CHAPTER xv.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Rothesay Water. A.D. 1937.

[29th April 1937.]

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: 26 Geo. 5. & 1 Edw. 8. c. 52.

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 is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the Rothesay Water Order Confirmation Act 1937. Short title.

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SCHEDULE.

ROTHESAY WATER.

Provisional Order to empower the provost magistrates and councillors of the royal burgh of Rothesay in the county of Bute to execute certain water works and for other purposes.

WHEREAS the provost magistrates and councillors of the royal burgh of Rothesay in the county of Bute (hereinafter called "the Corporation" and "the burgh" respectively) are the local and sanitary authority within the burgh:

And whereas the Corporation are vested with the water undertaking of the burgh and supply water to the burgh and the adjoining districts of Port Bannatyne and Ascog:

And whereas in order to provide for the increasing demand and for the better supply of water it is necessary and expedient that the Corporation should be authorised to acquire the lands and construct and maintain the works hereinafter described:

And whereas estimates have been prepared by the Corporation for the purchase of lands and for the construction of the works by this Order authorised and such estimates are as follows:—

	£
Purchase of lands and servitudes -	700
Filters and service tanks - - -	14,835
Subsidiary works - - - -	500
	£16,035

And whereas the several works included in such estimates are permanent works and it is expedient that the cost thereof should be spread over a term of years:

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And whereas it is expedient that the Corporation should be authorised to borrow money for the purposes of the works to be authorised by this Order and for the general purposes of their undertaking:

And whereas it is expedient that the further powers in this Order contained should be conferred on the Corporation and that the other provisions in this Order contained should be enacted:

And whereas plans and sections showing the lines situations and levels of the works authorised by this Order and the lands proposed to be taken for the purposes thereof and also a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of lands and other property 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 sheriffdom of Renfrew and Bute at his office in Rothesay and are hereinafter respectively referred to as the deposited plans sections and 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:—

Short title.

1. This Order may be cited for all purposes as the Rothesay Water Order 1937.

The Rothesay Water Scheme 1931 and this Order may be cited together as the Rothesay Water Orders 1931 and 1937.

Interpretation.

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

(*a*) The several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this Order shall subject to the provisions of this Order have the same respective meanings; and

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(*b*) The following words and expressions shall have the meanings assigned to them in this section (that is to say):—

"Burgh" means the royal burgh of Rothesay;

"Corporation" means the provost magistrates and councillors of the burgh;

"Sheriff" means the sheriff of Renfrew and Bute and includes his substitutes;

"Scheme of 1931" means the Rothesay Water Scheme 1931;

"Water undertaking" means and comprehends the existing waterworks and water undertaking of the Corporation and the additional waterworks and water undertaking authorised by this Order.

Incorporation of Acts.

3. The following Acts and parts of Acts (so far as the same respectively are applicable for the purposes and are not inconsistent with the provisions of this Order) are hereby incorporated with and form part of this Order and shall apply to the water undertaking of the Corporation (namely):—

(1) The Lands Clauses Acts;

10 & 11 Vict. c. 17.

(2) The Waterworks Clauses Act 1847 except—

(*a*) Clauses 8 68 70 and 83;

(*b*) The clauses and provisions with respect to the communication pipes to be laid by the undertakers;

(*c*) The clauses and provisions with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit;

26 & 27 Vict. c. 93.

(3) The Waterworks Clauses Act 1863;

8 & 9 Vict. c. 33.

(4) The clauses and provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of land near the railway during the construction thereof and with respect to the crossing of roads or other interference therewith and for the purposes of this Order such provisions shall have

effect as if the works by this Order authorised were referred to instead of "the railway" and as if the boundaries of the said works were referred to in lieu of "the centre of the railway."

Power to make works.

4. Subject to the provisions of this Order the Corporation may make and maintain in the lines and situations and according to the levels and upon the lands delineated on the deposited plans and sections and described in the deposited book of reference the works hereinafter described and shown on the deposited plans and sections (that is to say):—

Work No. 1 Filters situated in the field or enclosure No. 18 on the 25-inch Ordnance survey map (edition of 1919) of the parish of Kingarth two hundred and fifty yards or thereby measured in a south-westerly direction from the south-west corner of Braeside;

Work No. 2 Clear water tank situate in the field or enclosure No. 18 on the 25-inch Ordnance survey map (edition of 1919) of the parish of Kingarth two hundred and forty yards or thereby measured in a south-westerly direction from the south-west corner of Braeside:

Both the said works are in the parish of Kingarth in the county of Bute.

Powers as regards maintenance and extension of works and construction of subsidiary works.

5. The Corporation may subject to the provisions of this Order in connection with the works or any of them authorised by this Order make lay erect and maintain such embankments dams weirs channels sluices catchwater drains culverts cuts aqueducts tunnels bridges roads cisterns filters gauges scour pipes mains and distributing pipes buildings dwelling-houses for servants and other works and conveniences as may be necessary or expedient for effecting or carrying out the objects or purposes of this Order or any of them and the Corporation may subject as aforesaid from time to time on or within any of their lands or on or over any lands on or over which they by agreement have or may acquire right so to do alter replace enlarge and increase the number and size of the works (other than impounding reservoirs) filters conduits aqueducts mains and pipes authorised by the Scheme of 1931 and this Order and may from time to

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time alter replace enlarge and increase the number and size of the works mains and pipes from time to time in use for conveying and distributing water for the purposes of the water undertaking but nothing in this section shall exonerate the Corporation from any action indictment or other proceeding for nuisance in the event of any nuisance being caused or permitted by them.

Application of provisions of Rothesay Water Scheme 1931.

6. The sections hereinafter specified of the Scheme of 1931 shall so far as applicable and not varied by or inconsistent with the provisions of this Order extend and apply mutatis mutandis to the several works by this Order authorised and to the lands to be acquired by the Corporation under the authority of this Order and to the Corporation and all other persons in respect thereof in the same manner as fully and effectually as if the said sections had been re-enacted in this Order with reference thereto (that is to say):—

Section 6 (Limits of deviation);

Section 11 (Power to grant servitudes by agreement);

Section 12 (Power to acquire servitudes only for lines of pipes);

Section 15 (Power to discharge water temporarily into streams).

Period for completion of works.

7. If the works authorised by this Order are not completed within three years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the Corporation for executing any works not so completed or in relation thereto shall cease except as to so much thereof as is then completed but nothing herein contained shall restrict the Corporation from extending enlarging altering replacing increasing or removing any of their engines machinery conduits service reservoirs filter beds aqueducts mains or pipes or improving their supply of water at any time and from time to time as occasion requires subject to the provisions of this Order.

New works to form part of water undertaking.

8. Subject to the provisions of this Order the works to be constructed under the authority of this Order shall for all purposes be and be deemed to be part of the water undertaking and the provisions of the Scheme of 1931 and this Order shall be read and apply accordingly.

Power to acquire lands.

9. Subject to the provisions of this Order the Corporation may enter upon take appropriate and use such of the lands shown upon the deposited plans and described in the deposited book of reference as may be required for the purposes of the works authorised by this Order.

Period for compulsory purchase of lands.

10. The powers of the Corporation for the compulsory purchase of lands for the purposes of this Order shall cease on the first day of October nineteen hundred and forty.

Power to borrow.

11.—(1) The Corporation (in addition to any moneys which they are now authorised to borrow) may from time to time borrow at interest for the several purposes of this Order sums not exceeding the amounts hereinafter appearing for the respective purposes following (that is to say) :—

(*a*) For the purchase of lands and servitudes the sum of seven hundred pounds;

(*b*) For filters service tanks and subsidiary works the sum of fifteen thousand three hundred and thirty-five pounds;

(*c*) And with the sanction of and subject to the conditions as to period of repayment and otherwise prescribed by the Secretary of State such further sums as may be requisite for the purposes of the Scheme of 1931 and of this Order and of the water undertaking;

(*d*) In respect of the costs charges and expenses of and incidental to the preparing and applying for and the issue of this Order and the confirmation thereof by Parliament or otherwise in relation thereto such sum as may be necessary.

(2) All moneys borrowed under this section shall be applied only to the purposes for which they are authorised to be borrowed being in every case purposes to which capital is properly applicable.

(3) If having borrowed any money under the powers of this section the Corporation pay off the same or any part thereof otherwise than by instalments or by means

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of a sinking fund or out of the proceeds of the sale of lands or other moneys received by them on capital account (not being borrowed money) 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.

(4) Any money borrowed or raised under this section except (*a*) money borrowed with the sanction of the Secretary of State and (*b*) money borrowed in respect of the costs charges and expenses of the Order shall be repaid within thirty years from the date of borrowing the same.

Priority of existing securities.

12. All mortgages and securities granted by the Corporation before the Scheme of 1931 and after the said Scheme but before the commencement of this Order and which shall be subsisting at the commencement of this Order shall during the continuance of such mortgages and securities have priority over any mortgages or securities granted by the Corporation for moneys borrowed or raised by them in respect of the water undertaking under this Order.

As to mortgages.
55 & 56 Vict. c. 55.
3 Edw. 7. c. 33.
19 & 20 Geo. 5. c. 25.
63 & 64 Vict. c. 49.

13. All bonds for moneys to be borrowed by the Corporation under this Order may be in the form and tenor provided by section 376 of the Burgh Police (Scotland) Act 1892 as amended or extended by section 104 (2) (*w*) of the Burgh Police (Scotland) Act 1903 and section 23 (1) of the Local Government (Scotland) Act 1929 and all bonds to which this section is applicable shall be granted and signed in terms of section 9 of the Town Councils (Scotland) Act 1900.

Powers of Secretary of State in relation to borrowing.
52 & 53 Vict. c. 50.

14. In relation to any sanction to be given by the Secretary of State to the borrowing of money by the Corporation under this Order the Secretary of State shall have and may exercise all the powers of section 93 of the Local Government (Scotland) Act 1889:

Provided that for the purposes of this provision the sum of five guineas shall be substituted for the sum of three guineas in that section mentioned.

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Estimate to be made up by Corporation.

15. The estimate to be made up by the Corporation under section 17 of the Scheme of 1931 and the assessments and rates required to be levied under sections 18 19 21 and 23 of the said Scheme shall not only include and be sufficient to defray the annual sums or expenditure specified in the said Scheme but also the interest on any money borrowed or raised under the provisions of this Order and the repayment of the same and the expense of maintaining and managing the additional works hereby authorised and all other annual expenditure arising out of or consequent on the works hereby authorised.

Application of water revenue.

16. Section 25 (Application of water revenue) of the Scheme of 1931 is hereby repealed and subject to the provisions of the said Scheme and this Order the Corporation shall apply all moneys from time to time received by them in respect of the water undertaking (not being money raised by borrowing for the application of which provision is otherwise made) in the manner and order following and not otherwise (that is to say) :—

(Firstly) In payment of the expenses of managing and maintaining the water undertaking including therein all expenses of and incidental to the raising levying and recovering of rates rents charges and revenues and the borrowing of moneys and also in payment of any feu-duties ground annuals or other charges exigible in respect of any lands or property forming part of the water undertaking :

(Secondly) In payment of interest of money borrowed—

(*a*) previous to the coming into operation of the Scheme of 1931 ;

(*b*) under the authority of the Scheme of 1931 ; and

(*c*) under the authority of this Order :

(Thirdly) In setting apart the instalments or sinking fund for paying off the money borrowed—

(*a*) previous to the coming into operation of the Scheme of 1931 ;

(*b*) under the Scheme of 1931 ; and

(*c*) under this Order :

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(Fourthly) In carrying the other powers and provisions of the Scheme of 1931 and this Order into execution:

(Lastly) The surplus (if any) from time to time shall be so applied as to facilitate the reduction of the domestic water rate the public water rate and the rates and charges fixed by special agreement for a supply of water when circumstances shall permit the same to be done.

Crown rights.

17. Nothing in this Order shall affect prejudically any estate right power privilege or exemption of the Crown and in particular nothing herein contained shall authorise the Corporation to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land heritages subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands or of the Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Costs of Order.

18. All costs charges and expenses of and incident to the preparing for obtaining and confirmation of this Order or otherwise in relation thereto shall be paid by the Corporation out of the revenues of their water undertaking or out of moneys to be borrowed by the Corporation Provided that if the said costs charges and expenses be paid out of borrowed money the same shall be repaid within five years from the commencement of this Order.

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