air events), a fine not exceeding level 3 on the standard scale.

Repeals.

17. Subject to the provisions of this Order the Acts and Orders specified in the Schedule to this Order are hereby repealed to the extent mentioned in the third column of that Schedule.

Cesser. S.I. 1987/2090 (S. 142).

18. As from the commencement of this Order, the Local Statutory Provisions (Postponement of Repeal) (Scotland) Order 1987 shall cease to have effect in so far as it applies to the district.

Costs of Order.

19. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming this Order shall be paid by the Council in such manner as they may determine.

Section 17.

SCHEDULE

ENACTMENTS REPEALED

Session and chapter	Short title of Act	Extent of repeal
61 & 62 Vict. c. ccxliii.	Glasgow Corporation (Sewage &c.) Act 1898.	Section 51.
1 Edw. 8 & 1 Geo. 6 c. xliii.	Glasgow Streets Sewers and Buildings Consolidation Order Confirmation Act 1937.	Sections 99 and 100 of the Order scheduled thereto.
8 & 9 Eliz. 2 c. iii.	Glasgow Corporation Consolidation (General Powers) Order Confirmation Act 1960.	Sections 13 to 16, 18 to 20, 104 and 123 to 134 of the Order scheduled thereto.
1963 c. ix.	Glasgow Corporation Order Confirmation Act 1963.	Sections 3, 5 and 15 of the Order scheduled thereto.
1969 c. lxi.	Glasgow Corporation Order Confirmation Act 1969.	Section 9 of the Order scheduled thereto.

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City of Glasgow District Council Order Confirmation Act 1988

CHAPTER xxx

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CITY OF GLASGOW DISTRICT COUNCIL

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