

**ELIZABETH II**



**1985 CHAPTER xxxi**

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to East Lothian District Council (Musselburgh Links, etc.).  
[25th July 1985]

**W**HEREAS 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 East Lothian District Council (Musselburgh Links, etc.) Order Confirmation Act 1985. Short title.

## SCHEDULE

### East Lothian District Council (Musselburgh Links, etc.)

*Provisional Order to repeal and to re-enact with amendments certain provisions relating to the administration and regulation of Musselburgh Links and other burgh lands adjoining Musselburgh Links; to make further provision for the administration, regulation and control of Musselburgh Links and those lands; to put beyond doubt the extent of an interdict affecting Musselburgh Links; and for other purposes.*

1973 c. 65.

Whereas the East Lothian District Council (hereinafter referred to as "the Council") are vested with all the functions of a district council by virtue of section 2 of the Local Government (Scotland) Act 1973 for the area of East Lothian as the said area is described in column 3 of Part III of Schedule 1 to the said Act, which district includes the burgh of Musselburgh as it existed at 15th May 1975:

And whereas Musselburgh Links (hereinafter referred to as "the Links") and certain lands adjoining or abutting on the northern boundary of the Links and the foreshore (hereinafter referred to as "the reclaimed lands") are, or are to be, vested in the Council as successors to the Musselburgh Town Council:

And whereas the Links have since time immemorial been used by the inhabitants of Musselburgh and the public for the purpose of recreation and amusement and are subject to a perpetual interdict precluding interference with such use:

And whereas doubts have arisen as to the extent of the said interdict and the status of the reclaimed lands and it is expedient that such doubts should be resolved:

1909 c. xcvi.

And whereas under the Musselburgh Corporation (Extension of Boundaries &c.) Order Confirmation Act 1909 the Council exercise certain powers to regulate and control the Links and part of the reclaimed lands and in particular the Council provide and maintain on the Links a golf course and a racecourse:

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And whereas by virtue of section 225 of the Local Government (Scotland) Act 1973 and section 134 of the Civic Government (Scotland) Act 1982 as now having effect in East Lothian District the said Act of 1909 will (with other local statutory provisions) cease to have effect at the end of 1985: 1973 c. 65.  
1982 c. 45.

And whereas it is expedient that the provisions of the said Act of 1909 should be specifically repealed and re-enacted with amendments so as to secure the continued and better regulation and use of the Links and the reclaimed lands for the benefit of the inhabitants of Musselburgh, and the public, for the purpose of recreation and amusement:

And whereas a plan showing the area and situation of the lands which may be used under and for the purposes of this Order and a book of reference to such plan containing the names of the owners and lessees or reputed owners and lessees of the lands shown on the said plan have been duly deposited with the sheriff clerk of the Haddington Sheriff Court District and with the Secretary of State which plan and book of reference are respectively referred to in this Order as the deposited plan and the deposited book of reference:

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

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: 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 East Lothian District Council (Musselburgh Links, etc.) Order 1985. Short title.

2. For the purposes of this Order—

Interpretation.

“the 1963 Agreement” means the agreement between the Provost, Magistrates and Councillors of the burgh and the South of Scotland Electricity Board dated 27th September and 8th October 1963 and registered in the Books of Council and Session on 25th October 1963;

“the burgh” means the burgh of Musselburgh as it existed at 15th May 1975;

“the Council” means the East Lothian District Council;

“the interdict” means the interdict affecting the Links and granted in the case of Sanderson v. Lees 1859 22D 24;

“the Links” means the area of burgh lands situated in the burgh known as “Musselburgh Links” being the area subject to the interdict and shown edged red on the deposited plan and described in the deposited book of reference;

“the reclaimed lands” means the area of lands which have been or are to be reclaimed situated in the burgh adjacent to or abutting on the Links and shown (so far as such lands form

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a natural accretion to the burgh at the date of commencement of this Order) edged brown on the deposited plan and described in the deposited book of reference, being lands which are or may become burgh lands or are subject to the 1963 Agreement and an agreement between the Provost, Magistrates and Councillors of the burgh and the South of Scotland Electricity Board dated 3rd and 26th May 1965 and registered in the Books of Council and Session on 18th June 1965.

Links to  
continue  
vested.

3. The Links shall continue to be vested in the Council and subject to the provisions of this Order shall be held by them subject to the interdict so that no part of the Links shall be either feued or sold nor used for building purposes other than buildings and erections which may be permitted by the Council under the powers of this Order.

Extent of  
interdict.

4. For the avoidance of doubt it is hereby declared that nothing in the interdict extends to the reclaimed lands.

Administration  
and control of  
Links and  
reclaimed lands.

5.—(1) Notwithstanding anything in the interdict, the Council may on the reclaimed lands so far as they have acquired sufficient rights or interests therein and on the Links—

- (a) continue, extend, alter and maintain the existing golf course and racecourse;
- (b) appropriate any reasonable part or parts of the Links or the reclaimed lands for the purpose of an additional golf course or racecourse or for the provision of such other recreational activities as they consider appropriate;
- (c) erect and maintain, and let and make charges for the use of, shelters, stands and similar erections, fences, clubhouses, restaurants and shops connected with any recreational activities on the Links or the reclaimed lands;
- (d) charge for the use of any golf course provided or maintained under this subsection;
- (e) charge for admission to or the use of any racecourse or other facility provided or maintained under this subsection;
- (f) lay out any reasonable part of the Links or the reclaimed lands as a public park and lay out and maintain roads, footpaths and walls;
- (g) do such other things as appear to the Council to be expedient for enhancing the enjoyment by the public of the Links and the reclaimed lands.

(2) The Council may procure the doing of anything under subsection (1) above by any other person and may for that purpose let or lease the reclaimed lands to such persons and on such terms and conditions as they think fit.

(3) Nothing in this section shall prejudice the right of the inhabitants of Musselburgh to play the game of golf on the Links subject only to any charge made under this section and the byelaws authorised by section 6 (Byelaws) of this Order.

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6. Section 18 (byelaws for recreational facilities) of the Local Government and Planning (Scotland) Act 1982 shall apply to the Links and the reclaimed lands as if they were such facilities as are mentioned in sections 15 and 16 of that Act; and without prejudice to the application of the said section 18, byelaws made in respect of the Links and the reclaimed lands under that section may—

Byelaws.  
1982 c. 43.

- (a) regulate the appointment of keepers, starters, caddie-masters and other persons to be employed on and about any golf course;
- (b) provide for the licensing and regulation of golf caddies, professional golfers and golf experts and all other persons who may be employed for remuneration or reward, and for fixing and regulating the charges for their services;
- (c) prevent unlicensed persons being employed or taking employment on any golf course;
- (d) regulate and prescribe the days on which games may be played and the hours at which games are permitted on the whole or any part or parts of the Links or the reclaimed lands;
- (e) provide for the exclusion and removal of persons refusing or evading payment of any charges authorised by this Order.

7. The Council may on the occasion of any races or any race meeting held or about to be held on the Links or the reclaimed lands—

Closure of  
racecourse.

- (a) inclose such part or parts of the Links or (so far as they have acquired sufficient rights or interests therein) of the reclaimed lands as they consider appropriate for the purposes of such races or race meeting and persons attending the same;
- (b) erect in any such inclosure and maintain and use stands, tents and other conveniences;
- (c) make such charges for admission to such inclosures, stands, tents and conveniences as they think fit;
- (d) during the days on which any such inclosure takes place exclude from the land so inclosed any person whatsoever;
- (e) procure the doing of anything under this section by any other person and for that purpose grant such lettings or licences as they think fit:

Provided that no inclosure under this section shall be for a period exceeding three consecutive days on each occasion.

8. For the protection of the South of Scotland Electricity Board (hereinafter called "the Board") the following provisions shall, unless otherwise agreed in writing between the Council and the Board, apply and have effect:—

For protection  
of South of  
Scotland  
Electricity  
Board.

(1) Nothing in this Order shall authorise the Council to exercise powers which will—

- (a) adversely affect any apparatus belonging to the Board; or
- (b) interfere with any rights of access to such apparatus without the consent of the Board; or

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(c) interfere with the Board's rights and interests under the 1963 Agreement:

(2) If in exercising their powers under this Order the Council interfere with, damage or injuriously affect any apparatus of the Board the Council shall make good any such damage or injury to the Board including the cost of removing and resiting any such apparatus and of any works necessary for the protection of any such apparatus:

1882 c. 56.

(3) In this section "apparatus" means electric lines or works (as respectively defined in the Electric Lighting Act 1882) belonging to, used by, or maintained by the Board and includes any building structure or works constructed for the lodging therein of apparatus, pipe lines for the transportation of ash and any water pipes and reservoirs belonging to or used by the Board:

(4) Any difference arising between the Council and the Board under this section shall be referred to and settled by a single arbiter to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

For further  
protection of  
South of  
Scotland  
Electricity  
Board.  
1972 c. 52.

9. Nothing in this Order shall prejudice any development by the South of Scotland Electricity Board pursuant to a permission granted to that Board by the Council under the Town and Country Planning (Scotland) Act 1972 and dated 3rd October 1983.

Repeal.

10. The enactment set out in columns (1) and (2) of the Schedule to this Order is hereby repealed to the extent described in column (3) of the said Schedule and to that extent shall cease to have effect.

Costs of  
Order.

11. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Council in such manner as they may determine.

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SCHEDULE

Section 10.

ENACTMENT REPEALED

Chapter (1)	Short title (2)	Extent of repeal (3)
9 Edw. 7 c. xcvi.	Musselburgh Corporation (Extension of Boundaries &c.) Order Confirmation Act 1909.	Sections 24 to 27 of the Schedule and so much of the Act as relates thereto.

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# East Lothian District Council (Musselburgh Links, etc.) Order Confirmation Act 1985

## CHAPTER xxxi

### ARRANGEMENT OF SECTIONS

#### Section

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

### SCHEDULE

#### EAST LOTHIAN DISTRICT COUNCIL (MUSSELBURGH LINKS, ETC.)

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2. Interpretation.
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5. Administration and control of Links and reclaimed lands.
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8. For protection of South of Scotland Electricity Board.
9. For further protection of South of Scotland Electricity Board.
10. Repeal.
11. Costs of Order.

SCHEDULE—Enactment repealed.