

CHAPTER xxviii

An Act to confirm a Provisional Order of the Minister of Health relating to the borough of Macclesfield.

[30th July 1949.]

WHEREAS under the provisions of the Public Health Act 1875 the Minister of Health has made a Provisional Order which needs confirmation by Parliament: 38 & 39 Vict. c. 55.

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 Order of the Minister of Health which is set out in the schedule to this Act is hereby confirmed and shall have full validity and force. Order in schedule confirmed.

2. This Act may be cited as the Ministry of Health Provisional Order Confirmation (Macclesfield) Act 1949. Short title.

SCHEDULE

BOROUGH OF MACCLESFIELD

Provisional Order altering and partially repealing local Acts.

WHEREAS the mayor aldermen and burgesses of the borough of Macclesfield acting by the council (in this Order called "the Corporation") are the local authority for the said borough for the purposes of the Public Health Act 1875:

13 & 14 Geo. 5. c. cvi. 2 & 3 Geo. 6. c. lxxxvii.

And whereas by the Macclesfield Corporation Act 1923 (in this Order called "the Act of 1923") and the Macclesfield Corporation Act 1939 (in this Order called "the Act of 1939") the Corporation were empowered to borrow money for several purposes and were required by those Acts to repay the moneys which they might so borrow within the periods named in those Acts:

And whereas it is expedient that the Corporation should be authorised as in this Order provided to make a scheme prescribing one or more uniform periods within which all or any of the loans contracted by them under a statutory borrowing power shall be discharged:

And whereas by section 116 of the Act of 1939 the Corporation are authorised to establish a fund called a "capital reserve fund" and it is expedient to establish a capital fund as provided by this Order in substitution for the capital reserve fund:

12 & 13 Vict. c. xxvi. 45 & 46 Vict. c. ccxlix.

And whereas by the Macclesfield Borough Waterworks Act 1849 (in this Order called "the Act of 1849") the Macclesfield Corporation Act 1882 and the Act of 1923 powers were conferred on the Corporation with regard to markets in the borough and it is expedient to amend the said Acts and partially to repeal the Act of 1849 as provided in this Order:

And whereas the Corporation have applied to the Minister of Health for the issue of a Provisional Order to alter and partially to repeal the said Acts for the purposes aforesaid:

Now therefore the Minister of Health in pursuance of the powers given to him by section 303 of the Public Health Act 1875 and of all other powers enabling him in that behalf hereby orders as follows:—

Short title and commencement.

1. This Order may be cited as the Macclesfield Order 1949 and shall come into operation on the date of the Act of Parliament confirming it.

Definitions.

2. In this Order—

"statutory borrowing power" and "statutory security" have the same meanings as in the Act of 1939;

"the Minister" means the Minister of Health.

Scheme for fixing equated periods for loans.

3.—(1) The Corporation may at any time and from time to time make a scheme for prescribing one or more uniform periods within which all or any loans contracted by them under statutory borrowing powers shall be discharged and such scheme may extend or vary the periods within which such loans shall be discharged and may apply to any such loans with or without modification all or any of the provisions of the enactment under which the loan was sanctioned in regard to the borrowing and repayment of money and may make provision in regard to all matters incidental to the objects aforesaid.

(2) No scheme made by the Corporation under this section shall have any force or effect until it is confirmed by the Minister who may by order confirm the same with or without modifications and when so confirmed the scheme shall notwithstanding any enactment order or sanction to the contrary have full force and effect.

(3) Nothing in any scheme made under this section shall prejudice or affect the security rights and remedies of any mortgagee under any mortgage existing at the time of the confirmation of the scheme or of the holder of any stock existing at that time except with the consent of such mortgagee or holder.

(4) The loans referred to collectively in any scheme under general headings in accordance with a classification approved by the Minister may be consolidated and dealt with in the accounts of the Corporation as if the aggregate amount of the several loans relative to each heading were one loan raised under one statutory borrowing power and if approved by the Minister separate consolidations may be made of all or any of the loans included under those general headings.

(5) The Corporation may with the sanction of the Minister and on the security of the revenues funds or rates respectively on the security of which the moneys included in the scheme were respectively authorised to be borrowed borrow such sums as may be necessary for the purpose of giving effect to a scheme under this section and for compensating the holders of securities of the Corporation for their consent to the scheme and any moneys so borrowed shall be repaid within such period as the Minister may sanction.

(6) Any scheme confirmed under this section may be altered extended amended or annulled by a scheme prepared and confirmed in like manner as the original scheme.

Capital fund.

4.—(1) The Corporation may establish a fund to be called " the capital fund " to which they may pay any sums derived from the sale of any property of the Corporation the surplus of the revenue income over the revenue expenditure of the general rate fund on the thirty-first day of March in any year and such other sums from the general rate fund (including a sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) as the Corporation may by resolution direct (not being moneys directed by law to be applied to any other purpose):

Provided that—

(*a*) the aggregate sum directed by the Corporation to be paid to the capital fund from the general rate fund (exclusive of

the sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) shall not exceed in any year the equivalent of twice the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925;

15 & 16 Geo. 5. c. 90.

(*b*) payments into the capital fund shall cease to be made whenever the said fund amounts to the sum of twenty-two thousand five hundred pounds or such greater sum as may from time to time be approved by the Minister.

(2) The Corporation may apply the moneys in the capital fund in defraying any expenditure to which capital is properly applicable (other than expenditure in connection with an undertaking from which revenue is derived) or in providing money for repayment of loans (but not in making the annual payment required to be made therefor):

Provided that the amount to be expended under this subsection shall not exceed the sum of five thousand pounds in any one transaction unless a greater sum shall in any case be allowed by the Minister.

(3) Pending the application of the capital fund to the purposes authorised in the last foregoing subsection the moneys in the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(4) Any income arising from the investment or use of the moneys in the capital fund in the manner provided by the last foregoing subsection and any income arising from the application of the fund to the purposes authorised shall be carried to and form part of the general rate fund.

(5) Any sums derived from the sale of any corporate land of the Corporation as defined in section 305 of the Local Government Act 1933 shall not be applied otherwise than in the purchase or acquisition of other corporate land.

23 & 24 Geo. 5. c. 51.

(6) All moneys derived from the sale of any property of the Corporation which are applied from the capital fund under the provisions of this section shall be repaid from the account to which such moneys were advanced by such annual instalments with or without interest and within such period as may be determined by the Corporation:

Provided that where the advance is in the exercise of a statutory borrowing power such period shall not exceed the period prescribed for the repayment of moneys borrowed under that power.

(7) Section 116 (Capital reserve fund) of the Act of 1939 is hereby repealed.

urther powers to markets.

5. The Corporation without prejudice to any other powers conferred upon them by the Act of 1849 or by any other enactment may—

(1) from time to time alter the places at which the markets of the Corporation respectively are or may be held and establish and hold new markets and discontinue the whole or any part of any such existing or new markets;

(2) erect or provide offices shops catering establishments stores warehouses and other tenements or buildings for the purposes of or in connection with any of the markets of the Corporation and the markets undertaking.

Power to grant leases.

6.—(1) The Corporation may grant leases (with the right if they think fit of assigning the same with their consent) of the markets market-houses market-places places for fairs slaughterhouses weighing houses weighing places and weighing machines from time to time under the management of the Corporation or any of them and the tolls or any of them and any of the stalls standing places benches grounds spaces and other conveniences in the markets of the Corporation or in any market-house or market-place for the time being belonging to them or under their management to any person for any period not exceeding seven years and may grant leases (with a similar right) of any office shop catering establishment store warehouse tenement cellar or building situate in any of the markets of the Corporation or forming part of or acquired or erected in connection with their markets undertaking including any premises not used for the time being in connection with the said markets undertaking to any person for such period as the Corporation may think fit.

(2) Section XLIII (Power to let the markets &c. for three years) of the Act of 1849 is hereby repealed.

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