

[2 & 3 GEO. 5.] *Arbroath Corporation Gas Order* [Ch. cxlvii.]
Confirmation Act, 1912.



CHAPTER cxlvii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Arbroath Corporation Gas. [7th August 1912.] A.D. 1912.

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:—

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 Arbroath Corporation Gas Order Confirmation Act 1912. Short title.

A.D. 1912.

SCHEDULE.

ARBROATH CORPORATION GAS.

Provisional Order to authorise the Provost Magistrates and Councillors of the Burgh of Arbroath to raise further Money for their Gas undertaking and to confer on them further Powers in relation thereto and for other purposes.

WHEREAS under the Arbroath Corporation Gas Act 1871 (hereinafter called "the Act of 1871") the undertaking of the Arbroath Gas Light Company and their whole works lands buildings and others as therein mentioned were vested in the magistrates and town council of the burgh of Aberbrothwick or Arbroath (hereinafter called "the Corporation") subject to the payment of perpetual annuities amounting in the aggregate to one thousand four hundred pounds per annum to the shareholders of the said company and of certain sums in addition thereto as mentioned in the Act of 1871 and the Corporation were taken bound to free and relieve the said company from liability for payment of the mortgage or bond debts or loans of the company and all interest due and to become due thereon as therein also mentioned:

And whereas by the Act of 1871 the Corporation were authorised to borrow on mortgage any sums not exceeding in all the sum of twenty thousand pounds and to make and grant mortgages of the undertaking by that Act vested in them and of the rents rates and revenue leviable and receivable by them under the provisions of that Act in security of the payment of the money so borrowed and interest thereon:

And whereas in consequence of the increased demand for gas and the extensions of works and mains thereby rendered necessary the powers of borrowing conferred on the Corporation by the Act of 1871 became inadequate and by the Arbroath Corporation Gas Act, 1899 (hereinafter called "the Act of 1899") the Corporation in addition to any money which they had borrowed or were authorised to borrow under the Act of 1871 were authorised to borrow such further sums as they

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thought requisite for the purposes of the Act of 1871 and the Act of 1899 and of their gas undertaking not exceeding in all the sum of fifteen thousand pounds and to make and grant mortgages of the undertaking by the Act of 1871 vested in them and of the rents rates and revenues leviabie and receivable by them under the provisions of the Act of 1871 and the Act of 1899 in security of the payment of the money so borrowed and interest thereon: A.D. 1912.

And whereas since the passing of the Act of 1899 the Corporation have further expended large sums in the erection of a new gas holder and in the provision of appliances for the extended use of the gas manufactured by them for the purposes of cooking and heating and it is expedient that the Corporation should be authorised to borrow further moneys for the purposes of and in connection with their gas undertaking:

And whereas it is expedient that the Corporation should be authorised to reduce the illuminating power of the gas supplied by them and that further provision should be made for testing such illuminating power:

And whereas it is expedient that the Corporation should be authorised to charge differential rates for the supply of gas and to allow discounts or abatements for prompt payment of accounts and also to large consumers:

And whereas it is expedient that the further powers hereinafter contained should be conferred on the Corporation:

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:—

1. This Order may be cited as the *Arbroath Corporation Gas Order 1912* and the Act of 1871 the Act of 1899 and this Order may be cited together as the *Arbroath Corporation Gas Acts 1871 to 1912.* Short title and citation of Acts and Order.

2. This Order shall commence and have effect at 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." Commencement of Order.

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Interpreta-
tion.

3. In this Order the several words and expressions to which by the Act of 1871 as amended by the Act of 1899 and the Acts incorporated therewith meanings are respectively assigned shall have the same respective meanings unless otherwise defined in this Order or unless there be something in the subject or context repugnant to such construction And—

“The Corporation” means the provost magistrates and councillors of the burgh of Aberbrothwick or Arbroath;

“The gas undertaking” means the gas undertaking of the Corporation.

Power to
borrow.

4. The Corporation may from time to time in addition to any sums they were authorised to borrow under the Act of 1871 and the Act of 1899 borrow on mortgage or otherwise any sums required for the general purposes of the gas undertaking not exceeding fifteen thousand pounds and may make and grant mortgages or other securities of the several rates rents and charges and other revenues to be levied and received by the Corporation under the provisions of the Act of 1871 the Act of 1899 and this Order in security of the money so borrowed and interest thereon.

Application
of Acts of
1871 and
1899.

5. Subject to the provisions of this Order the provisions of the Act of 1871 and the Act of 1899 with respect to the security for money borrowed and the forms of mortgage interest warrant transfer and discharge and the guarantee rate and for the appointment of a judicial factor shall be and are hereby made applicable to the money to be borrowed under this Order.

Corporation
may re-
borrow.

6. If after having borrowed the sum of fifteen thousand pounds by this Order authorised or any part thereof the Corporation shall pay off the same or any part thereof otherwise than by means of the sinking fund hereinafter provided or by means of the proceeds of any lands being part of the gas undertaking sold by them it shall be lawful for the Corporation again to borrow the amount so paid off upon the same securities as those upon which the moneys so paid off were secured and so from time to time.

Priority of
existing
mortgages.

7. All mortgages assignments or other securities on the rates rents charges and other revenues leviable and receivable by the Corporation granted by the Corporation in pursuance of the

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powers and provisions of the Act of 1871 and the Act of 1899 before and subsisting at the commencement of this Order shall during the continuance of such mortgages assignments or securities have priority over any mortgages assignments or securities on the same rates rents charges and other revenues of the Corporation granted after the commencement of this Order Provided that all securities hereafter granted by the Corporation for money borrowed or raised for the gas undertaking shall rank together *pari passu* without preference or priority the one over the other All mortgages granted by the Corporation after the commencement of this Order shall contain an indorsation to that effect.

A.D. 1912.

8. A person lending money to the Corporation shall not be bound to inquire as to the observance by them of any provision of this Order or be bound to see to the application or be answerable for any loss misapplication or non-application of such money or of any part thereof.

Protection of lender from inquiry.

9. Section 64 (Sinking fund) of the Act of 1871 and sections 10 (Sinking fund) 11 (Annual return to Secretary for Scotland with respect to sinking fund) and 17 (Application of revenue) of the Act of 1899 are hereby repealed.

Repeal of sections of Acts of 1871 and 1899.

10. From and after the fifteenth day of May one thousand nine hundred and twelve the Corporation shall set apart annually as a sinking fund for the redemption of annuities authorised by the Act of 1871 and for repayment of moneys borrowed under the powers of the Act of 1871 the Act of 1899 and this Order a sum not less than—

Sinking fund for redemption of annuities and moneys borrowed.

(1) One-fortieth part of the amount capitalised at twenty-eight years' purchase of the said annuities remaining unredeemed at the said date and of the moneys borrowed under the powers of the Act of 1871 and the Act of 1899 and remaining due and outstanding at the said date after deducting from the amount so due and outstanding any balance at the said date standing to the credit of the sinking fund under the said Acts which balance shall be applicable as if this Order had not been made ; and

(2) One-fortieth part of the amount borrowed after the said date under the powers of the Act of 1871 and the

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Act of 1899 and of the moneys borrowed under the powers of this Order excluding therefrom any moneys borrowed to defray the costs of this Order;

and the said sinking fund shall pending its application in redemption of the said annuities or in paying off borrowed money be invested in or on any security in or on which trust funds may be invested according to the law of Scotland or by way of deposit in any of the banks in Scotland incorporated by Royal Charter or by or under the provisions of any Act of Parliament.

Annual
return to
Secretary for
Scotland
with respect
to sinking
fund.

11. The treasurer to the Corporation shall within two months after the expiration of each financial year during which any sum is by this Order required to be set apart as a sinking fund transmit to the Secretary for Scotland a return in such form as may be prescribed by the Secretary for Scotland and verified by statutory declaration if so required by him showing the amount which has been so set apart in respect of that year and also showing the purposes to which any portion of such sinking fund and the interest thereof have been applied during the same period and the total amount remaining to the credit of such fund at the end of the same period and in the event of any default in making such return the treasurer to the Corporation shall be liable to a penalty not exceeding twenty pounds recoverable by the Secretary for Scotland as a debt to the Crown is recoverable. If it appear to the Secretary for Scotland by such return or otherwise that the Corporation have failed to set apart the sum required by this Order as a sinking fund or have applied any portion of the moneys set apart for that fund or any interest thereof to any purposes other than those authorised by this Order the Secretary for Scotland may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made shall be set apart as part of the sinking fund and such order shall be enforceable by decree of either division of the Inner House of the Court of Session pronounced in a summary application presented for that purpose.

Application
of money
borrowed.

12. All moneys borrowed by the Corporation under this Order shall be applied only to purposes to which capital is properly applicable.

Application
of revenue.

13. The rates rents charges and other revenues levied and received by the Corporation under the authority of the Act of 1871

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the Act of 1899 and this Order shall be applied in manner following (that is to say):— A.D. 1912.

Firstly In defraying the expenses of management and maintenance of the gas undertaking including the annual costs charges and expenses of providing and supplying gas the expenses of manufacturing residual products and the payment of any feu duties ground annuals casualties taxes rates assessments and public burdens exigible in respect of any lands or property forming part of the gas undertaking:

Secondly In payment of the annuities to the annuitants and of the interest of money borrowed under the authority of the Act of 1871:

Thirdly In payment of the interest of money borrowed under the authority of the Act of 1899:

Fourthly In payment of the interest of money borrowed under the authority of this Order:

Fifthly In payment of the sums by this Order required to be annually set apart and appropriated for the purpose of the sinking fund:

Sixthly In payment of the sum of two hundred and fifty pounds (so long as the same continues payable) provided to be paid by the Corporation to the trustees of the harbour of Aberbrothwick in virtue of the Aberbrothwick Harbour Finance Act 1897:

Lastly In payment of the sum which the Corporation are by the Act of 1899 required to set apart as a contingency and depreciation of works fund.

14.—(1) The prescribed number of candles shall not be less than fourteen. Illuminating
power of
gas.

(2) The quality of the gas supplied by the Corporation shall with respect to its illuminating power be such as to produce at the testing place when burned at the rate of five cubic feet per hour a light equal in intensity to the light produced by fourteen sperm candles of six to the pound each consuming one hundred and twenty grains of sperm per hour and shall be in all respects in accordance with the provisions of the Gasworks Clauses Act 1871.

(3) For testing the illuminating power of the gas supplied by the Corporation the burner to be used shall be that known

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A.D. 1912. as the Metropolitan Argand No. 2 the photometer shall be the bar photometer or the table photometer the standard light shall be that supplied by Harcourt's ten-candle pentane lamp and in making the test the burner shall be so used as to obtain from the gas when burned at the rate aforesaid the greatest amount of light. Provided that the Board of Trade may on the application of the Corporation approve of the use of any other burner photometer or standard light which may appear to the Board to be equally or more suitable for the testing.

(4) The Corporation shall within three months after the commencement of this Order provide in some convenient part of their gasworks all the apparatus required by this Order for the testing of gas and shall at all times keep the same in proper order and repair.

(5) The method of reporting periodical tests shall be such as to carry forward the average of the previous tests in the following manner namely the test made on any one occasion shall be added to the tests made on the two previous occasions and the average of the three shall be reported as being the illuminating power so ascertained.

(6) All gas supplied by the Corporation to any consumer of gas shall be supplied at such pressure as to balance a column of water not less than eight tenths of an inch in height at the main or as near as may be to the junction therewith of the service pipe supplying the consumer.

(7) Any gas examiner appointed under the Gasworks Clauses Act 1871 may for the purposes of this Order subject to the terms of his appointment at the testing place or at any public lamp as and when he thinks fit test the pressure at which the gas is supplied. The Corporation shall afford to the examiner all reasonable facilities for making the test.

(8) No penalty shall be incurred by the Corporation for insufficiency of pressure defect of illuminating power or excess of impurity in the gas supplied by them in any case in respect of which it is proved that such insufficiency defect or excess was produced by any circumstance beyond the control of the Corporation. Provided that the want of sufficient funds shall not be held to be a circumstance beyond the control of the Corporation.

(9) In the event of any meter used by a consumer of gas being tested in manner provided by the Sale of Gas Act 1859 and

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being proved to register erroneously within the meaning of the said Act such erroneous registration shall be deemed to have first arisen during the then last preceding quarter of the year unless it be proved to have first arisen during the then current quarter. The amount of the allowance to be made to or of the surcharge to be made upon the consumer by the Corporation shall be paid by or to the Corporation to or by the consumer as the case may be and shall be recoverable in the like manner as gas charges are recoverable by the Corporation. A.D. 1912

(10) Section 42 (Quality of gas) section 43 (Corporation to maintain apparatus to test illuminating power of gas) and section 44 (Provision for testing quality of gas) of the Act of 1871 and section 14 (Quality of gas) of the Act of 1899 are hereby repealed so far as inconsistent with the provisions of this Order.

15. The Corporation may notwithstanding anything to the contrary in the Act of 1871 or the Act of 1899 or in any Act incorporated therewith charge within any part of their limits of gas supply differential rates as between gas supplied and used for private lighting purposes and gas supplied and used for any other purposes. Provided that the rate charged for gas supplied for such other purposes shall not in any case exceed the rate charged for gas supplied for private lighting purposes and may be agreed between the Corporation and any person or persons requiring such supply having regard to the times and periods of supply and the quantity used and shall be the same to all persons under like circumstances. Differential charges.

16. In its application to the gas undertaking section 13 of the Gasworks Clauses Act 1847 as that Act is incorporated with the Act of 1871 shall be read as if the words "or any premises" were inserted after the words "private building" and as if the words "Provided also that every such contract entered into by the Corporation shall be alike in terms and amount under like circumstances to all consumers" were added at the end of that section. Amendment of section 13 of Gasworks Clauses Act 1847.

17. The Corporation may if they think fit allow discounts or rebates to consumers of gas in consideration of prompt payment of gas charges not exceeding in any case ten per centum and in addition thereto or irrespective thereof they may if they think fit allow discounts or rebates to large consumers not exceeding in Discounts.

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A.D. 1912. any case fifteen per centum. Provided that all discounts or rebates shall be of equal amount under like circumstances to all consumers. Provided also that notice of the effect of this enactment shall be indorsed on every demand note for gas charges.

Costs of
Order.

18. All costs charges and expenses of and incident to the preparing for and obtaining and confirming this Order or in relation thereto shall be paid by the Corporation out of the money authorised to be borrowed or the rates and assessments to be levied by them and the money received by them under the powers of the Acts of 1871 and 1899 or this Order or any of them and if paid out of borrowed money the same shall be repaid within five years from the commencement of this Order.

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