

ELIZABETH II



1970 CHAPTER ii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act, 1936, relating to Regent, Royal and Carlton Terrace Gardens, Edinburgh. [15th May 1970]

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 1936 c. 52. Order should be confirmed by Parliament:

Be it therefore enacted by the Queen'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 Regent, Royal and Carlton Terrace Gardens, Edinburgh Order Confirmation Act 1970. Short title.

SCHEDULE

REGENT, ROYAL AND CARLTON TERRACE GARDENS, EDINBURGH

Provisional Order to amend the provisions of a contract of feu relating to the Regent, Royal and Carlton Terrace Gardens, Edinburgh, with respect to annual assessments and admission to the gardens; and for other purposes.

Whereas by contract of feu entered into between the Governors of George Heriot's Hospital and the Feuars of stances in Royal Terrace, Carlton Place and Regent Terrace in the City of Edinburgh dated 20th April, 1829, and subsequent dates and recorded in the Particular Register of Sasines for the Sheriffdom of Edinburgh, etcetera on 9th January, 1836, and registered in the Books of Council and Session on 1st February, 1836, there was conveyed to the said feuars ground lying on the eastern side of the Calton Hill, Edinburgh, extending to 11 acres 1 rood and 30 poles or thereby Imperial Measure:

And whereas it is provided in the said contract of feu (i) that the said ground should be laid out as ornamental pleasure ground, and that the proprietor of each of the building stances in Royal Terrace, Carlton Place and Regent Terrace shall be entitled to one pro indiviso share thereof, which share shall forever remain inseparable from such stance, (ii) that such feuar shall be bound to comply with the rules and regulations imposed by the majority of feuars assembled in general meeting called in accordance with the provisions laid down in the said contract of feu, each feuar having one vote for each stance owned by him, (iii) that a majority of the feuars assembled at any meeting called in accordance with the said provisions shall have power to impose such assessment or assessments as appear to them necessary for defraying all expenses relative to the said ground and that whatever is agreed upon and ordered by the majority assembled at any such meeting shall not only be equally binding upon the minority then assembled but also on those feuars who are absent, and (iv) that the assessment or assessments to be imposed for laying out and keeping in good repair the foresaid ground shall not exceed the sum of ten pounds sterling per annum for each lot or stance in the said streets with the legal interest thereof after the term of payment appointed by the said feuars till paid:

And whereas the said ground was duly laid out as a pleasure ground and has for many years been enjoyed as such by the proprietors of the stances in said streets, now known as Royal Terrace, Carlton Terrace and Regent Terrace, there being ninety-three of such stances, and the same has been administered in accordance with the provisions of the said contract of feu:

And whereas up to and including the year ended 31st December, 1966, it was possible to maintain the said pleasure ground to an adequate standard by levying on proprietors an annual assessment not exceeding ten pounds per stance, but this is no longer possible:

And whereas it is desirable that the said pleasure ground shall continue to be maintained in a proper manner and that in order thereto the said limitation of ten pounds per stance imposed under the said contract of feu on the amount of annual assessment leviable on the feuars shall be removed and there be substituted therefor a new limit with provision for the raising of the said new limit when it appears to a sufficient majority of the feuars that it is necessary:

And whereas it is expedient that the feuars of the said ground shall be authorised from time to time to make such regulations as may be appropriate for the admission to the said pleasure ground of persons other than those having right of entry thereto under the said contract of feu and for the granting to such persons of limited voting rights:

And whereas the purposes aforesaid cannot (without the unanimous consent of all feuars, which consent it has been found impossible to obtain) be effected other than by an Order confirmed by Parliament under the Private Legislation Procedure (Scotland) Act 1936: 1936 c. 52.

Now therefore in pursuance of the powers contained in the said Act the Secretary of State orders as follows:—

1. This Order may be cited as the Regent, Royal and Carlton Short title.
Terrace Gardens, Edinburgh Order 1970.

2. This Order shall come into operation on the date of the Act Commencement
confirming this Order, which date is in this Order referred to as “ the of Order.
commencement of this Order ”.

3. In this Order unless there is something in the subject or context Interpretation.
repugnant to such construction the following words and expressions shall have the meanings hereinafter respectively assigned to them (that is to say):—

“ contract of feu ” means the contract of feu between the
Governors of George Heriot’s Hospital and the Feuars of
stances in Royal Terrace, Carlton Place and Regent Terrace
in the City of Edinburgh dated 20th April, 1829, and subse-
quent dates and recorded in the Particular Register of Sasines
for the Sheriffdom of Edinburgh etcetera on 9th January, 1836,
and in the Books of Council and Session on 1st February,
1836;

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“feuar” means the person or persons from time to time holding a title recorded in the General Register of Sasines to any one of the ninety-three building stances in Royal Terrace, Carlton Terrace and Regent Terrace in the City of Edinburgh, and in the case of a building erected on any such stance which has been divided into two or more separate self-contained parts means the person or persons to whom the rights in the said pleasure ground belonging to such stance have been validly conveyed and who holds a recorded title thereto, or failing such conveyance the person or persons having a recorded title to the ground flat thereof or the major part of the ground flat thereof;

“lot”, “stance” and “lot or stance” mean any one of the ninety-three building lots or stances on which the houses Nos. 1 to 40 Royal Terrace, 1 to 19 Carlton Terrace and 1 to 34 Regent Terrace, Edinburgh, are erected;

“pleasure ground” means the ground conveyed in the said contract of feu and the whole parts, privileges and pertinents thereof and also the area of ground extending to 0.17 acre or thereby adjoining thereto on the south conveyed by Disposition by the Governors of George Heriot’s Trust to the trustees for the feuars of Royal, Carlton and Regent Terraces, Edinburgh, dated 13th and recorded in the Division of the General Register of Sasines for the County of Midlothian on 21st both days of April, 1964;

“the three terraces” means Royal Terrace, Carlton Terrace and Regent Terrace all in the City of Edinburgh.

Variation of
limitation on
assessment.

4. With effect from the commencement of this Order the provision contained in the contract of feu limiting the assessment which may be imposed for laying out and keeping in repair the pleasure ground to ten pounds sterling per annum for each lot or stance in the three terraces with legal interest thereof shall cease to have effect and the following provision shall be and is hereby substituted therefor:—

“the assessment or assessments to be imposed for laying out and keeping in good repair the foresaid ground shall not exceed the sum of twenty pounds sterling per annum for each lot or stance, with the legal interest thereof after the term of payment appointed by the said feuars until paid, providing however that it shall be competent for any general meeting of feuars, of which due notice has been given, in accordance with the provisions in the contract of feu and where such notice has contained an intimation that a resolution to that effect will be proposed at the meeting, to resolve that an assessment of an amount which may be in excess of twenty pounds sterling per annum for each lot or stance shall be imposed on the feuars, provided that such resolution in order to be binding shall require to be passed by a majority of not less than three-fourths of the feuars present at such meeting in person or by proxy (such proxy being a feuar): and any such resolution passed by such a majority shall be binding on all feuars whether present at the meeting or not, and whether the amount resolved upon at the meeting be the amount specified in the notice thereof or any lesser amount”.

5. It shall be competent to a majority of the feuars assembled in general meeting of which due notice has been given in accordance with the provisions of the contract of feu to make such regulations as they think fit for conferring on persons other than feuars a right of entry to the pleasure ground on such terms and conditions as to payment of assessments and otherwise as may be determined by such majority and a right to vote at general meetings of the feuars on any matter not affecting the constitution thereof (in regard to which the decision of the chairman of the meeting shall be final).

Provisions for extension of right of entry and voting rights.

6. All costs, charges and expenses incurred preparatory to and in applying for, obtaining and confirming this Order shall be paid by the feuars in equal shares and shall be leviable on the feuars holding recorded titles to the stances or rights in the pleasure ground as at the date of commencement of this Order.

Costs of Order.

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CHAPTER ii

ARRANGEMENT OF SECTIONS

Section

1. Confirmation of Order in schedule.
2. Short title.

SCHEDULE

REGENT, ROYAL AND CARLTON TERRACE GARDENS, EDINBURGH

1. Short title.
2. Commencement of Order.
3. Interpretation.
4. Variation of limitation on assessment.
5. Provisions for extension of right of entry and voting rights.
6. Costs of Order.