CHAPTER xxxii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Irvine and District Water Board (Emergency Powers). A.D. 1915.

[24th June 1915.]

WHEREAS His Majesty's Secretary for Scotland has after inquiry held before Commissioners made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63 Vict. c. 47.

Be it therefore enacted by the King'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 shall be and the same is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the Irvine and District Water Board (Emergency Powers) Order Confirmation Act 1915. Short title.

A.D. 1915.

SCHEDULE.

IRVINE AND DISTRICT WATER BOARD (EMERGENCY POWERS).

Provisional Order to authorise the Irvine and District Water Board to enter into agreements with the Corporation of Paisley for a supply of water to construct additional waterworks to borrow further moneys and for other purposes.

WHEREAS by the Public Health (Scotland) Act 1867 Order Confirmation (Irvine and Dundonald) Act 1876 and the Order thereby confirmed (hereinafter called "the Order of 1876") the provost magistrates and councillors of the Royal burgh of Irvine (hereinafter called "the corporation of Irvine") and the parochial board of the parish of Dundonald as the local authorities in the said burgh and parish respectively were empowered upon the terms therein mentioned to acquire certain lands for the purposes of the construction of waterworks for the supply of water in the burgh of Irvine and parish of Dundonald or such part or parts thereof as might be formed into a special water supply district under the powers of the Public Health (Scotland) Act 1867:

And whereas the corporation of Irvine and the said parochial board as local authorities in the said burgh and parish acquired such lands and constructed under the powers of the Public Health (Scotland) Act 1867 and Acts amending the same certain waterworks for the supply of the burgh and the special water supply district of the parish of Dundonald which was duly formed:

And whereas by the Irvine Burgh Act 1881 (hereinafter called "the Act of 1881") the boundaries of the burgh of Irvine were extended and the undertaking of the Irvine waterworks made and constructed by the said local authorities was transferred to and vested in the corporation of Irvine and the corporation of Irvine were empowered to maintain such waterworks and to construct additional waterworks and supply water within the burgh as extended by that Act and the suburbs thereof and places adjacent within the parishes of Irvine Dundonald

Kilwinning Stevenston Ardrossan and Dreghorn in the county of Ayr:

And whereas by the Irvine Corporation Order 1902 (hereinafter called "the Order of 1902") the corporation of Irvine were authorised to construct certain additional works to impound the waters of the Caaf Water and Bradshaw Burn:

And whereas by the Irvine and District Water Board Order 1903 (hereinafter called "the Order of 1903") a water board was constituted under the name of the Irvine and District Water Board (hereinafter called "the Board") representing the corporation of Irvine the county council of the county of Ayr and the town council of Saltcoats and the water undertaking of the corporation of Irvine was transferred to and vested in the Board subject to the mortgage debt and other debts and liabilities attaching thereto and to the payment to the corporation of Irvine by the Board of compensation and other moneys:

And whereas the limits of supply of the Board were defined by the Order of 1903 to include the limits defined in section 121 of the Act of 1881 and section 18 of the Order of 1902 and the limits for the compulsory supply of water by the Board were also defined:

And whereas the Board have constructed and completed the greater part of the waterworks authorised by the Order of 1902 and are supplying water within their limits of supply:

And whereas the supply of water is insufficient for the wants of the inhabitants and for the trade manufactures and shipping within the limits of supply of the Board and the Board are applying for powers to construct the additional waterworks hereinafter mentioned:

And whereas the undertaking of Nobel's Explosives Company Limited (hereinafter called "the company") is situate within the limits of supply of the Board:

And whereas by section 37 of the Order of 1903 provisions were made for the supply of water to the company among others without preference either as to the supply or quality of the water supplied and provisions were made for enabling the Board to give rebates for water supplied to large consumers:

And whereas owing to the present war it has been found expedient for the company to enlarge their works for the

A.D. 1915.

manufacture of explosives and for that purpose the company will require an additional supply of water:

And whereas the Board are in the present session of Parliament applying to the Secretary for Scotland for an Order under the Private Legislation Procedure (Scotland) Act 1899 to enable the Board to construct additional waterworks but the supply of water from such additional works will not be available for some considerable time and the Board are unable to supply the requirements of water of the company and other consumers from their existing works:

And whereas the provost magistrates and councillors of the burgh of Paisley (hereinafter called "the corporation of Paisley") are willing to enter into an agreement for a supply of water to the Board and the quantity thereof and terms therefor have been arranged:

And whereas it is expedient to authorise the Board to construct the works in this Order described for the purpose of obtaining such supply:

And whereas the supply of water under the said arrangement is intended to be afforded so long as the Board are unable to obtain a sufficient supply of water from their existing and intended works and is mainly for the benefit of the company in the emergency and it is expedient to make provision that the cost of the works necessary to afford such supply shall be paid by the company:

And whereas it is expedient to authorise the Board to borrow further moneys for the purposes of this Order and for the construction of additional filters and the laying of a conduit or line of pipes between the Munnoch Reservoir of the Board and the filtering station of the Board the estimated cost of which works is thirty thousand pounds:

And whereas an estimate has been prepared by the Board of the cost of constructing the additional works by this Order authorised including the amount necessary for the purchase of lands in connection therewith and such estimate amounts to the sum of twenty thousand pounds:

And whereas plans and sections showing the lines and levels of the works authorised by this Order and also books of reference 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 of or under the powers of this Order have been deposited with the principal sheriff clerk of the county of Ayr in his offices at Ayr and Kilmarnock respectively and are hereinafter respectively referred to as the deposited plans sections and books of reference:

And whereas the Board have complied with the provisions of section 69 of the Order of 1903 in respect to the promotion of this Order:

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899:

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

Short title.

1. This Order may be cited as the Irvine and District Water Board (Emergency Powers) Order 1915.

Commencement of Order.

2. This Order shall commence and have effect on and from the date of the passing of the Act confirming the same which date is hereinafter referred to as "the commencement of this Order."

Incorporation of Acts.

3. The following Acts and parts of Acts so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Order are hereby incorporated with this Order (namely):—

(1) The Lands Clauses Acts:

(2) The Waterworks Clauses Act 1847 except—

(A) The words in section 44 thereof "with the "consent in writing of the owner or reputed "owner of any such house or of the agent of "such owner";

(B) The provisions thereof with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and section 83 relating to accounts;

(C) Sections 68 70 71 and 72:

(3) The Waterworks Clauses Act 1863:

A.D. 1915.

(4) The provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and with respect to the crossing of roads and other interferences therewith and in the said Act "the company" shall mean the Board and "the centre of the railway" shall mean any part of the works.

This Order shall be deemed to be a special Act within the meaning of the Acts wholly or partially incorporated therewith.

Interpretation.

4. In this Order unless there be something in the subject or context repugnant to such construction—

"The Board" means the Irvine and District Water Board;

"The corporation of Irvine" means the provost magistrates and councillors of the Royal burgh of Irvine;

"The corporation of Paisley" means the provost magistrates and councillors of the burgh of Paisley;

"The company" means Nobel's Explosives Company Limited;

"The Water Acts" means the Order of 1876 the Act of 1881 the Order of 1902 and the Order of 1903 recited or referred to in the preamble to this Order.

Agreements with corporation of Paisley.

5. Subject to the provisions of this Order the Board may enter into and carry into effect agreements (on such terms and conditions and for such remuneration and for such period as may be agreed upon) for the supply by the corporation of Paisley to the Board of water in bulk to be used and distributed by the Board within their limits of supply.

Power to make works.

6. Subject to the provisions of this Order the Board may wholly in the county of Ayr make and maintain in the lines and according to the levels shown on the deposited plans and sections the works hereinafter described and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for those purposes (that is to say):—

A conduit or line of pipes situate in the parishes of Dalry and Largs in the county of Ayr commencing by a junction with a conduit or line of pipes belonging to

the corporation of Paisley at a point in the parish of Dalry fourteen yards or thereabouts measured in a northerly direction from the north-west corner of the Gauge House at Camphill Reservoir and terminating in the north-east corner of the Munnoch Reservoir in the parish of Dalry.

Power to make subsidiary works.

7. The Board in addition to the foregoing works may upon the lands delineated on the deposited plans and acquired by them make erect and maintain all such cuts channels catch-waters tunnels adits pipes conduits culverts drains sluices byewashes shafts wells bores water towers overflows waste-water channels gauges filters filter beds tanks banks walls bridges embankments piers approaches engines machinery and appliances as may be necessary or convenient in connection with or subsidiary to the works but nothing in this section shall exonerate the Board from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them.

Limits of deviation.

8. In the construction of the works authorised by this Order the Board may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where on any road no such limits are shown the boundaries of such road shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding five feet upwards and to any extent downwards Provided that with the consent of the landowners and occupiers and notwithstanding the limit of deviation shown on the deposited plans the Board may lay the said conduit or line of pipes from the centre line of the conduit or line of pipes shown on the deposited plans at the centre of the Auldmuir Burn in the parish of Dalry in a south-south-westerly direction in a straight line to the south-west corner of field or inclosure numbered 1152 on the 25-inch Ordnance map (edition 1910) of the parish of Dalry thence in a south-westerly direction in a straight line to the junction with the centre line of the conduit or line of pipes shown on the deposited plans at a point in the public road leading from Dalry to Dykehead in line of the north boundary of field or inclosure numbered 1125 on said Ordnance map Provided also that except for the purpose of crossing over a stream bridge or culvert no part of any pipe shall be raised above the surface of the ground unless and except so far as is so shown on the deposited sections.

A.D. 1915.

Power to alter roads &c. temporarily.

9. For the purposes of and during the execution of the several works which the Board are by this Order authorised to make and in maintaining the same and subject to the provisions of this Order the Board may temporarily break up alter divert or cross over or under or stop up any streets highways roads lanes paths bridges railways or tramways shown on the deposited plans and described in the deposited books of reference and any sewers drains watercourses gas pipes water pipes telegraphic telephonic electrical and other mains pipes wires posts and other works in on or under the same or in on or under any of the lands so shown and described which they may from time to time find it expedient for any of those purposes to interfere with the Board doing as little damage as possible and providing where practicable a proper temporary substitute before interrupting the traffic on any such street highway road lane path bridge railway or tramway or the flow of sewage gas water or electricity or telephonic communication in or by means of any such sewer drain watercourse pipe main wire post or other work and making full compensation to all persons injuriously affected thereby Provided that nothing in this section shall extend to authorise any interference with electric telegraphic or telephonic apparatus or other property of His Majesty's Postmaster-General Provided also that nothing in this section shall authorise any interference with any works of any undertakers within the meaning of the Electric Lighting Acts 1882 to 1909 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with the provisions of that section.

Application of section 20 of Order of 1902.

10. Section 20 of the Order of 1902 shall apply and have effect with respect to the works by this Order authorised.

Power to grant servitudes &c. by agreement.

11. Persons empowered by the Lands Clauses Acts to sell and convey or dispose of lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Board any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in over or affecting any such lands and the provisions of the said Acts with respect to lands and annual feu-duties or ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid respectively.

Power to acquire servitudes only for lines of pipes.

12.—(1) The Board may in lieu of acquiring any lands for the purposes of the works authorised by this Order where the same are intended to be constructed underground acquire such servitudes and rights only in such lands as they may require for such purposes and may give notice to treat in respect of such servitudes and rights describing the nature thereof and the provisions of the Lands Clauses Acts shall apply to and in respect of the acquisition of such servitudes and rights as fully as if the same were lands within the meaning of those Acts.

(2) As regards any lands in respect of which the Board have acquired servitudes and rights only under the provisions of this section the Board shall not be required or entitled to fence off or sever such lands from the adjoining lands but the owners or occupiers for the time being shall subject to such servitudes and rights have the same rights to use and cultivate the said lands at all times as if this Order had not been confirmed.

(3) Provided always that nothing in this section contained shall authorise the Board to acquire by compulsion any such servitude or right in any case in which the owner in his particulars of claim shall require the Board to acquire the lands in respect of which they have given notice to treat for the acquisition of a servitude or right only and every notice to treat for the acquisition of a servitude or right shall be endorsed with notice of this provision.

Accommodation for workmen &c.

13. The Board shall if and when required by the local authority of the district in which the works by this Order authorised are situate (in this section called "the local authority") make provision to the satisfaction of the local authority for the proper housing and sanitary requirements of the persons employed in constructing the said works and for the treatment of cases of sickness (other than infectious disease) and accident occurring among the said persons during the construction of the said works In considering what provision ought to be made for the said purposes the local authority shall take into consideration the provision already available in the neighbourhood of or conveniently accessible from the said works.

In the event of any dispute arising between the Board and the local authority as to the amount or nature or situation of the housing accommodation or sanitary requirements to be

A.D. 1915.

provided or as to the sufficiency of the provision for the treatment of cases of sickness (other than infectious disease) and accident or as to the time within which such accommodation shall be provided and such provision made or as to the carrying out by the Board of any requirement of the local authority under this section either party may appeal to the Local Government Board for Scotland (in this section called "the Local Government Board") and the decision of the Local Government Board shall be final and binding on both parties:

Provided that if it appears to the Local Government Board at any time that sufficient provision for the aforesaid purposes is not made the Local Government Board shall have power to require the Board to make provision or additional provision therefor to the satisfaction of the Local Government Board.

In the event of the Board or the local authority failing to comply with any order or requirement of the Local Government Board under this section they shall be liable to a penalty not exceeding five pounds for every day during which such failure continues and such penalty shall be recoverable with expenses at the instance of the Lord Advocate on behalf of the Local Government Board in any competent court.

For the purposes of this section the Local Government Board shall have the same powers of holding inquiries and of requiring reports to be made by local authorities and their officials as they have under the Public Health (Scotland) Act 1897 for the purposes of that Act and the provisions of the said Act relating to such inquiries and reports shall apply accordingly.

Power to use lands already acquired.

14. The Board may use for the purposes of this Order any lands or property already acquired under the powers of the Water Acts which are not required for the purposes for which the same were originally purchased.

Waterworks &c. to form part of existing water undertaking of Board.

15. The works by this Order authorised and the lands acquired under the powers of this Order shall form part of the water undertaking of the Board and the powers and provisions of the Water Acts as amended by this Order shall so far as applicable extend and apply to the said works and lands.

Single arbiter.

16. In all cases of disputed compensation arising under this Order in respect of land taken compulsorily or otherwise which

fall to be determined under the provisions of the Lands Clauses Acts it shall unless the Board and the other party or parties to the dispute concur in the appointment of a single arbiter in terms of such Acts be in the power of the Board or such other party or parties to apply to the Lord Ordinary on the Bills to appoint a single arbiter to determine the compensation to be paid and it shall not be competent thereafter to have the same determined by arbiters oversman sheriff or jury acting under the last-mentioned Acts The said arbiter upon appointment shall be deemed to be a sole arbiter within the meaning of the Lands Clauses Acts and the provisions of those Acts with regard to arbitration shall apply accordingly and the arbiter shall notwithstanding anything contained in the said Acts determine the amount of expenses in the arbitration and such determination shall be final The remuneration of the said arbiter shall failing agreement be fixed by the Lord Ordinary on the Bills.

Period for compulsory purchase of lands.

17. The powers for the compulsory purchase of lands for the purposes of this Order shall cease after the expiration of one year from the commencement of this Order.

Period for completion of works.

18. If the works authorised by this Order are not completed within one year from the commencement of this Order then on the expiration of that period the powers granted to the Board for making and completing the same or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

Limiting powers of Board to abstract water.

19. The Board shall not construct any works for taking or intercepting water from any lands acquired by them unless the works are authorised by and the lands upon which the same are to be constructed are specified in this Order or in an Act of Parliament or Order confirmed by Parliament.

Cost of works to be paid by company.

20. The company shall on demand pay to the Board the cost of the works authorised by the section of this Order of which the marginal note is "Power to make works" provided that if at any time after the expiration of one year from the completion of the reservoir and other works authorised by the Irvine and District Water Board Order 1915 the Board should use the works authorised by the said section of this Order for the general purposes of their water undertaking the Board shall pay to the company for the use of the said works such sum as failing agreement shall be settled by an arbiter to be appointed on the application of either party by the Secretary for Scotland.

A.D. 1915.

Supply to special water supply district of Dalry.

21. Nothing in this Order contained shall prejudice or affect any right of the county council of the county of Ayr (in this section referred to as "the county council") to a supply of water from the water undertaking of the corporation of Paisley and subject to the provisions of the Water Acts and this Order the Board if required shall supply unfiltered water from the works authorised by the section of this Order whereof the marginal note is "Power to make works" to the county council for the use of the special water supply district of Dalry in bulk at such rate or rates as failing agreement shall be fixed by the sheriff of the county of Ayr on the application of either party Provided that the right of the county council to the said supply shall be postponed to the requirements of the company and that the said supply of water shall be given by the Board so long only as a supply of water is being taken by the Board from the corporation of Paisley by means of the said works and that the county council shall provide lay and maintain the pipes and meters necessary for the supply from the said works at such point or points thereof as the county council may select to the said district Provided also that upon any supply being taken under this section the Board shall pay to the company for the use of the said works such sum as failing agreement shall be settled by an arbiter to be appointed on the application of either party by the Secretary for Scotland.

Power to borrow.

22.—(1) The Board may from time to time under the powers and subject to the provisions of the Order of 1903 borrow at interest upon mortgage of the revenue of the water undertaking or any part thereof including the contributions receivable by them from the constituent authorities or any town council under the provisions of the Order of 1903 or of this Order the additional sums of money necessary for the purposes hereinafter specified (that is to say):—

(A) For the construction of filters and other works and for the general purposes of the undertaking of the Board to which capital is properly applicable any sum not exceeding thirty thousand pounds;

(B) For the purpose of repaying to the company any sum or sums of money under the sections of this Order whereof the marginal notes are "Cost of works to be paid by company" and "Supply to special water supply district of Dalry" such sum or sums as the Secretary for Scotland may approve.

(2) The Secretary for Scotland shall have and may exercise in relation to such approval all the powers of section 93 of the Local Government (Scotland) Act 1889.

Application of borrowed money.

(3) Money borrowed under this section shall be applied only to the purposes for which it is authorised to be borrowed.

Periods for repayment.

(4) Any moneys borrowed under this section for the purposes mentioned in (A) shall be repaid within fifty years from the borrowing of the same provided that if the Board decide to repay such moneys by means of equal annual instalments of principal and interest combined or by means of an accumulating sinking fund as provided by sections 41 and 42 of the Order of 1903 such moneys shall be repaid within forty years from the borrowing of the same.

Any moneys borrowed under this section for the purposes mentioned in (B) shall be repaid within such period and in such manner as the Secretary for Scotland may prescribe.

Re-borrowing.

(5) If having borrowed any money under the provisions of this Order the Board pay off the same or any part thereof otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of lands or other moneys received on capital account (not being borrowed moneys) they may re-borrow the same and so on from time to time Provided that all moneys so re-borrowed shall for the purposes of repayment be deemed part of the original loan and shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such re-borrowing has been made.

Application to mortgages of provisions of Order of 1903.

23. The following sections of the Order of 1903 shall apply to mortgages granted by the Board under the powers of this Order (that is to say):—

Section 42 (Sinking fund);

Section 43 (Annual return to Secretary for Scotland with respect to sinking fund);

Section 44 (Board may borrow under Local Authorities Loans (Scotland) Acts 1891 and 1893);

Section 45 (Form of mortgage);

Section 46 (Manner in which mortgages to be signed and executed);

Section 47 (Transfer of mortgages);

Section 48 (Transmission of mortgages in case of bankruptcy);

A.D. 1915.

Section 49 (Mortgages to be personal property);
Section 50 (Discharge of mortgages);
Section 51 (Ranking of mortgages);
Section 52 (Protection of lender from inquiry);
Section 53 (Appointment of judicial factor);
Section 54 (Powers and duties of judicial factor).

Board may borrow temporarily for capital purposes.

24. In order to enable the Board on and after the commencement of this Order forthwith to proceed with the construction of filters and other works the Board may temporarily until provision can be made for borrowing the money on mortgage borrow from any bank or banking company or other company or person on security of their revenues and on such terms and conditions and in such form as may be agreed any sum or sums not exceeding in the whole thirty thousand pounds and any money so borrowed shall be subsequently repaid out of moneys duly borrowed on mortgage under the provisions of this Order and all provisions for the repayment of moneys so borrowed on mortgage shall apply as if such moneys had been so borrowed at the date at which the same were first temporarily borrowed.

Restriction on borrowing money during continuance of present war.

25. Notwithstanding anything in this Order contained the Board shall not under the powers of this Order borrow any money during the continuance of the present war and twelve months thereafter unless the consent of the Treasury has been previously obtained.

Costs of Order.

26. All costs charges and expenses of and incident to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Company.

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