



**CHAPTER cxlvii.**

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Irvine and District Water Board. [11th August 1903.] A.D. 1903.

**W**HEREAS His Majesty's Secretary for Scotland has after inquiry held before Commissioners 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 Irvine and District Water Board Order Confirmation Act 1903. Short title.

A.D. 1903.

SCHEDULE.

IRVINE AND DISTRICT WATER BOARD.

*Provisional Order to constitute and incorporate a Water Board for the burgh of Irvine and districts adjacent thereto in the county of Ayr to transfer to and vest in such Board the water undertaking of the Corporation of Irvine and for other purposes.*

39 & 40 Vict.  
c. clix.

WHEREAS by the Public Health (Scotland) Act 1867 Order Confirmation (Irvine and Dundonald) Act 1876 and the Order thereby confirmed (herein-after called "the Order of 1876") the provost magistrates and town council of the royal burgh of Irvine (herein-after called "the Corporation of Irvine") and the parochial board of the parish of Dundonald as the local authorities in the said burgh and parish respectively were empowered upon the terms therein mentioned to acquire certain lands for the purposes of the construction of waterworks for the supply of water in the burgh of Irvine and parish of Dundonald or such part or parts thereof as might be formed into a special water supply district under the powers of the Public Health (Scotland) Act 1867 :

And whereas the Corporation of Irvine and the said parochial board as local authorities in the said burgh and parish acquired such lands and constructed under the powers of the Public Health (Scotland) Act 1867 and Acts amending the same certain waterworks for the supply of the burgh and the special water supply district of the parish of Dundonald which was duly formed :

44 & 45 Vict.  
c. lxxi.

And whereas by the Irvine Burgh Act 1881 (herein-after called "the Act of 1881") the boundaries of the burgh of Irvine were extended so as to include the said special water supply district and the powers of the said local authorities in the burgh of Irvine and special water supply district under the Order of 1876 and the undertaking of the Irvine waterworks made and constructed by the said local authorities were transferred to and vested in the Corporation of Irvine and the Corporation of Irvine were empowered to maintain such waterworks and to construct additional waterworks and to supply water within the burgh as extended by that

Act and the suburbs thereof and places adjacent within the parishes of Irvine Dundonald Kilwinning Stevenston Ardrossan and Dreghorn in the county of Ayr : A.D. 1903.

And whereas by the same Act the Corporation of Irvine were empowered to borrow money for the purposes of the water undertaking and to levy assessments under such Act and the said Public Health (Scotland) Acts in respect of the water supply within the extended burgh and the limits for the compulsory supply of water by the Corporation of Irvine were defined to comprise and include the extended burgh :

And whereas by section 135 of the Act of 1881 the Corporation of Irvine were empowered after providing for the water supply within the compulsory water limits to enter into contracts and arrangements with the local authorities of neighbouring towns and places for the supply of water to such towns and places or to the water supply districts under the jurisdiction of such local authorities by measure or otherwise or to enter into agreements whereby such local authorities might become joint proprietors with the Corporation in the waterworks :

And whereas a special water supply district was formed in the year one thousand eight hundred and seventy-seven by the parochial board of the parish of Kilwinning which district was extended in the year one thousand nine hundred :

And whereas after the passing of the Act of 1881 a special water supply district was formed by the parochial board of the parish of Ardrossan embracing the part of the town of Saltcoats situated within that parish and another special water supply district was formed by the parochial board of the parish of Stevenston embracing the portion of the parish of Stevenston which included the town of Stevenston and the part of the town of Saltcoats situated within the parish of Stevenston :

And whereas agreements have been entered into between the Corporation of Irvine and the local authorities responsible for the water supply in such special water supply districts for a supply of water in such districts and are still in force :

And whereas in the year one thousand eight hundred and eighty-five the town of Saltcoats was constituted a burgh under the General Police and Improvement (Scotland) Act 1862 embracing within its boundaries the special water supply district formed by the parochial board of Ardrossan and part of the special water supply district formed by the parochial board of Stevenston :

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And whereas water is supplied in the burgh of Saltcoats by the Corporation of Irvine under the said agreements made between that corporation and the parochial boards of Ardrossan and Stevenston :

And whereas the present limits of the special water supply district of Stevenston outside the burgh of Saltcoats and of the special water supply district of Kilwinning and the limits of the burgh of Saltcoats are set out in the First Schedule to this Order :

And whereas the payments to the Corporation of Irvine for the supply of water in the said special water supply districts of Stevenston and Kilwinning and in the burgh of Saltcoats under the before-mentioned agreements are in each case on the basis of a charge upon the gross rental of the whole assessable property within the said districts and burgh respectively :

And whereas the town of Kilwinning was in the year one thousand eight hundred and eighty-nine also constituted a burgh under the General Police and Improvement (Scotland) Act 1862 :

And whereas the northern district committee of the county council of the county of Ayr (herein-after called "the county council") are the local authority for public health purposes in the special water supply district of Stevenston and the county council levy assessments for the supply of water within that district but in other respects the water supply is under the control of a sub-committee of the said district committee :

And whereas the special water supply district of Kilwinning includes the burgh of Kilwinning and a part of the county of Ayr and the provost magistrates and councillors of the burgh of Kilwinning are the local authority for the purpose of water supply within the burgh and the Northern District Committee of the county council are the local authority for the purpose of water supply outside the burgh and the water supply is in accordance with the Local Government (Scotland) Act 1889 under the control of a joint committee representing the said district committee and the town council of the burgh of Kilwinning but the county council levy assessments for the supply of water within the whole of such special water supply district :

And whereas the provost magistrates and councillors of the burgh of Saltcoats (herein-after called "the town council of Saltcoats") are the local authority within that burgh and the water supply therein is under their control and assessments in respect of the water supply in the burgh are levied by the town council of Saltcoats :

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And whereas the population and assessable rental of the burghs of Saltcoats and Kilwinning and of the town of Stevenston have since the passing of the Act of 1881 greatly increased and now largely exceed the population and assessable rental of the burgh of Irvine :

And whereas the revenue of the water undertaking of the Corporation of Irvine so far as derived from assessments levied in the burgh of Irvine and from the sums payable by the local authorities in the special water supply districts of Stevenston and Kilwinning and the burgh of Saltcoats is now contributed in the proportion of nearly three-fourths from the said special water supply districts and burgh of Saltcoats and one-fourth from the burgh of Irvine and the revenue derived from the supply of water for trade purposes outside the burgh of Irvine is also largely in excess of the revenue derived from trade purposes within that burgh :

And whereas in the month of December one thousand nine hundred and one the Corporation of Irvine applied for a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 for power amongst other purposes to construct certain additional waterworks which had become necessary mainly owing to the requirements of the said special water supply districts and burgh of Saltcoats and the other areas within the limits of supply of the Act of 1881 outside the burgh of Irvine and to borrow additional money for that purpose :

And whereas the county council on behalf of the special water supply districts of Stevenston and Kilwinning and the town council of Saltcoats as representing that burgh opposed the application for the Order before the Commissioners to whom the consideration of the draft Order was referred on the ground (amongst other reasons) that owing to the magnitude of the interests of the said special water supply districts and burgh of Saltcoats in the water undertaking and the supply obtained therefrom the said districts and burgh should have representation in the management and control of the water undertaking :

And whereas after inquiry the following provision was inserted in clause 1 of the draft Order namely :—

“ In order that the county council on behalf of the special  
“ water supply districts of Stevenston and Kilwinning or other  
“ local authority for the time being representing the special  
“ water supply districts or any part thereof and the provost

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“ magistrates and councillors of the burgh of Saltcoats or any  
“ one or more of the said local authorities may have an  
“ opportunity if so advised of lodging an application with  
“ the Secretary for Scotland for a Provisional Order under  
“ the Private Legislation Procedure (Scotland) Act 1899 in the  
“ session of one thousand nine hundred and three for the  
“ constitution of a joint board (herein-after called ‘ the board ’)  
“ representative of the Corporation and the said local autho-  
“ rities and the transfer to and vesting in the board of the  
“ water undertaking of the Corporation the powers contained  
“ in this Order with regard to the water undertaking shall be  
“ and the same are hereby suspended until the lapse of one year  
“ from the date of the passing of the Act confirming this  
“ Order Provided always that nothing contained in this Order  
“ shall prevent the Corporation from appearing and opposing  
“ any such application and Provisional Order by counsel agents  
“ and witnesses if they think fit”;

subject to a proviso that the Corporation of Irvine should be entitled to proceed forthwith to construct certain of the new waterworks proposed to be authorised by such Order :

And whereas other amendments were inserted in the said draft Order modifying the provisions of the Act of 1881 so as to abolish the preferable right to the water supply for domestic and trading purposes within the burgh of Irvine as provided by that Act and to secure a priority for the supply of water for domestic purposes throughout the limits of water supply under that Act and abolishing the former mode of payment for their water supply by the Corporation and the local authorities and establishing a permanent basis on which they should all contribute to the waterworks account :

2 Edw. 7.  
c. ci.

And whereas the said Order containing the aforesaid provision and other amendments was made under the title of “ the Irvine Corporation Order 1902 ” (herein-after called “ the Order of 1902 ”) and the same was confirmed by the Irvine Corporation Order Confirmation Act 1902 :

And whereas the Corporation of Irvine have proceeded with the execution of certain of the works authorised by the Order of 1902 as provided for by that Order :

And whereas the Corporation of Irvine have from time to time borrowed money for the purposes of their water undertaking and a debt of one hundred and fourteen thousand nine hundred and

seventy pounds was on the fifteenth day of May one thousand nine hundred and two last outstanding in respect thereof and further sums have subsequently been borrowed for the purposes of the undertaking: A.D. 1903.

And whereas certain payments have been made to the sinking fund and towards the cost of the undertaking to which payments the burgh of Irvine the burgh of Saltcoats and the said special water supply districts have all contributed :

And whereas it has been agreed that a lump sum be paid to the Corporation in full of compensation for the transfer of the undertaking and it is right that all costs incurred by any of the constituent authorities be paid by the board as a final settlement and adjustment of all financial questions between them :

And whereas having regard to the interests of the said special water supply districts and of the burgh of Saltcoats and the districts adjacent thereto respectively in the water supply and to the magnitude of the new works about to be undertaken under the Order of 1902 it is expedient that the water undertaking should be under the control of a body representative of the district and for that purpose that a water board should be constituted and incorporated as by this Order provided representing the Corporation of Irvine the county council and the town council of Saltcoats and that the water undertaking of the Corporation of Irvine should be transferred to and vested in such board subject to the existing mortgage debt and other debts and liabilities attaching thereto and to the payment to the Corporation of Irvine by the Board of compensation and costs as herein-after provided :

And whereas it is expedient that the Board should be authorised to borrow money for the purposes of this Order and that provisions should be made for meeting the expenses of the Board by means of contributions to be raised out of assessments within the burghs of Irvine and Saltcoats and the said special water supply districts :

And whereas it is expedient that the other powers and provisions contained in this Order should be conferred on the Board and made in reference to the water undertaking of the Board :

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 :

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- A.D. 1903. — Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows:—
- Short title. 1. This Order may be cited for all purposes as the Irvine and District Water Board Order 1903.
- Commissioners Clauses Act incorporated. 2. The provisions of the Commissioners Clauses Act 1847 are (except where inconsistent with or expressly varied by this Order) incorporated with and form part of this Order with the exception of the following clauses and provisions (that is to say):—  
With the exception of clauses 6 7 45 46 47 52 57 65 92 and 106 ;  
And with the exception of the clauses with respect to the election and rotation of the commissioners where the commissioners are to be elected by the ratepayers or other like class of electors ;  
And with the exception of the clauses with respect to the mortgages to be executed by the commissioners (but not including in such exception clauses 76 78 79 83 and 85).  
This Order shall be deemed a special Act within the meaning of the provisions of the Act incorporated with this Order.
- Interpretation. 3. In this Order unless there be something in the subject or context repugnant to such construction—  
“The board ” means the Irvine and District Water Board constituted by this Order ;  
“The Corporation of Irvine ” means the provost magistrates and councillors of the royal burgh of Irvine ;  
“The county council ” means the county council of the county of Ayr ;  
“The district committee ” means the northern district committee of the county council ;  
“The town council of Saltcoats ” means the provost magistrates and councillors of the burgh of Saltcoats ;  
“Constituent authorities ” means the Corporation of Irvine the county council and the town council of Saltcoats ;  
“Constituent authority ” means any one of the constituent authorities ;  
“The Irvine Corporation Acts ” means the Order of 1876 and the Act confirming the same the Act of 1881 and the Order of 1902 and the Act confirming the same recited or referred to in the preamble to this Order ;



“The water undertaking” means and includes the waterworks and water undertaking and all the lands property assets rights powers and privileges by this Order transferred to the Board and all lands works and property rights powers and privileges for the time being appertaining thereto or conferred on the Board by this Order; A.D. 1903.

“The valuation roll” means the valuation roll or rolls made up under the Lands Valuation (Scotland) Act 1854 and Acts amending that Act.

4. For the purpose of carrying this Order into execution there shall be a Board constituted and elected as by this Order provided and the members of the Board and their successors from time to time elected and acting in pursuance of this Order shall be a body corporate under the name and style of “The Irvine and District Water Board” with perpetual succession and a common seal and with power to sue and be sued and to purchase take hold lease and dispose of lands and other property for the purposes of this Order and with all the other powers and privileges of a body corporate. Incorporation of Board.

5. The constitution of the Board shall be as follows:— Constitution of Board.

Seven members to be elected by the Corporation of Irvine from among the members of that corporation;

Six members to be elected by the county council namely:—

Three from among the members of the Landward Committee of the parish council of the parish of Stevenston to be nominated by the said committee if they so desire;

One from among the parish councillors of the parish of Kilwinning to be nominated by the said councillors if they so desire;

Two from among the members of the town council of the burgh of Kilwinning to be nominated by that town council if they so desire; and

Four members to be elected by the town council of Saltcoats from among the members of that town council:

Provided that the members to be nominated as aforesaid shall be so nominated at least ten days before the election by the county council and provided that the Secretary for Scotland may on the application of the constituent authorities or any one of them after the expiration of five years from the date of the passing of the Act confirming this Order and of every subsequent period of five years

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A.D. 1903. — by order under his hand alter the number or qualification of the members to be elected by each or any constituent authority in such manner as he may having regard to all the then circumstances of the case think fair and reasonable.

Election of members.

6.—(1) The first election of members of the Board by each constituent authority shall take place at a meeting of the constituent authority to be held within three months from the passing of the Act confirming this Order or within such further time as the Secretary for Scotland shall by order allow and the members then appointed shall subject to the provisions of this Order continue in office till the first Thursday in the month of January one thousand nine hundred and six.

(2) Each constituent authority shall at a meeting of their body held within one month before the first Thursday in the month of January one thousand nine hundred and six elect the number of members of the Board which they are by this Order authorised to elect to hold office till the first Thursday in the month of January one thousand nine hundred and nine and so on from time to time at the expiration of every successive period of three years.

Provisions where failure to elect members.

7. If any constituent authority fail to elect first members of the Board as by this Order provided it shall be competent nevertheless for the other members of the Board to carry this Order into execution and if any constituent authority fail to elect members of the Board at any subsequent period of election the then existing members of the Board representing such authority shall if still qualified continue in office till their successors are appointed.

No person to be member of Board on behalf of more than one constituent authority.

8. No person being a member of the Board by election by a constituent authority shall so long as he continues a member by virtue of such election be qualified to be also a member of the Board by election from any other constituent authority and any such subsequent election shall be void and if the same person shall be elected a member of the Board by more than one of the constituent authorities at the same election he shall choose under which election to serve and the other election shall be deemed void.

Members to be disqualified on ceasing to be members of body from which they were elected.

9. If a member of the Board elected by a constituent authority ceases to be a member of the body from among the members of which he was elected or becomes disqualified as a member of such body he shall cease to be a member of and to represent the constituent authority upon the Board except in the case where he only

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ceases to be a member of such body by rotation and is forthwith re-elected a member of such body. A.D. 1903.

10. Every member of the Board going out of office shall if otherwise duly qualified be eligible for re-election and every person re-elected shall be deemed a new member. Members going out of office eligible for re-election.

11. A member of the Board may resign his office by intimating in writing to the Board his resignation and any member of the Board may be removed from his office by the constituent authority who elected him provided notice of such removal is forthwith given to the Board. Resignation by members.

12. If any member of the Board dies or resigns or is removed or becomes disqualified or otherwise ceases to be a member of the Board from any cause the constituent authority by whom he was elected may if it think fit at any time after the happening of such vacancy elect a member of the Board in his place from among the members of the body from which such vacating member was elected and every member of the Board so elected shall continue in office only so long as the person in whose place he is elected would have been entitled to continue in office. Occasional vacancies.

13. Whenever an election of a member of the Board has been made the clerk to the constituent authority by whom the election was made shall by writing under his hand certify the election to the Board and in the case of the first election the certificate shall be transmitted to the town clerk of the burgh of Irvine and on every subsequent election to the clerk of the Board. Appointment of members to be certified.

14. The Board shall hold their first meeting at twelve o'clock noon at the town hall in Irvine on the second Thursday after the last election of first members by any of the constituent authorities shall have been certified as aforesaid or after the expiration of the time herein-before mentioned for the election of the first members whichever shall first happen (unless some other day or place shall be appointed for the purpose by the Secretary for Scotland and then on such day and at such place as shall be so appointed) Notice of such first meeting shall be sent by the town clerk of the burgh of Irvine to each member of the Board then elected at his proper address at least six days before the meeting. First meeting of Board.

15. The Board shall hold an annual meeting in the month of June or July in each year and such other ordinary meetings as may be necessary The annual meeting and such other ordinary meetings shall be held on such days at such times and at such places as the Annual and other meetings.

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A.D. 1903. Board may from time to time appoint and the provisions of the Commissioners Clauses Act 1847 incorporated with this Order relating to monthly meetings shall apply to such ordinary meetings.

Power to call special meetings.

16. In addition to the ordinary meetings to be held by appointment of the Board the chairman of the Board for the time being or any three or more members of the Board may at any time by writing addressed and sent to the Board at their office and stating the business proposed to be transacted thereat require a special meeting to be convened and the clerk of the Board shall convene a meeting accordingly and in his circular convening the same shall state the business for which the meeting is convened Provided that if the clerk of the Board fail for forty-eight hours after receipt of such notice to convene the special meeting the chairman or the members of the Board desiring the meeting may themselves convene the meeting by circular as aforesaid.

Error failure &c. not to invalidate acts done &c.

17. No act of the Board or of any of the members thereof shall be invalidated or be illegal by reason of any irregularity in the election of any member of the Board or by reason of any person not qualified or ceasing to be qualified acting as a member of the Board or by reason of any failure or omission on any occasion on the part of any constituent authority to elect any member to the Board or by reason of any other irregularity error failure or omission in or about any election or in or about any matter preliminary or incidental thereto.

As to convening meetings.

18. Every meeting of the Board (other than the first meeting) shall (except as herein-before provided) be convened by the clerk of the Board and every meeting shall be convened by circular delivered to each member of the Board or sent by post to or delivered at his residence two clear days at least before the day of meeting.

Quorum.

19. The number of members of the Board to be present to constitute a meeting of the Board shall be five.

As to existing officers.

20. The Board shall in the event of the present holders of the offices of secretary and treasurer or superintendent of the water undertaking of the Corporation of Irvine or collector of meter rates thereof being removed from office under the provisions of this Order pay compensation to such officer for the loss of office which compensation shall be ascertained failing agreement by an arbiter to be nominated by the Secretary for Scotland Provided that in the ascertainment of the amount of such compensation the arbiter

shall have regard to the terms and conditions of the appointment of such officers and the whole circumstances of the case Provided further that it shall be within the option of the Board to take over the said superintendent and collector or either of them into their own employment or service in similar capacities to those presently held by them and in the event of the Board exercising this option such officers shall have no claim to compensation except in so far as they may suffer diminution or loss of salary or emoluments through such transference Provided also that the Board may re-arrange the duties of and prescribe other duties to be performed by the said superintendent and collector or either of them.

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21. On and after the first day of January next after the passing of the Act confirming this Order (which date is hereinafter referred to as "the date of transfer") the water undertaking of the Corporation of Irvine including all waterworks then existing or in course of construction and all lands works mains pipes plant stores and other property and effects belonging to or vested in the Corporation of Irvine or any person for or in trust for them and forming part of or held in connexion with the water undertaking authorised by the Irvine Corporation Acts and all outstanding accounts rates assessments balances with bankers and other balances money in any sinking fund and all other moneys and debts belonging or owing to the Corporation of Irvine or to any person on their behalf or to or in which they are entitled or interested in connexion with the said water undertaking and all estates and interests of the said Corporation in any such property shall be and are by virtue of this Order transferred to and vested in the Board who shall thenceforth have possess and enjoy the same subject to all debts liabilities and obligations affecting the same and to payment of the costs referred to in subsection (1) (D) of the section of this Order the marginal note of which is "Power to borrow" Provided always that the Board shall within twelve months from the commencement of this Order pay to the Corporation of Irvine the sum of two thousand five hundred pounds as full compensation to the Corporation of Irvine for and in respect of the transfer as aforesaid to the Board which sum the Corporation of Irvine shall apply to such capital purposes as they may determine.

Water under-  
taking of  
Corporation  
of Irvine  
vested in  
Board.

22. As from the date of transfer and subject to the other provisions of this Order all the powers rights privileges and authorities of the Corporation of Irvine under the Irvine Corporation Acts so far as relating to the water undertaking (including the

Transfer of  
powers and  
application  
of Acts to  
Board.

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A.D. 1903. — powers for the construction of the works authorised by the Order of 1902 and the purchase of lands therefor so far as the works are not then executed by the Corporation of Irvine) shall be by virtue of this Order transferred to and vested in the Board subject to the burdens debts and obligations of the Corporation of Irvine and to all obligations provisions and restrictions whatsoever to which the Corporation of Irvine may be subject under any of the recited Acts or otherwise with regard to the water undertaking and the Irvine Corporation Acts so far as they relate to the water undertaking as aforesaid shall thereupon be read and have effect as if the Board had been therein named instead of the Corporation of Irvine or their predecessors in title subject nevertheless to the following provisions and exceptions namely :—

Sections 108 (except so far as defining the date of transfer mentioned in the Act of 1881) to 113 of the Act of 1881 and the provisions of that Act and of the Order of 1902 relating to the levying of assessments by the Corporation of Irvine and the incorporation of portions of the Commissioners Clauses Act 1847 shall not apply to the Board :

Any reference to the compulsory water limits or limits of compulsory supply in any provision of the Irvine Corporation Acts not repealed or superseded by the Order of 1902 or this Order shall be read as referring to the compulsory water limits prescribed in this Order :

The clauses and provisions of the Waterworks Clauses Act 1847 with respect to the communication pipes to be laid by the undertakers except the words “ with the consent in writing “ of the owner or reputed owner of any such house or of “ the agent of such owner ” in section 44 of that Act shall notwithstanding anything in section 2 of the Order of 1902 be deemed to be incorporated with that Order :

Sections 122 124 129 and 135 of the Act of 1881 and the provisions of that Act and of the Order of 1902 with reference to the borrowing of money (so far as the power to borrow has not been exercised) the providing of a sinking fund the keeping of accounts and the application of revenue by the Corporation of Irvine so far as such provisions relate to the water undertaking and sections 19 39 and 40 of the Order of 1902 shall be and the same are hereby repealed.

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23. All annual or other periodical payments or burdens that may from and after the date of transfer be payable for or leviable from any lands heritages and property connected with the water undertaking shall be paid by the Board.

Board to pay annual burdens affecting water undertaking.

24. All byelaws rules and regulations in force at the date of transfer relating to the water undertaking shall continue in force until other byelaws rules and regulations are made by the Board.

Byelaws &c. to remain in force.

25. All books and documents relating to the water undertaking which if this Order had not been made would have been received in evidence shall be received in evidence as if this Order had not been made.

Books &c. to be evidence.

26. If at the date of transfer any action or other proceeding is pending or any cause of action or proceeding is existing by or against the Corporation of Irvine in connexion with the water undertaking the same shall not abate or be discontinued or in anywise prejudicially affected by reason of the transfer or of anything in this Order but may be continued prosecuted and enforced by or against the Board as and when it might have been continued prosecuted and enforced if this Order had not been made.

Pending actions &c. by or against Corporation of Irvine.

27. Except as is by this Order otherwise provided all purchases sales conveyances deeds contracts bonds mortgages and agreements entered into or made in connexion with any property forming part of the water undertaking and in force at the date of transfer shall be as binding and of as full force and effect in every respect against or in favour of the Board and may be enforced as fully and effectually as if instead of the Corporation of Irvine or their predecessors in title the Board had been a party thereto.

Contracts to be binding on Board.

28. All moneys at the date of transfer borrowed or owing by the Corporation of Irvine on mortgage or security of the water undertaking transferred by this Order and the interest thereon shall after the transfer continue to be a charge on the undertaking in the hands of the Board to the same extent and with the same incidents as if this Order had not been confirmed and as if the Board were substituted for the Corporation of Irvine in respect of such mortgage debt and the Corporation of Irvine shall be relieved from all liability for payment of the same and all interest accruing thereon from the date of transfer and all mortgages or other securities granted in respect of such debt shall during their

Mortgage debt to continue charge on undertaking.

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A.D. 1903. — continuance rank preferably to any mortgages granted by the Board under the provisions of this Order.

Board to take over other debts &c.

29. From and after the date of transfer all other debts liabilities and obligations legally due and owing by the Corporation of Irvine in respect of the water undertaking shall be paid and discharged by and may be recovered from the Board in the same manner and subject to the same conditions as they would or might have been paid and discharged by or been recoverable from the Corporation of Irvine if this Order had not been made.

Maintenance of undertaking till transfer.

30. Until the transfer the Corporation of Irvine shall maintain and carry on the water undertaking as heretofore in the ordinary course of business but on and after the first meeting of the Board the Corporation shall not without the previous consent of the Board under the hand of their clerk make or enter into any contract agreement or obligation except such as shall be in the ordinary course of the construction completion renewal and maintenance of works and the proper conduct of the undertaking and shall not involve a liability exceeding one thousand pounds and any expenditure properly made or incurred by the Corporation of Irvine in connexion with the undertaking otherwise than out of moneys borrowed on or arising from the undertaking shall be repaid by the Board.

Existing agreements with local authorities to terminate.

31. As from and after the date of transfer the existing agreements between the Corporation of Irvine and local authorities for the supply of water to the special water supply districts of Stevenston and Kilwinning and the burgh of Saltcoats shall be terminated but without prejudice to the payment to the Board and the right of the Board to recover any sums then due or payable under such agreements and any sums payable under the section of this Order the marginal note of which is "Revenue of Board for first year."

Board to carry on water undertaking and supply water.

32. From and after the date of transfer the Board shall carry on the water undertaking and supply water therefrom subject to all the conditions and obligations attaching to such undertaking as transferred to the Board by this Order.

Limits of Order.

33. The limits for the supply of water by the Board (in this Order called "the water limits") shall be the limits defined in section 121 of the Act of 1881 and section 18 of the Order of 1902.

Limits of compulsory supply.

34. The limits for the compulsory supply of water by the Board (in this Order called "the compulsory water limits") shall



comprise and include the burgh of Irvine within the extended boundaries thereof set out in the First Schedule to the Act of 1881 and the special water supply districts of Stevenston and Kilwinning and the burgh of Saltcoats as defined in the First Schedule to this Order and any future extension of such burghs and special water supply districts or any of them within the water limits. A.D. 1903.

35. The Board shall in consideration of the contributions to them by the constituent authorities or any town council as hereinafter provided and without other payment or charge for the same supply water for domestic purposes within the whole of the compulsory water limits in a uniform and equal manner according to the respective requirements of the towns and districts situate within such limits. Supply of water within compulsory limits.

36. The charges to be made by the Board for the supply of water for domestic purposes beyond the compulsory water limits but within the water limits shall be such as may be agreed between the Board and the person taking such supply and shall be calculated on the basis of a rate or assessment on the premises supplied not less than the lowest assessment at the time levied for the purposes of this Order by any of the constituent authorities upon similar premises within the compulsory water limits receiving a like supply. Charges for supply of water for domestic purposes beyond compulsory limits.

The rates for such a supply referred to in section 126 of the Act of 1881 shall be construed to be the charges authorised by this section.

37. After providing a domestic supply within the water limits the Board shall notwithstanding any agreement to the contrary in force at the date of the passing of the Act confirming this Order supply so far as they are able all traders within the compulsory water limits and Nobel's Explosives Company Limited Ardeer (in this section called "Nobel's Company") and shall give no preference either as to supply or the quality of the water supplied or in any other way to one trader including Nobel's Company over another and shall charge at the same rate to the traders and Nobel's Company aforesaid for the like amount of water taken from the Board Provided that the Board may grant rebates or discounts to large consumers Provided further that in the event of any trader within the compulsory water limits or Nobel's Company and the Board being unable to agree as to the rates to be charged the said rates shall be fixed on the application of any such trader or Nobel's Company by the Sheriff of Ayrshire whose decision shall Provisions as to supply for other than domestic purposes.

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A.D. 1903. be final and not subject to appeal or any other form of review  
Provided further that any such trader or Nobel's Company consuming annually fifty million gallons of water or upwards shall have a like right to appeal to the Sheriff to fix the rebate or discount to be allowed In this section Sheriff shall not include Sheriff Substitute.

Power to lay pipes in streets not dedicated to public use.

38. The Board may on the application of the owner or occupier of any premises within the water limits abutting on or being erected in any street or road laid out but not dedicated to public use supply such premises with water and may lay down take up alter relay and renew in across or along such street or road such pipes and apparatus as may be requisite or proper for furnishing such supply and the provisions of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes shall extend and apply to and for the purposes of this section.

Application of moneys arising from sale &c. of lands.

39. The proceeds of the sale of any surplus lands of the Board and all moneys received by them by way of fine or premium on any lease and other receipts in the nature of capital other than borrowed moneys shall be distinguished as capital in the accounts of the Board and shall be applied in discharge of moneys borrowed by the Board or in redemption of the mortgage debt taken over by the Board.

Contracts for supplying water.

40. Subject to the provisions of this Order the Board may enter into and carry into effect agreements with any local authority company or persons for the supply of water beyond the water limits to any such authority company or persons respectively in bulk or by a rate on rental or otherwise and for such remuneration and on such terms and conditions and for such period as may be agreed upon Provided that such supply shall not be given except with the consent of the local authority or of any company or person supplying water under parliamentary authority within the district to be supplied nor if and so long as such supply would interfere with the supply of water for domestic and other purposes within the water limits Provided further that nothing in this Order shall prevent the Board from continuing to give a supply of water under any existing agreement made by the Corporation of Irvine.

Power to borrow.

41.—(1) The Board may from time to time borrow at interest upon mortgage of the revenue of the water undertaking or any part thereof including the contributions receivable by them from the constituent authorities or any town council under the provisions

of this Order the sums of money necessary for the purposes herein-after specified (that is to say) :— A.D. 1903.

- (A) For the purpose of constructing or completing the works authorised by the Order of 1902 and the purchase of lands and servitudes therefor and otherwise carrying into effect the powers of that Order in relation to the works thereby authorised a sum not exceeding one hundred and four thousand two hundred pounds ;
- (B) For the purpose of paying off any moneys borrowed or owing by the Corporation of Irvine on mortgage or security of the water undertaking any sum not exceeding the amount thereof owing at the date of transfer ;
- (C) For the general purposes of the undertaking of the Board to which capital is properly applicable any sum not exceeding twenty thousand pounds ;
- (D) For the purpose of paying the costs charges and expenses incurred by each of the constituent authorities in promoting and opposing this Order and the Provisional Orders promoted by the Corporation of Irvine in the sessions of 1901 and 1902 all which costs shall be taxed as between agent and client by the auditor of the Court of Session.

(2) Money borrowed under this section shall be applied only to the purposes for which it is authorised to be borrowed. Application of borrowed money.

(3) Any moneys borrowed under this section for the purposes mentioned in (A) shall be repaid within fifty years from the borrowing of the same any moneys borrowed under this section for the purposes mentioned in (B) shall be repaid within the period fixed by the Irvine Corporation Acts for the repayment of the debt or if as regards any portion of the debt no period is fixed then within fifty years from the time the money was borrowed by the Corporation of Irvine any moneys borrowed under this section for the purposes mentioned in (C) shall be repaid within the period of fifty years from the borrowing of the same and any moneys borrowed under this section for the purposes mentioned in (D) shall be repaid within five years from the borrowing of the same which respective periods are herein-after referred to as "the prescribed period" and such repayment shall be made either by equal annual instalments of principal or of principal and interest combined or by means of a sinking fund appropriated for that purpose and with the accumulations thereof (if any) from time to time applied for that purpose or partly in one way and partly in any of the other ways Provided Periods for repayment.

A.D. 1903. — that the Board shall not be bound to pay any instalment or make any payment to any sinking fund in respect of moneys borrowed for the purposes of (A) until the expiration of three years from the date of transfer.

Re-borrow-  
ing. (4) If having borrowed any money under the provisions of this Order the Board pay off the same or any part thereof otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of lands or other moneys received on capital account (not being borrowed moneys) 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.

As to exist-  
ing funds. (5) Any moneys received by the Board from the Corporation of Irvine as representing any existing sinking fund of that Corporation applicable to the water undertaking shall be applied by the Board in repayment of moneys borrowed or owing by the Corporation of Irvine on the water undertaking or in repayment of moneys borrowed by the Board for the purposes mentioned in (B) or be paid into a sinking fund which may be formed for the repayment of such last-mentioned moneys.

Sinking  
fund. 42.—(1) Any sinking fund shall be formed or maintained either—

(A) By payment to the fund throughout the prescribed period subject as in the last preceding section provided of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed A sinking fund so formed is herein-after called “a non-accumulating sinking fund”; or

(B) By payment to the fund throughout the prescribed period subject as in the last preceding section provided of such equal annual sums as with accumulations at a rate not exceeding three per centum per annum will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed A sinking fund so formed is herein-after called “an accumulating sinking fund.”

(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in

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respect of which the sinking fund is formed be immediately invested in securities in which trustees are by law for the time being authorised to invest or in mortgages bonds debentures debenture stock stock or other securities (not being annuity certificates or securities payable to bearer) duly issued by any local authority (other than the Board) the Board being at liberty from time to time to vary and transpose such investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Board towards the equal annual payments to the fund.

(4) The Board may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed Provided that in the case of an accumulating sinking fund the Board shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5)—(A) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Board :

(B) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Order shall be paid by the Board in addition to the payments provided for by this Order.

(7) If it appear to the Board at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Board to make such increased payments to

A.D. 1903. — the sinking fund as will cause the sinking fund to be sufficient for that purpose.

(8) If the Board desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Board be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Board may reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Board be sufficient to repay the loan in respect of which it is formed within the prescribed period the Board may discontinue the annual payments to such sinking fund.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose or purposes of the Board as the Board may determine.

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

43. The treasurer of the Board shall within two months after the expiration of each year during which any sum is by this Order required to be paid as an annual instalment or to be set apart for 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 paid or set apart in respect of that year and the description of the securities upon which any investment has been made and also showing the purposes to which any portion of such sinking fund and the interest or income thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any default in making such return such treasurer so making default shall be liable to a penalty not exceeding twenty pounds which shall be recoverable by the Secretary for Scotland as a debt to the Crown is recoverable If it appear to the Secretary for Scotland by any such return or

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otherwise that the Board have failed to pay any instalment or to set apart the sum required by this Order to be set apart for the sinking fund or have applied any portion of the moneys set apart for that fund or any interest or income 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 paid or set apart and invested 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 in Scotland pronounced in a summary application presented for that purpose. A.D. 1903.

44. The Board may raise the whole or any part of the moneys which they are authorised to borrow under this Order by the creation and issue of redeemable stock under the Local Authorities Loans (Scotland) Acts 1891 and 1893 or any statutory modification thereof for the time being in force and the Board shall be deemed a local authority within the meaning of those Acts and the stock so issued by them shall in every respect be in the same position as stock issued by local authorities under those Acts Provided that nothing in this section shall authorise the Board themselves to levy any rate. Board may borrow under Local Authorities Loans (Scotland) Acts 1891 and 1893.

45. Every mortgage to be granted by the Board shall be by deed duly stamped in which the consideration shall be truly stated and may be in the form contained in the Second Schedule to this Order or to the like effect. Form of mortgage.

46. Every mortgage to be granted by the Board may be partly in writing and partly in print and shall besides being under the common seal of the Board be signed by at least two members of the Board and the treasurer Provided that none of the said persons shall by his subscription of any such mortgage be or be held to have rendered himself individually or personally liable for the payment of any money so borrowed or any interest thereon or of any sums whatsoever in respect thereof. Manner in which mortgages to be signed and executed.

47. Any person entitled to any such mortgage may transfer his right and interest therein to any other person and every such transfer shall be by deed or by indorsation on the mortgage duly stamped wherein the consideration shall be truly stated and may be in the form contained in the Third Schedule to this Order or to the like effect. Transfer of mortgages.

48. If any such mortgage be transmitted by reason of the bankruptcy of the person entitled thereto there shall be produced Transmission of mortgages

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A.D. 1903. to the Board official evidence of such bankruptcy and of the vesting  
— of the bankrupt estate in the trustee official assignee or other person  
in case of to whom such estate shall be transferred.  
bankruptcy.

Mortgages to 49. All mortgages granted by the Board under the authority  
be personal of this Order and all money advanced or lent on the security of the  
property. revenue of the water undertaking of the Board shall be movable or  
personal estate.

Discharge of 50. Any person entitled to any mortgage granted by the Board  
mortgages. under the authority of this Order may discharge the same and his  
right and interest therein in favour of the Board and every such  
discharge may be written or partly written and partly printed on  
the mortgage and may be according to the form contained in the  
Fourth Schedule to this Order or to the like effect and such discharge  
when signed by the person entitled to such mortgage and duly  
stamped shall be valid and effectual to all intents and purposes.

Ranking of 51. All mortgages and stock at any time and from time to time  
mortgages. granted or issued by the Board under this Order shall rank together  
without any priority one over another on account of the date of the  
mortgage or date of issue of the stock or on any other account.

Protection 52. No person lending money to the Board shall be bound to  
of lender inquire as to the observance by the Board of any provision of this  
from inquiry. Order or be bound to see to the application or be answerable for  
any loss or non-application of such money or any part thereof.

Appoint- 53. In the event of any principal money borrowed by the Board  
ment of judi- on mortgage as aforesaid or any interest thereon not being paid  
cial factor. within three months after such payment shall have become due and  
after demand thereof in writing it shall be lawful for any mortgagee  
holding by himself or in conjunction with any other mortgagee or  
mortgagees joining in the application not less than ten thousand  
pounds of debt to render his or their security effectual by the  
appointment of a judicial factor and the application for such  
appointment shall be made by summary petition to the Court of  
Session or in time of vacation to the Lord Ordinary on the Bills  
who are hereby respectively authorised and required on such appli-  
cation being made by any mortgagee or mortgagees holding the  
sum before specified to appoint some person as judicial factor  
to the effect and with the powers herein-after mentioned unless  
previously to such application being advised the amount of such  
principal money or interest with interest thereon and expenses



shall have been paid to the petitioner or petitioners or unless the said Court or Lord Ordinary as the case may be shall be satisfied that consignment thereof should under the circumstances be accepted in lieu of payment and such consignment be made accordingly and the interlocutor making such appointment shall not be subject to review or appeal. A.D. 1903.

54. The judicial factor so appointed on finding security in common form shall exercise all the powers conferred by this Order upon the Board in relation to managing and maintaining the water undertaking and ascertaining fixing collecting and recovering the revenue thereof and the Board shall hand over to him all books and documents necessary for that purpose and after defraying all expenses incurred in the exercise of such powers or otherwise for and in relation to the undertaking the judicial factor shall from time to time apply and pay over the balance of the sums received by him to the several parties entitled to the same and such judicial factor shall continue not only until all arrears due at the date of the appointment of such judicial factor and any interest which shall have become due during his continuance in office with interest and expenses including the expenses of the application for such appointment and of carrying the purposes thereof into execution shall have been paid but also until any half year's interest which although not due may become current during his continuance in office and a sufficient sum to meet expenses shall have been paid or consigned in one of the chartered or other banks in Scotland and upon payment and consignment as aforesaid of the said principal money interest and expenses it shall be lawful for the Board to apply to the Court of Session or Lord Ordinary as aforesaid for the recall of the appointment of the judicial factor. Powers and duties of judicial factor.

55. In order to raise such money as may be necessary to defray the current annual expenditure of the Board until their revenue shall be collected the Board may borrow during the currency of any financial year in addition to the other sums authorised to be borrowed on the security of such revenues any sum or sums not exceeding in the whole one-half of the approximate amount of such revenues for the year then current from any bank or banking company or other company or person on such terms and conditions and in such form as may be agreed on between the parties Provided that such sums so borrowed shall be paid off and extinguished at or before the end of the then current year out of the moneys received by the Board on revenue account. Borrowing powers for current expenses.

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Board may borrow temporarily for capital purposes.

56. In order to enable the Board on and after the date of transfer forthwith to proceed with any works then in course of construction the Board may temporarily until provision can be made for borrowing the money on mortgage or stock in manner before mentioned borrow from any bank or banking company or other company or person on security of their revenues and on such terms and conditions and in such form as may be agreed any sum or sums not exceeding in the whole five thousand pounds and any moneys so borrowed shall be subsequently repaid out of moneys duly borrowed on mortgage or stock under the powers of this Order.

As to liability of constituent authorities for Board's debts.

57. Notwithstanding anything in the Local Government (Scotland) Act 1889 the consent of the standing joint committee of the county council shall not be required to any works involving capital expenditure undertaken by the Board nor to the borrowing of any money by the Board under this Order and none of the constituent authorities shall be a party to any mortgage granted by the Board nor be liable for any moneys borrowed by the Board beyond their liability to pay the contributions to meet the expenditure of the Board made payable by them respectively under this Order and to levy assess and recover rates or assessments within their respective districts included in the compulsory water limits for the purposes of such contributions as herein-after provided.

Board may form reserve fund.

58. The Board may if they think fit set aside annually out of their revenues such a sum not exceeding two hundred pounds as they think reasonable as a reserve fund and may invest and accumulate the same at compound interest in any securities in which they are authorised to invest sums paid into any sinking fund until the reserve fund so formed amounts to the sum of five thousand pounds which fund shall be applicable from time to time to meet any extraordinary claim demand or charge arising against the Board and so that if such fund be at any time reduced it may thereafter be again made up to the said sum and so from time to time as often as such reduction shall happen Resort may from time to time be had to the reserve fund for any of the purposes aforesaid although such fund may not at the time have reached or may have been reduced below the full amount of five thousand pounds as aforesaid.

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59. In respect of the year ending the fourteenth day of May one thousand nine hundred and four the constituent authorities shall pay to the Board on or before the second day of February one thousand nine hundred and four the contributions in respect of the water undertaking payable by them respectively in terms of section 39 of the Order of 1902 and shall make the necessary assessments for the purpose as if this Order had not been made and for the purpose of ascertaining the amount of such contributions the rate per pound to be applied to the rental specified in the said section shall be ninepence halfpenny.

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Revenue of  
Board for  
first year.

60. The constituent authorities and any town council at the time levying rates or assessments under this Order shall on the first Monday in the month of March one thousand nine hundred and four and on the first Monday in the month of March in each succeeding year furnish to the Board a statement in the form to be prescribed by the Board and certified by the respective collectors for each constituent authority or town council showing the total amount of the gross rental as appearing by the valuation roll of all property within their respective burghs or special water supply districts for the year then current and also separately the total amount of the gross rental as so appearing of each class of such property as is specified in section 139 of the Act of 1881 and of premises which have been assessed as shops or would have been so assessed if situated in a burgh for water supply and each constituent authority and town council shall allow the Board access to the valuation roll and assessment books of their respective burghs and districts for the purpose of ascertaining the details of such statement and of verifying the same.

Returns of  
assessable  
rentals by  
constituent  
authorities.

61. The Board shall on or before the thirtieth day of June in every year (other than the year one thousand nine hundred and three) estimate the amount of money which has been or will be incurred or required during the year commencing on the fifteenth day of May in such year (herein-after called "the current year") to provide during the current year for the costs charges and expenses of supplying water under this Order the interest on money borrowed or to be borrowed or at the time owing on the water undertaking and the annual instalments of principal or principal and interest combined and payments to the sinking fund under this Order as well as the sums to be set aside for the reserve fund and the expenses of maintaining managing and working the water undertaking including all salaries wages and other expenses of the

Board to esti-  
mate annual  
expenditure  
and income  
in subsequent  
years.

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A.D. 1903. officers servants and others employed by the Board and any sums required to make good any deficiency in the revenue of the water undertaking in the previous year and all other charges and expenses properly chargeable against revenue in respect of the undertaking and shall also estimate the probable revenue to be derived from the water undertaking during the current year otherwise than from the contributions by the constituent authorities or any town council as herein-after mentioned.

Estimates to be considered by Board.

62. The said estimates shall be considered by the Board at a meeting to be held on or before the fifteenth day of the ensuing month of July and at such meeting or any adjournment thereof (but not later than the thirty-first day of the said month of July) the Board shall ascertain and determine the amount which (in addition to such estimated revenue) will be required to be contributed by the constituent authorities or any town council during the current year to meet the expenditure of the Board during the year and shall apportion the amount so to be contributed among the constituent authorities or any town council as provided in the next following section.

Payments by constituent authorities.

63.—(1) The amount to be contributed as aforesaid shall be apportioned between the constituent authorities in proportion to the gross rental of all property as appearing in the valuation roll for the year preceding the current year within the respective districts or areas of the constituent authorities at the time included within the compulsory water limits excepting always from such gross rental as appearing in the said roll (1) three-fourths of the rental of the subjects specified in section 139 of the Act of 1881 and (2) three-fourths of the rental of shops all which exceptions shall apply to the same class of subjects and shops situated within the respective districts or areas of the constituent authorities Provided that nothing in this subsection shall affect the mode of assessment for water supply in the respective districts or areas of the constituent authorities or the mode of imposing levying and collecting the same.

(2) The Board shall forthwith issue precepts to the constituent authorities for the amounts of the contributions so respectively apportioned to them and the constituent authorities shall within six months from the receipt of such precepts or such longer period as may be agreed with the Board pay to the Board the amounts of such contributions so payable by them respectively.

(3) Such contributions shall be paid respectively by the constituent authorities as follows:— A.D. 1903.

- (a) By the Corporation of Irvine out of the rates or assessments which under the Act of 1881 they were authorised to assess and recover upon and from property within the burgh of Irvine in connexion with their water undertaking authorised by that Act or such other rates or assessments as they are or may at the time be authorised to raise or levy for water supply within the burgh of Irvine as now existing or as the same may be from time to time extended within the water limits ;
- (b) By the county council as regards the special water supply district of Stevenston out of the special water assessment or other rate or assessment which under the Public Health (Scotland) Act 1897 or any other Act at the time in force they are or may be authorised to raise or levy for the purpose of water supply within that district as now existing or as the same may be from time to time extended within the water limits and as regards the special water supply district of Kilwinning out of the special water assessment or other rate or assessment which under the same Acts they are or may be authorised to raise or levy for the purpose of water supply within that district as now existing or as the same may be from time to time extended within the water limits ;
- (c) By the town council of Saltcoats out of the water assessment or other rate or assessment which under the Burgh Sewerage Drainage and Water Supply (Scotland) Act 1901 or any other Act at the time in force they are or may be authorised to raise or levy for the purpose of water supply in the burgh of Saltcoats as now existing or as the same may be from time to time extended within the water limits :

All which rates or assessments are hereby charged with the payment of such contributions respectively and subject to the provisions of this Order the constituent authorities are hereby authorised and required to raise levy assess and recover the same within their respective districts or areas at such rate in the pound as may be necessary to produce the amount of contributions payable by them respectively.

(4) Provided that in the event of the whole area of the special water supply district of Stevenston as now existing or hereafter extended as aforesaid being hereafter embraced within a burgh to

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A.D. 1903. — be formed under the Burgh Police (Scotland) Act 1892 or any other Act or in the event of the whole area of the special water supply district of Kilwinning as now existing or hereafter extended as aforesaid being hereafter embraced within the burgh of Kilwinning and of the provost magistrates and councillors of either of such burghs (in this section referred to as “the town council”) being or becoming the local authority for water supply within their burgh then the contribution herein-before made payable by the county council in respect of the special water supply district included within such burgh shall thenceforth be payable by the town council of such burgh and the Board shall issue their precept in respect thereof to such town council instead of to the county council and such town council shall (in lieu of the same being raised by the county council) raise out of the water assessment or other rate or assessment which under the Burgh Sewerage Drainage and Water Supply (Scotland) Act 1901 or any other Act at the time in force they are or may be authorised to raise or levy for the purpose of water supply in the said burgh the amount of such contribution and pay the same to the Board within the period herein-before limited for payment thereof by the county council. The provisions of this Order as to the recovery by the Board from the constituent authorities of the contributions payable by them respectively shall in such event apply to such town council.

Premises not to be charged with both assessment and meter rental &c.

64. The constituent authorities or any town council at the time levying rates or assessments under this Order shall from time to time furnish to the Board particulars of the amounts of the rates or assessments levied or assessed in pursuance of this Order on all premises within their respective districts or areas to which water is supplied by the Board by meter or at special rates and the Board shall in ascertaining the amount due from any person so supplied by meter or at special rates as the price of water so supplied deduct the amount of the rate or assessment levied or assessed on his premises as aforesaid and the Board shall only be entitled to recover from such person the amount by which the price of water sold by meter or at special rates may exceed the amount of such rate or assessment.

As to recovery of payments from constituent authorities.

65. If any constituent authority fails to pay the amount of any contribution so apportioned to it within the time aforesaid the same shall be a debt due to the Board from such authority and shall bear interest till payment at the rate of five pounds per centum per annum and the Board may in addition to all other remedies

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proceed for recovery thereof in either of the modes following (that is to say):— A.D. 1903.

- (A) The Board may sue the defaulting authority for the amount unpaid in any court of competent jurisdiction ;
- (B) The Board may by precept empower some officer of the Board to raise by means of a rate or assessment to be assessed upon the like property and to be made levied and collected in like manner and with the like powers and authorities as the rate or assessment out of which the amount in arrear ought to have been paid by the defaulting authority such sum (the amount to be specified in the precept) as in the opinion of the Board will be sufficient to pay the amount so in arrear and interest and all expenses incurred in consequence of the non-payment thereof and the expenses of levying and collecting such rate and any officer of the Board so empowered shall have the like powers of assessing making levying and collecting rates and of requiring officers of the defaulting authority to account as the defaulting authority would have under any Act or otherwise and the officer of the Board so empowered after paying all money payable under the precept shall pay any residue of the money received by him to the defaulting authority.

66. Any balance of revenue remaining in the hands of the Board at the end of any financial year shall be carried forward and taken into account in estimating the revenue required for the next following year. As to balance of revenue in previous year.

67. Any judicial factor appointed under this Order shall be entitled to receive the amounts so apportioned by the Board to the constituent authorities and town councils and in case the Board at any time neglect or refuse to make such apportionment or to recover the same or any part thereof the judicial factor shall in every such case be entitled to make such apportionment and to exercise all or any of the powers by this Order conferred on the Board for recovering the amount so apportioned. Judicial factor may receive amounts payable by constituent authorities.

68. The accounts of the Board shall be audited by an auditor to be appointed every year by the Secretary for Scotland Such auditor shall be an accountant or firm of accountants and shall be substituted for the auditors mentioned in the Commissioners Clauses Act 1847 and the Board may pay him such remuneration for his services as they think reasonable. Auditor.

[Ch. cxlvii.] *Irvine and District Water Board* [3 EDW. 7.]  
*Order Confirmation Act, 1903.*

A.D. 1903.  
Power to  
apply for  
further  
powers &c.

69.—(1) Where in the judgment of the Board it is expedient for the Board to apply to the Secretary for Scotland for an Order to repeal amend or extend any Order or Act for the time being relating to or affecting the Board or for any alteration or extension of their powers (including the grant of new powers) or otherwise in respect of any matter for the improvement of or in connexion with the water supply of their district they may pay the costs and expenses attending such application out of their revenues as part of their working expenses.

(2) No expenses in relation to any such application shall be paid as aforesaid unless incurred in pursuance of a resolution passed at a meeting of the Board by an absolute majority of the whole number of the Board after ten clear days' notice by public advertisement of such meeting and of the purpose thereof in two newspapers published or circulating within the water limits such notice to be in addition to the ordinary notices required for summoning such meeting. No further expense shall be incurred or paid as aforesaid after the deposit of the petition for the Order unless the propriety of the promotion of such Order shall be confirmed by such absolute majority at a further meeting of the Board to be held in pursuance of notice not less than fourteen days after the deposit of the petition for the Order.

(3) The Board may oppose any application for an Order or any Bill in Parliament which in their judgment it is expedient in the interests of their undertaking to oppose and may on obtaining the consent of the Secretary for Scotland pay the costs and expenses attending such opposition out of their revenue as part of their working expenses.

Justices not  
disqualified.

70. No person shall be incapable of acting as a justice in the execution of this Order by reason of his being a member of the Board or a mortgagee under this Order or of his being liable to the payment to the Board of any water rent or rate or other payment.

Costs of  
Order.

71. All costs charges and expenses of and incident to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall in the first instance be paid by the constituent authorities in the proportion of the respective gross rentals of their respective districts according to the valuation rolls for the time being out of any of their funds or revenues but shall be repaid with interest at the rate of three pounds per centum per annum to the constituent authorities by the Board out of the moneys to be borrowed by them under the powers of this Order.



The SCHEDULES referred to in the foregoing Order.

A.D. 1903.

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THE FIRST SCHEDULE.

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LIMITS OF THE SPECIAL WATER SUPPLY DISTRICT OF STEVENSTON.

The area included within a line commencing at the east boundary line of the burgh of Saltcoats where said line crosses the line of the north fence of Auchenhavrie Plantation on the north side of Nelson's Tower and running thence eastward along the line of said fence to a point opposite Old Coal Pit in plantation thence southward along west side of fence running southward to near the road from Saltcoats to Stevenston thence along north side of plantation on the north side of said road and following the stone wall running north along west side of strip of plantation and along west side of Caponeraig Quarry to the south side of the highway leading from Stevenston to Ardrossan thence along the south side of said highway in a westerly direction for a distance of about 240 yards to a point in line with the line of the east fence of the plantation numbered 266 on the Ordnance Map (second edition) of the parish of Stevenston dated 1896 thence north across said highway and north along the line of said fence for a space of 160 yards or thereby thence east in a straight line to the hedge dividing field No. 227 on said map from the garden ground of Mayville thence in a north-easterly direction through Mayville garden ground for a space of 166 yards or thereby to a point in the enclosure marked No. 261 on said map thence northwards in a straight line to the west fence of the plantation on the west side of the Break Plough Cottages thence northward along said fence and north-eastwards along the south fence of the plantation on the north side of Break Plough to the east side of the road leading from Stevenston to Kerelaw thence in a south-westerly and southerly direction along the wall on the east side of said road to the bridge over Breakplough Burn thence along said burn to its junction with Stevenston Burn thence through field till it joins the boundary of Feuars' Feus at north-west corner of Mr. Wilson of Broomhouse Feus and thence along north boundary of feus and north fence of field running east till it joins the road leading to Hayocks thence along west side of said road till it joins the turnpike road from Stevenston to Kilwinning thence continuing in a straight line across said road due south for a distance of about 99 yards thence east along the wall of Ardeer Gardens for a distance of about 190 yards then south through said gardens for a distance of about 120 yards thence west along the southern boundary of Ardeer Office Houses to the entrance to the Paddock and thence south in a straight line to the south fence of the Lanarkshire and Ayrshire Railway main line thence along said fence in an easterly direction to the north side of the Glasgow and South

[Ch. cxlvii.] *Irvine and District Water Board* [3 EDW. 7.]  
*Order Confirmation Act, 1903.*

A.D. 1903. — Western Railway main line thence westwards along the north side of the said main line for a distance of 176 yards or thereby thence across said main line from north to south to the east boundary of the Eagle Foundry Feu thence north-eastwards along the south side of the said main line to the embankment of the Lanarkshire and Ayrshire Railway thence south-eastwards along side of said embankment to the angle formed thereby thence south-westwards along the north face of the embankment of the branch of said line leading into the Ardeer Ironworks to the north side of the bridge carrying the said branch line over the road to Nobel's Explosives Works thence along the north side of the said bridge and along the south face of the embankment of the said branch line for a distance of about 510 yards following the bend thence south to the south-eastmost corner of the Old Square at Ardeer Ironworks keeping at a distance of 30 feet from the east wall of the houses in said square thence in a straight line to the south-east corner of Ardeer Chemical Works thence round east south and west sides of said works and wall from north-west corner along west side of railway till it joins the main line of the Glasgow and South Western Railway at Stevenston Burn thence following the course of said burn on its west side to the south side of Moorpark Road thence west in a straight line to and along the fence enclosing the Lanarkshire and Ayrshire Railway on the north-west side and continuing along said fence in a west south-westerly direction to the east side of the railway bridge near Auchendarvie Brickwork thence along the fence in a north-easterly direction to the north-west side of the road called Auchendarvie Road thence in an east north-easterly direction along said road for the space of 153 yards or thereby thence in a north-westerly direction till it reaches the south side of the turnpike road from Saltcoats to Stevenston at the west side of David Bank's property and thence west along south side of said road to the line of the east boundary of the burgh of Saltcoats on the west side of the lodge at the entrance to Auchendarvie House thence north along said line to the point of commencement.

LIMITS OF THE SPECIAL WATER SUPPLY DISTRICT OF KILWINNING.

The area included within a line commencing at a point on the south-east side of the road leading from Kilwinning to Stevenston distant to the south-west about 227 yards from the farm steading of Townhead at the west end of Kilwinning and running along the south-east side of said road to a point opposite the south fence of the entrance road to Kilwinning slaughter-house thence north-westwards along that fence of that road to the point where it joins the slaughter-house grounds thence south-west north north-east and east along the boundary fence surrounding said slaughter-house grounds to the north-west end of the north fence of said entrance road thence along the boundary of Doura plantation in a north-easterly direction for about 30 yards thence in a line running north-eastwards following the bends and at a distance of 64 yards from the said road between Stevenston and Kilwinning to a point in field number 298 of the Ordnance Map of the parish of Kilwinning (second edition) dated 1896 which point is distant about 230 feet

from the western boundary of last-mentioned field and about 165 feet from the said road between Kilwinning and Stevenston thence in a northerly direction in a straight line to the eastmost corner of field number 414 of the said map thence in a straight line in a north-easterly direction 250 yards or thereby to a point where the main line of the Glasgow and South Western Railway crosses the Wood Burn thence in a south-easterly direction 37 yards or thereby thence in a northerly direction across field number 416 of said map and along the western boundary of field number 417 of said map for a distance of 320 yards or thereby thence in a westerly direction along the southern boundary of field number 1282 of said map thence in a northerly direction along the western boundaries of fields numbers 1282 and 1316 of said map thence in an easterly direction along the southern boundary of field number 1315 of said map thence in a northerly direction along the eastern boundary of said field number 1315 to the point where said boundary joins the road leading from the main road to North Woodside Farm thence in an easterly direction along the southern boundary of said road to the point where it joins the main road leading from Dalry to Kilwinning thence along the western side of said road leading from Dalry to Kilwinning in a south-easterly direction to a point opposite the north side of the entrance road to Outer Wood Farm thence in a north-easterly direction across the said road leading from Kilwinning to Dalry and along the north side of the entrance road to Outer Wood Farm for a distance of 64 yards or thereby thence running south-east in a line following the bends of the said road leading from Dalry to Kilwinning and distant therefrom 64 yards or thereby to a point in the southern boundary of field number 1325 64 yards or thereby distant from the said road from Kilwinning to Dalry thence running eastward along the southern boundary of said field number 1325 and through field number 1326 of said map in line with said southern boundary of said field number 1325 to a point where said line joins the western boundary of the Lanarkshire and Ayrshire Railway thence in a southerly direction along the western boundary of said Lanarkshire and Ayrshire Railway to the point where said boundary crosses the Wood Burn thence in an easterly direction following the course of said Wood Burn to the point where it joins the River Garnock thence in a southerly direction across said River Garnock to the north end of the weir across that river thence in a south-easterly direction along the eastern bank of said River Garnock to the south-west corner of field number 382 of said map thence in a straight line in a north-easterly direction to a point in the south-west boundary of the cemetery grounds 73 yards or thereby from Bridgend Lane thence in a north westerly direction along the south-western boundary of said cemetery thence in a north-easterly direction along the north-west boundary of said cemetery to the point where said boundary joins the road leading from Kilwinning to Woodgreen thence in a south-easterly direction along the southern boundary of that road and across the road leading from Bridgend to Redstone to the eastern boundary of said road thence in a south-westerly direction along the eastern boundary of the

A.D. 1903. road from Bridgend to Redstone for a distance of 130 yards or thereby thence in a straight line running eastwards to the south-east corner of field number 435 of said map thence in a north-easterly direction running along the eastern boundary of said field number 435 to the eastmost corner of that field thence running eastward in a straight line to the east side of the road leading from Five Roads to Bannoch thence in a southerly direction along the eastern boundary of said road leading from Five Roads to Bannoch to the point where it joins the road from Five Roads to Fergushill thence eastwards along the northern boundary of the said road leading to Fergushill for a distance of 50 yards or thereby thence running in a straight line in a southerly direction to the south-east corner of the enclosure marked number 488 on said map thence southwards running in a straight line to the south side of the Corsehillhead entrance to Eglinton Policies at the northmost corner of enclosure number 241 of said map thence in a westerly direction across the road and the Doura branch of the Glasgow and South Western Railway to the western boundary of that branch railway thence in a south-westerly direction along the western boundary of that branch railway for 490 yards or thereby thence in a straight line in a northerly direction to a point in the southern boundary of field number 337 of said map which point is distant 225 yards or thereby from the eastern boundary of the road leading from Kilwinning to Irvine thence in a westerly direction along the southern boundary of said field number 337 and the southern boundary of Buckreddan House grounds to the south-west corner of these grounds on the east side of the road from Kilwinning to Irvine thence along the eastern side of that road in a southerly direction for a distance of 113 yards or thereby to a point opposite the north-eastern corner of field number 253 of said map thence running westward across said road from Kilwinning to Irvine and along the northern boundary of said field number 253 and along the northern boundary of the plantation number 257 on said map to the point where said boundary joins the River Garnock thence northward along the eastern bank of said River Garnock to the southmost corner of Pathfoot Garden thence in a westerly direction in a straight line across the said River Garnock to the north-east corner of field number 318 of said map thence westward along the northern boundary of said field number 318 and field number 263 of said map to the road leading from Almswall to Nethermains thence in a southerly direction along the eastern side of said last-mentioned road to the northmost corner of enclosure number 261 of said map thence along the north-east and southern boundaries of that enclosure to the point where said southern boundary joins the said road from Almswall to Nethermains thence in a south-easterly direction along the eastern side of that road to the point where it is crossed by the Doura branch of the Glasgow and South Western Railway thence in a westerly direction following the line of said branch railway to a point 70 feet or thereby from the main line of the Glasgow and South Western Railway thence in a southerly direction for a distance of 156 yards or thereby along the western boundary of the road adjoining the main line of the said Glasgow and South Western Railway to the road leading from

Longford to Byrehill thence in a westerly direction along the southern boundary of said road from Longford to Byrehill for a distance of 220 yards or thereby thence in a north-westerly direction to the south eastmost corner of field number 213 of said map thence in a straight line in a northerly direction to a point in the southern boundary of the Doura branch of said railway which is 195 yards or thereby distant from the main line of the said Glasgow and South Western Railway thence in an easterly direction along the southern boundary of said branch railway to the point where the eastern boundary of the main line of said Glasgow and South Western Railway crosses said branch railway thence in a northerly direction along the eastern boundary of the said Glasgow and South Western Railway for a distance of 300 yards or thereby thence in a straight line running eastwards to the north-east corner of the garden adjoining Eglinton District Public School thence in a northerly direction along the western boundary of said road leading to Nethermain to the north side of the road leading from Alniswall Road to Byres Loch thence in a straight line in a westerly direction to the eastmost corner of field number 303 of said map thence in a straight line in a northerly direction to the north side of the entrance to Byres Croft thence in a straight line in a westerly direction to a point on the eastern boundary of the Glasgow and South Western Railway which point is 100 yards or thereby southward from the road leading from Byres Loch to Cranberry Moss thence in a straight line in a westerly direction to the said point on the south-east side of the road leading from Kilwinning to Stevenston distant to the south-west about 227 yards from the said farm steading of Townhead.

#### LIMITS OF THE BURGH OF SALTCOATS.

On the west the eastern boundary of the burgh of Ardrossan from the point where the highway leading from Parkhouse Farm to the town of Stevenston intersects the parish road to Sorby thence in a straight line to the bridge which carries the Glasgow and South Western Railway over the Stanley Burn and thence along the said burn to the sea on the south the sea shore (including Saltcoats Harbour) from the point where said burn flows into the sea to a point opposite to the second level crossing over the said railway eastward of the Saltcoats ropework on the east a straight line drawn from the sea shore at the last-mentioned point to the north fence of the said highway leading from Stevenston to Parkhouse Farm at the point where the said highway is joined by the westmost avenue leading from Auchenharvie House and on the north the north fence of the said highway from the entrance to the said avenue till it reaches the aforesaid eastern boundary of the burgh of Ardrossan.

A.D. 1903.

THE SECOND SCHEDULE.

FORM OF MORTGAGE.

IRVINE AND DISTRICT WATER BOARD.

Mortgage No.                    £

By virtue of the Irvine and District Water Board Order 1903 we the Irvine and District Water Board in consideration of the principal sum of [*specify amount*] paid by [*name and designation of mortgagee*] to the Treasurer to the Board for the purposes of the said Order do hereby grant and assign to the said [*name of mortgagee*] and his executors administrators and assignees [*or as the case may be*] such proportion of the revenues of the Board under the said Order including all contributions receivable by them from their constituent authorities or any town council as the said sum of [*specify amount*] doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said revenues and moneys to hold to the said mortgagee and his foresaids until the said principal sum and the whole interest due thereon shall be fully paid and satisfied and it is hereby stipulated that the said principal sum shall be repayable on the [*date*] or shall thereafter in virtue hereof remain as a loan to the Board until the expiration of such further term of years as shall be specified in a minute or minutes to be indorsed hereon and signed by the said mortgagee or his foresaids and by the said treasurer which minute or minutes are hereby declared and shall be held to be valid and binding though they may be neither holograph of the said parties nor tested and the Board shall pay interest on the said principal sum from the                    day of                    to the date of repayment at the rate of [*specify rate*] per centum per annum declaring that the said mortgagee and his foresaids shall not be entitled to make and that the Board shall not be bound to recognise or register any partial assignation of these presents or of the sums of money principal or interest hereby secured and that the Board shall not be liable for any expenses that may be incurred by the said mortgagee or his foresaids for or in relation to the preparation revision adjustment or execution of this mortgage or of any discharge renunciation assignation or minute of postponement or renewal thereof.

In witness whereof [*testing clause according to the law of Scotland*].

[*Signed by two members of the Board and the treasurer.*]

(L.S.)

THE THIRD SCHEDULE.

A.D. 1903.

FORM OF TRANSFER OF MORTGAGE.

I [*name and designation of mortgagee*] in consideration of the sum of [*specify amount*] paid to me by [*name and designation of transferee*] do hereby transfer to the said [*name of transferee*] and his executors administrators and assignees [*or as the case may be*] a certain mortgage number [*number of mortgage*] dated the [*date of mortgage*] made in favour of [*name of original mortgagee*] by the Irvine and District Water Board by virtue of the Irvine and District Water Board Order 1903 in connexion with their undertaking for securing the sum of [*principal sum in mortgage*] [*or if the transfer be by endorsement the within mortgage*] together with the interest thereon from and after the [*date from which transferee is to be entitled to the interest*] and all my right and interest in and to the principal money thereby secured and interest thereon as aforesaid and in and to the revenues and moneys thereby assigned.

In witness whereof [*testing clause according to the law of Scotland*].

THE FOURTH SCHEDULE.

FORM OF DISCHARGE.

Received from the Treasurer to the Irvine and District Water Board acting on their behalf the sum of  
being the principal sum contained in the within mortgage (all interest due thereon having been previously paid) and the said mortgage is now delivered up as discharged.

Dated this                      day of                      one thousand nine hundred  
and

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