CHAPTER lxix.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Kilmarnock Corporation.

A.D. 1926.

[4th August 1926.]

WHEREAS His Majesty's Secretary for Scotland has 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:—

Confirmation of Order in schedule.

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed.

Short title.

2. This Act may be cited as the Kilmarnock Corporation Order Confirmation Act 1926.

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SCHEDULE.

KILMARNOCK CORPORATION.

Provisional Order to provide for the Abandonment of the Tramways within the burgh of Kilmarnock and for other purposes.

WHEREAS by the Kilmarnock Corporation Order 1904 (in this Order called "the Order of 1904") the provost magistrates and councillors of the burgh of Kilmarnock (in this Order called "the Corporation" and "the burgh" respectively) were authorised to construct and work tramways in and adjacent to the burgh:

And whereas the Corporation have constructed the tramways authorised by the Order of 1904 and with the exception of Tramway No. 2 hereinafter mentioned are working the same:

And whereas by the Kilmarnock Corporation Order 1924 the Corporation were authorised to provide and work omnibuses within the burgh and along certain specified routes outwith the burgh and under the authority of that Order the Corporation have abandoned and discontinued the working of Tramway No. 2 authorised by the Order of 1904:

And whereas the traffic on the tramways of the Corporation within the burgh has for some time been and is insufficient in view of the increased cost of plant materials and labour to allow the tramways to be worked remuneratively and the public needs are being or can be supplied by other means:

And whereas the continuance of the tramways would necessitate the renewal of the track throughout the whole length of the tramways and the cost thereof and of the maintenance of the portion of the roadways on which the tramways are laid would by reason of the insufficiency of revenue from the traffic on the tramways

require to be provided out of the police rate of the burgh : A.D. 1926.

And whereas it is expedient that the Corporation should be authorised to abandon and discontinue the working of the tramways :

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

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 and commencement.

1. This Order may be cited as the Kilmarnock Corporation Order 1926 and shall come into operation at the date of the passing of the Act confirming the same.

Interpretation.

2. In this Order the several words and expressions to which meanings are assigned by the Order of 1904 shall have the same respective meanings unless there be something in the subject or context repugnant to such construction And in this Order unless the context otherwise requires the following expressions shall have the respective meanings in this section applied to them (that is to say) :—

"The Order of 1904" means the Kilmarnock Corporation Order 1904;

"The tramway undertaking" means the tramway undertaking authorised by the Order of 1904;

"The tramways" means the tramways within the burgh authorised by the Order of 1904;

"The sinking fund" means the sinking fund formed under the Order of 1904;

"The Order of 1924" means the Kilmarnock Corporation Order 1924;

"The omnibus undertaking" means the omnibus undertaking of the Corporation authorised by the Order of 1924.

Power to abandon tramways.

3. The Corporation shall abandon and discontinue the working of the tramways and thereupon shall take up remove appropriate use sell or otherwise dispose of the pavement rails standards poles wires materials

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plant and apparatus in connection therewith and after the removal of the tramways the powers duties and obligations of the Corporation in connection therewith shall cease and determine.

Restoration of roadways.

4.—(1) The Corporation shall with all convenient speed after the taking up and removal of the tramways fill in the ground and make good the surface of the portion of the roadways on which the tramways are laid.

(2) The cost of the reinstatement of the portion of the roadways on which the tramways are laid shall be paid by the Corporation out of the reserve fund formed under the provisions of the Order of 1904 for the purposes of the tramway undertaking and the balance (if any) of that fund shall be transferred to the sinking fund.

Sale and disposal of lands &c.

5. After the abandonment of the tramways the Corporation may appropriate for the purposes of the omnibus undertaking or sell lease or otherwise dispose of the lands acquired by them for and the buildings and depots belonging to the Corporation and used in connection with the tramways.

Application of proceeds of sale of lands &c.

6. All moneys realised by the sale or disposal of lands buildings depots materials plant and apparatus in connection with the tramways or the tramway undertaking shall be paid into the sinking fund and if any such lands buildings depots materials plant and apparatus are appropriated for the purposes of the omnibus undertaking the value of the same as appearing in the books of the Corporation shall be credited to the sinking fund.

Security for moneys borrowed for tramway purposes.

7. After the abandonment of the tramways—

(1) The security for all moneys borrowed by the Corporation under the Order of 1904 for tramway purposes and then outstanding shall be the police rate and such moneys shall be repaid within the period prescribed by section 67 (Sinking fund) of that Order:

(2) The Corporation shall from and out of the police rate set apart annually the requisite sums to be provided for the sinking fund until the completion of the repayment of

the moneys borrowed by them under the Order of 1904 for tramway purposes.

Omnibus undertaking to cease to form part of tramway undertaking.

8. After the abandonment of the tramways—

(1) The omnibus undertaking shall cease to form part of the tramway undertaking:

(2) Section 28 (Power to borrow) of the Order of 1924 shall be read and have effect as if the revenue of the omnibus undertaking and the police rate were therein referred to instead of the revenue of the tramway undertaking of the Corporation and the police rate as the security for moneys borrowed under that section and as if the omnibus undertaking had been referred to therein instead of the tramway and omnibus undertakings:

(3) The sections of the Order of 1904 specified in section 32 (Application of provisions of the Order of 1904) of the Order of 1924 and the Second and Third Schedules to the Order of 1904 shall have effect as if for the word "tramway" wherever occurring therein there were substituted the word "omnibus" and the said Schedules shall have effect as if for the word "tramways" wherever occurring therein there were substituted the words "omnibus undertaking."

Accounts to be furnished to Minister of Transport.

9.—(1) The Corporation shall every year within three months after the closing of their financial year or such longer period as the Minister of Transport may allow furnish to the Minister of Transport the annual accounts of the omnibus undertaking.

(2) Section 25 (Annual accounts to be furnished to Minister of Transport) of the Order of 1924 is hereby repealed.

Provision for surplus of and deficiency in revenue of omnibus undertaking.

10. After the abandonment of the tramways—

(1) The Corporation may after providing for the payments first secondly thirdly and fourthly mentioned in subsection (1) of section 29 (Application of revenue of omnibus undertaking) of the Order of 1924 carry forward to the credit of the revenue of the omnibus

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undertaking so much of any balance remaining in any year of the income of the omnibus undertaking (including the interest on the reserve fund when such fund amounts to the prescribed maximum) as may in the opinion of the Corporation not be required for carrying on the omnibus undertaking and paying the current expenses connected therewith respectively Provided that the amount of such balance so carried forward in any year shall not exceed one thousand pounds and the surplus income (if any) shall be carried to the credit of the police rate:

(2) Any deficiency in the revenue of the omnibus undertaking shall be made good out of the police rate:

(3) So much of subsection (1) of section 29 of the Order of 1924 as relates to the application of the balance of the income of the omnibus undertaking and subsection (2) of that section shall be and the same are hereby repealed.

Costs of Order.

11. The costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Corporation out of the revenue of the common good fund of the burgh or out of any moneys borrowed for that purpose (which moneys the Corporation are hereby authorised to borrow upon the security of the police rate) and if paid out of borrowed moneys the same shall be repaid out of the said rate within five years from the passing of the Act confirming this Order.

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