



CHAPTER xxiv.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Kilmarnock Corporation. A.D. 1924.

[14th July 1924.]

WHEREAS His Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63 Vict. c. 47.

Be it therefore enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the Kilmarnock Corporation Order Confirmation Act 1924. Short title.

A.D. 1924.

SCHEDULE.

KILMARNOCK CORPORATION.

Provisional Order to authorise the Provost Magistrates and Councillors of the Burgh of Kilmarnock to provide and run Omnibuses within and beyond that burgh and for other purposes.

WHEREAS the provost magistrates and councillors of the burgh of Kilmarnock (in this Order called "the Corporation" and "the burgh" respectively) under the powers of the Kilmarnock Corporation Order 1904 (in this Order called "the Order of 1904") own and work tramways in and beyond the burgh:

And whereas it is expedient that the Corporation should be authorised to provide and work omnibuses within and beyond the burgh and to abandon or discontinue the working of Tramway No. 2 authorised by the Order of 1904:

And whereas the consents of the Minister of Transport and the county council of the county of Ayr have been obtained to the running of omnibuses along the routes authorised by this Order:

And whereas it is expedient that the Corporation should be authorised to borrow money for the purposes of this Order:

And whereas estimates have been prepared by the Corporation for the purposes hereinafter mentioned in respect of which they are by this Order authorised to borrow money and such estimates are as follows:—

For and in connection with the provision	£
and running of omnibuses - - - - -	24,000
For the purchase of lands and the erection	
of buildings for the purposes of the	
tramway and omnibus undertakings of	
the Corporation - - - - -	5,000

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

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And whereas it is expedient that the other provisions in this Order contained should be enacted: A.D. 1924.

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899:

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows:—

1. This Order may be cited as the Kilmarnock Corporation Order 1924 and shall commence and have effect on and from the date of the passing of the Act confirming the same which date is hereinafter referred to as “the commencement of this Order.” Short title and commencement of Order.

2. The Lands Clauses Acts (except the provisions thereof with respect to the purchase and taking of lands otherwise than by agreement and Section 120 of the Lands Clauses Consolidation (Scotland) Act 1845) so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Order are hereby incorporated with and form part of this Order. Incorporation of Acts

3. In this Order the several words terms and expressions to which meanings are assigned by the Lands Clauses Acts shall have the same respective meanings unless there be something in the subject or context repugnant to such construction And in this Order unless the context otherwise requires the following expressions shall have the respective meanings in this section applied to them (that is to say):— Interpretation.

“The burgh” means the burgh of Kilmarnock;

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

“The sheriff” means the sheriff of the county of Ayr and includes his substitutes;

“The Order of 1904” means the Kilmarnock Corporation Order 1904;

“The omnibus undertaking” means the omnibus undertaking of the Corporation authorised by this Order;

“The tramways” means the tramways of the Corporation authorised by the Order of 1904;

“The Police Act” means the Burgh Police (Scotland) Act 1892 and Acts amending the same;

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“The police rate” means the burgh general assessment leviable under the Police Act :

“Road authority” means with reference to any road or part of a road over which any proposed omnibus service will pass the authority company or person charged with or liable to contribute to the maintenance of such road or part of a road.

Power to
provide
and run
omnibuses.

4.—(1) Subject to the provisions of this Order the Corporation may provide or maintain (but shall not manufacture) and may work and run omnibuses within the burgh and along the following routes in the county of Ayr outwith the burgh :—

Route A—In the parish of Riccarton commencing at the burgh boundary in Victoria or Queen’s Drive thence along that Drive Hurlford Road to the Cross in Hurlford the main road from Hurlford to Kilmarnock and along and terminating in London Road at the burgh boundary.

Route B—In the parish of Riccarton commencing at the burgh boundary in Hurlford Road thence along that road to the Cross in Hurlford the main road from Hurlford to Kilmarnock and along and terminating in London Road at the burgh boundary.

Route C—In the parish of Riccarton commencing at the burgh boundary in the main road from Kilmarnock to Ayr thence along that road for a distance of one hundred and fifty yards or thereabouts and terminating at the entrance to the Kilmarnock Municipal Golf Course.

(2) The Corporation may purchase by agreement take on lease and hold lands and buildings and may erect on any lands acquired by them omnibus carriage and motor houses buildings and sheds and may provide such plant appliances and conveniences as may be requisite or expedient for the establishment running equipment maintenance and repair of such omnibuses but the Corporation shall not create or permit any nuisance on any lands upon which they erect any such houses buildings or sheds.

(3) Every omnibus moved by electrical power shall be so equipped and worked as to prevent any interference with telegraphic communication by means of any telegraphs of the Postmaster-General. A.D. 1924.

(4) The Corporation shall perform in respect of the omnibuses provided under this section such services in regard to the conveyance of mails as are prescribed by the Conveyance of Mails Act 1893 in the case of a tramway to which that Act applies.

(5) The provisions of section 51 (Penalty on passengers practising frauds on the promoters) and section 56 (Recovery of tolls penalties &c.) of the Tramways Act 1870 shall apply to and in relation to the omnibuses of the Corporation as if they were carriages used on tramways.

(6) The Corporation may make byelaws for regulating the travelling and for the prevention of nuisances in or upon such omnibuses or in or against any premises held by the Corporation in connection therewith.

5.—(1) (a) Before the Corporation commence to run omnibuses over any road or part of a road it shall be determined by agreement between the Corporation and the road authority (where it is not the Corporation) or failing agreement by the Minister of Transport whether it is necessary (in order to provide for the running under the powers of this Order of an omnibus service over any such road or part of a road) to adapt alter or reconstruct such road or part of a road or to strengthen any bridge and if so what sum of money per mile of road so to be adapted altered or reconstructed or what sum of money in respect of any such bridge shall be payable by the Corporation to the road authority by way of contribution towards the cost incurred in such adaptation alteration reconstruction or strengthening. Adaptation of roads.

(b) Within six months after the date upon which all questions to be agreed or determined in pursuance of paragraph (a) of this subsection have been so agreed or determined the Corporation shall give notice in writing to the road authority as to whether they intend to run omnibuses over the road or part of a road or bridge in question.

(c) If the Corporation give notice in writing to the road authority that they intend to run omnibuses over

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the road or part of a road or bridge in question and if it shall have been agreed or determined that the Corporation are to make any payment to the road authority under the provisions of paragraph (a) of this subsection the Corporation shall on receipt of any certificate which may from time to time be issued by the engineer in charge of the work of adaptation alteration or reconstruction of such road or part of a road or of strengthening such bridge pay to the road authority such proportion of the total amount of the contribution agreed or determined to be payable by the Corporation as the amount so certified to have been expended upon such work bears to the total amount estimated to be expended by the road authority on such work. Provided that the aggregate amount to be so paid by the Corporation shall not exceed the amount of the contribution agreed or determined to be payable by them as aforesaid.

(d) Notwithstanding anything in this subsection the Corporation shall not be required to pay any sum in respect of any work towards or in respect of the adaptation alteration or reconstruction of any such road or part of a road or the strengthening of any bridge which is not executed within three years from the date on which the Corporation shall commence to run omnibuses over the road or part of a road to be adapted altered or reconstructed or over the bridge to be strengthened.

(e) Not more than one payment or (in the case of a payment by instalments in accordance with paragraph (c) of this subsection) one series of payments shall be made in respect of any such road or part of a road so adapted altered or reconstructed or of any such bridge so strengthened.

(2) If any such adaptation alteration reconstruction or strengthening as aforesaid shall involve an alteration of any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General the enactments contained in section 7 of the Telegraph Act 1878 shall apply to any such alteration and the road authority shall be deemed to be "undertakers" within the meaning of the said Act.

(3) The road authority shall not under section 57 of the Roads and Bridges (Scotland) Act 1878 as amended by section 24 of the Local Government (Scotland) Act 1908 or otherwise make any claim against the Corporation

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in respect of extraordinary traffic by reason of the user of any highway by the omnibuses of the Corporation. A.D. 1924.

6. Nothing in this Order shall impose any obligation upon or enlarge any existing obligation of any railway or canal company to maintain strengthen adapt alter or reconstruct any bridge with the immediate approaches and all other necessary works connected therewith maintainable by them respectively. As to bridges of railway or canal companies.

7.—(1) The powers of running omnibuses under the provisions of this Order on any road or part of a road outwith the burgh may at the expiration of ten years from the date on which such running commences and at the expiration of any subsequent period of ten years be determined by the Minister of Transport on the application of the local authority of the district in which such road or part of a road is situate upon such terms as the said Minister may determine. As to cesser to powers.

(2) Before issuing an order to determine the said powers the Minister of Transport shall hold a local inquiry at which opportunity shall be afforded to any person interested to object to the continuance or cesser of such powers.

8. If the Corporation do not within a period of three years from the commencement of this Order provide a service of omnibuses on any route described in the section of this Order whereof the marginal note is "Power to provide and run omnibuses" or having provided shall discontinue such service the Minister of Transport may on the application of any local authority within whose district the route or any part of the route is situate and after considering any representation which may be made on behalf of the Corporation by order declare that unless a service of omnibuses be provided within such period as the Minister of Transport may by such order prescribe the powers of the Corporation under this Order in respect of the provision and running of omnibuses on such route or part of such route shall determine and if within the prescribed period such service be not provided as from the expiration of such period the powers of the Corporation under this Order in relation to the provision and running of omnibuses on such route or part of a route shall cease: Provision in event of certain powers not being exercised.

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Provided that this section shall not apply or have effect in the event of the failure of the Corporation to provide a service of omnibuses on any route being due to strikes unforeseen accident or circumstances beyond the control of the Corporation.

Fares and charges.

9.—(1) Subject to the provisions of this section the Corporation may demand and take for passengers and parcels carried on the omnibuses provided by the Corporation under this Order fares and charges not exceeding such maximum fares and charges as may from time to time be approved by the Minister of Transport.

Any application for a revision of such maximum fares or charges may be made by the Corporation or by the local authority of any district in which such omnibuses are run.

Before approving any maximum fares or charges or any revision thereof under this section the Minister of Transport may direct an inquiry to be held.

Where the Minister causes any such inquiry as aforesaid to be held all expenses incurred by the Minister in relation to that inquiry shall be paid as the Minister may by order direct either by the Corporation or by any of the parties on whose representation the inquiry is held or partly by the Corporation and partly by any of such parties and the Minister may certify the amount of the expenses so incurred and any sum so certified and directed by the Minister to be paid shall be a debt due to the Crown.

(2) Every passenger may take with him personal luggage not exceeding twenty-eight pounds in weight without extra charge but all such luggage shall be carried by hand and shall not occupy any part of a seat nor be of a form or description to annoy or inconvenience other passengers.

(3) The Corporation may if they think fit carry on the omnibuses small parcels not exceeding fifty-six pounds in weight and dogs in the care of passengers the charge for any such dog to be a sum not exceeding the fare payable by the passenger but they shall not carry any other goods or animals.

(4) The fares and charges for the time being authorised under the provisions of this Order shall be paid to

such persons and in such manner as the Corporation may by notice annexed to the list of fares and charges appoint.

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10.—(1) The Corporation and any local authority empowered to run omnibuses in any burgh or district adjacent to the burgh or to any burgh or district in which the Corporation are for the time being empowered to run omnibuses may enter into and carry into effect agreements for the working user management and maintenance of all or any of the omnibus services which the contracting parties are empowered to provide subject to the provisions of the respective Acts or Orders under which such omnibus services are authorised.

Working
and other
agreements.

(2) The Corporation and any company body or person may enter into and carry into effect agreements for the working user management and maintenance subject to the provisions of this Order of any omnibus services within the burgh or on any route over which the Corporation are for the time being empowered to run omnibuses.

(3) The Corporation and any such local authority company body or person as aforesaid may also enter into and carry into effect agreements for all or any of the following purposes (that is to say):—

(a) The working user management and maintenance of any omnibuses lands depôts buildings sheds and property provided in connection with any such omnibus services as aforesaid by either of the contracting parties and the right to provide and use the same and to demand and take the fares and charges authorised in respect of such services;

(b) The supply by any of the contracting parties under and during the continuance of any such agreement under this section of omnibuses and conveniences in connection therewith necessary for the purposes of such agreement and the employment of officers and servants;

(c) The interchange accommodation conveyance transmission and delivery of traffic arising on or coming from or destined for any omnibus service of the contracting parties;

(d) The payment collection and apportionment of the fares and charges and other receipts arising from any such omnibus service as aforesaid.

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(4) The Corporation shall not enter into or carry into effect any agreement under the provisions of this section in relation to any omnibus service lands depôts buildings sheds or property outwith the burgh otherwise than with the consent of the local authority of the district within which such omnibus service lands depôts buildings sheds or property are situate Provided that on complaint being made to the Minister of Transport that such consent is unreasonably withheld the Minister may if he thinks fit by order dispense with such consent.

Power to
acquire
patent
rights.

11. For the purpose of using mechanical power the Corporation may acquire hold and exercise patent and other rights or licences relating to motive power or otherwise but not so as to acquire any exclusive right therein.

Shelters or
waiting
rooms.

12. The Corporation may erect and maintain sheds shelters or waiting rooms and gangways for the accommodation of passengers on any omnibus route established under the authority of this Order and may use for that purpose portions of the public streets or roads subject so far as respects any street or road outwith the burgh to the consent of the local authority and the road authority.

Cloak-
rooms &c.

13. The Corporation may provide cloakrooms and rooms or sheds for the storage of bicycles tricycles and other vehicles at any depôt or building used by them in connection with the omnibus undertaking and at suitable places on any of their omnibus routes and the Corporation may make charges for the use of such cloakrooms rooms and sheds and for the deposit of articles and things and bicycles tricycles and other vehicles therein but shall not use for the purpose any part of a street or road without the consent of the local authority and the road authority.

Power to
require
intending
passengers
to wait in
lines or
queues.

14. For the better regulation of persons desiring to travel in the omnibuses of the Corporation the Corporation may erect and maintain barriers and posts at any stopping place or terminus and for that purpose may with the consent of the local authority and the road authority use part of a public street or road and the Corporation may make byelaws requiring persons waiting to enter

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any of their omnibuses to wait in lines or queues and to enter such omnibuses in the order in which they stood in such line or queue. A.D. 1924.
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15. The Corporation may appoint the stations and places from which the omnibuses of the Corporation shall start or at which they may stop for the purposes of taking up or setting down passengers and may fix the time during which such omnibuses shall be allowed to remain at any such place but any such appointment and the fixing of any such time shall (as respects any station or place outwith the burgh) be subject to the consent of the local authority and the road authority of the district within which that station or place is appointed which consent shall not be unreasonably withheld and any question as to whether or not any such consent is unreasonably withheld shall be determined by the Minister of Transport. Stopping and starting places.

16. The following provisions for the protection of the London Midland and Scottish Railway Company (in this section referred to as "the company") shall apply and have effect except so far as the same may be otherwise agreed in writing between the Corporation and the company viz. :— For protection of London Midland and Scottish Railway Company.

Notwithstanding anything contained in this Order no shed shelter waiting-room gangway cloak-room or room barrier or post shall be erected maintained or provided nor shall any starting or stopping station or place be appointed nor shall the Corporation require persons waiting at any stopping place or any terminus to wait in any line or queue so as to cause interference with or to render less convenient the access to or exit from any station or depôt belonging to the company nor shall any such shed shelter waiting-room gangway cloakroom or room barrier or post be erected maintained or provided or starting or stopping station or place be appointed on any bridge carrying any street or road over the railways of the company.

17. The Corporation may run through omnibuses along any route on which the Corporation are for the time being authorised to run omnibuses and such omnibuses shall be distinguished from other omnibuses in Through omnibuses.

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such manner as may be directed by the Corporation and they may demand and take for every passenger by such omnibuses a fare or charge not exceeding the maximum fare or charge authorised or chargeable for and in respect of the whole of such route or the whole of the portion thereof traversed by any such omnibus. Provided that during the running of such through omnibuses the Corporation shall maintain a reasonably sufficient ordinary service of omnibuses.

Power to reserve omnibuses for special purposes.

18.—(1) Notwithstanding anything contained in this Order to the contrary the Corporation may on any occasion run and reserve omnibuses on any route on which the Corporation are for the time being authorised to run omnibuses for any special purpose which the Corporation may consider necessary or desirable. Provided that such special omnibuses shall be distinguished from other omnibuses in such manner as may be directed by the Corporation and that during the running of such special omnibuses the Corporation shall maintain a reasonably sufficient ordinary service of omnibuses.

(2) The Corporation may make byelaws for prohibiting the use of any such omnibuses by any persons other than those for whose conveyance the same are reserved.

(3) The restrictions contained in this Order as to fares or charges for passengers shall not extend to any omnibus run for special services and in respect thereof the Corporation may demand and take such fares or charges as they shall think fit.

Attachment of signs indicating stopping places to lamp-posts &c.

19.—(1) The Corporation may attach to any lamp-post pole standard or other similar erection erected on or in a public street or road on or near to any of their omnibus routes signs or directions indicating the position of stopping places for omnibuses :

Provided that in cases where the Corporation are not the owners of such lamp-post pole standard or similar erection they shall give notice in writing of their intention to attach thereto any such sign or direction and shall make compensation to the owner for any damage or injury occasioned to the lamp-post pole standard or similar erection by the attachment and the Corporation shall indemnify the owner against any claim for damage

occasioned to any person or property by or by reason of the attachment. A.D. 1924.

(2) Nothing in this section shall be deemed to require the owner to retain any such lamp-post pole standard or similar erection when no longer required for his purposes.

(3) The Corporation shall not attach any such sign or direction to any pole post or standard belonging to the Postmaster-General except with his consent in writing.

(4) The Corporation shall not attach any such sign or direction to any lamp-post pole standard or other similar erection belonging to any railway company except with their consent in writing.

(5) The Corporation shall not attach any such sign or direction to any lamp-post pole standard or any similar erection belonging to any local authority beyond the burgh without their consent which consent shall not be unreasonably withheld and any question as to whether or not any such consent is unreasonably withheld shall be determined by the Minister of Transport.

20.—(1) Where any tree hedge or shrub overhangs any street or footpath so as to obstruct or interfere with the light from any public lamp or to interfere with vehicular traffic or with the free passage or comfort of passengers the Corporation may serve a notice on the owner of the tree hedge or shrub or on the occupier of the premises on which such tree hedge or shrub is growing requiring him to lop the tree hedge or shrub within seven days so as to prevent such obstruction or interference and in default of compliance the Corporation may themselves carry out the requisition of their notice doing no unnecessary damage.

Lopping of trees overhanging street or footpath.

(2) Any person aggrieved by any requirement of the Corporation under this section may appeal to the sheriff under the Summary Jurisdiction (Scotland) Acts within seven clear days after the service of such notice provided he gives written notice of such appeal and the grounds thereof to the town clerk of the burgh and the sheriff shall have power to make such order as he may think fit and to award expenses such expenses to be recoverable as a civil debt Notice of the right to appeal

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Lost property.

21. Any property found in any omnibus of the Corporation shall forthwith be taken to a place to be appointed for the purpose by the Corporation and if the same be not claimed within six months after the finding thereof it may be sold as unclaimed property by public auction after notice by advertisement in one or more local newspapers once in each of two successive weeks and the proceeds thereof carried to the revenue account of the tramway undertaking of the Corporation.

Confirmation of byelaws.

22. All byelaws made by the Corporation under the provisions of this Order shall be made subject to and in accordance with the provisions of the Tramways Act 1870 with respect to the making of byelaws and shall in so far as any byelaw applies to any place beyond the burgh be subject to the approval of the local authority.

Inquiries &c. by Minister of Transport.

23. In respect of the exercise of any powers or duties conferred on the Minister of Transport or the giving by him of any consents under this Order the provisions of Part I. of the Board of Trade Arbitrations &c. Act 1874 shall apply as if the Minister of Transport were referred to therein in lieu of the Board of Trade and as if in section 4 of that Act the words "under the seal of the Minister of Transport" were substituted for the words "by writing under the hand of the President or of one of the secretaries of the Board."

Omnibuses to be part of tramway undertaking.

24. The omnibus undertaking shall form part of the tramway undertaking of the Corporation. Provided that in the accounts of the Corporation relative to their tramway undertaking the income and expenditure upon and in connection with omnibuses shall (as far as may be reasonably practicable) be distinguished from the income and expenditure upon or in connection with the remainder of such undertaking.

Annual accounts to be furnished to Minister of Transport.

25. The Corporation shall every year within three months after the closing of their financial year or such longer period as the Minister of Transport may allow furnish to the Minister of Transport the annual accounts of their tramway undertaking including the annual accounts relating to their omnibuses.

26.—(1) The Corporation shall abandon and discontinue the working of Tramway No. 2 authorised by the Order of 1904 and thereupon shall take up remove appropriate use sell or otherwise dispose of the pavement rails standards poles wires materials and plant in connection therewith and from and after the removal of such tramway the powers duties and obligations of the Corporation in connection therewith shall cease and determine.

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Power to
abandon
tramway.

(2) The Corporation shall at their own expense forthwith after the taking up and removal of the said tramway make good to the reasonable satisfaction of the county council of the county of Ayr the portion of roadway on which so much of the said tramway as is situate beyond the burgh is laid.

(3) On the removal of the said tramway section 6 (For protection of county council of county of Ayr) of the Order of 1904 shall be repealed but without prejudice to anything done or to be done thereunder prior to such repeal.

27. The Corporation may purchase or take on lease dwelling-houses containing (in addition to bathroom scullery larder and water-closet accommodation) not more than five apartments in each house for persons employed by them for the purposes of their tramway and omnibus undertakings and may erect maintain and let such dwelling-houses with all necessary conveniences and appurtenances for such persons upon any lands acquired by the Corporation and (subject to the terms of the lease) upon any lands for the time being leased to the Corporation for the purposes of the said undertakings and with the consent of the Secretary for Scotland upon any other lands for the time being belonging to or leased to the Corporation.

Dwelling-
houses for
persons in
Corpora-
tion's em-
ployment.

28.—(1) The Corporation may from time to time independently of any other borrowing power borrow at interest for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column thereof and in order to secure the repayment thereof and the payment of interest thereon they may mortgage or charge the revenue and rate mentioned in the third

Power to
borrow.

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A.D. 1924. column of the said table and they shall pay off all moneys so borrowed within the respective periods mentioned in the fourth column thereof (namely):—

Purpose.	Amount.	Charge.	Period for Repayment.
For and in connection with the provision and running of omnibuses.	£ 24,000	The revenue of the tramway undertaking of the Corporation and the police rate.	Eight years from the date or dates of borrowing.
For the purchase of lands and the erection of buildings for the purposes of the tramway and omnibus undertakings of the Corporation.	5,000	The revenue of the tramway undertaking of the Corporation and the police rate.	Thirty five years from the date or dates of borrowing.
For paying the costs charges and expenses of this Order.	The sum requisite.	The police rate	Five years from the commencement of this Order.

(2) (a) In addition to the moneys which the Corporation are by the foregoing provisions of this section authorised to borrow they may borrow such sums of money for the purposes of this Order as the Secretary for Scotland after consultation with the Minister of Transport may sanction.

(b) Any money borrowed under this subsection shall be repaid within such period and by such method as may be prescribed by the Secretary for Scotland after consultation with the Minister of Transport.

(c) In order to secure the repayment of any money borrowed under this subsection and the payment of interest thereon the Corporation may mortgage or charge the revenue of the tramway undertaking of the Corporation and the police rate.

(d) The Secretary for Scotland shall have and may exercise in relation to any such sanction as aforesaid all the powers of section 93 of the Local Government (Scotland) Act 1889.

Application of revenue 29.—(1) The Corporation shall apply all money received by them on account of revenue in respect of the

omnibus undertaking in the manner and in the order following (that is to say):

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of omnibus
undertak-
ing.

First—In payment of the working and establishment expenses and cost of maintenance of the omnibus undertaking;

Secondly—In payment of the interest on moneys borrowed by the Corporation for the purposes of the omnibus undertaking;

Thirdly—In providing the requisite appropriations instalments or sinking fund payments in respect of moneys borrowed for the purposes of the omnibus undertaking;

Fourthly—In providing a reserve fund (if the Corporation think fit) by setting aside such money as they think reasonable and investing the same and the resulting income thereof in any securities in which they are authorised to invest sums paid into any sinking fund and accumulating the same at compound interest until the fund so formed amounts to the maximum reserve fund for the time being prescribed by the Corporation not exceeding a sum equal to two-fifths of the aggregate capital expenditure for the time being by the Corporation upon the omnibus undertaking which fund shall be applicable to answer any deficiency at any time happening in the income of the Corporation from the omnibus undertaking or to meet any extraordinary claim or demand at any time arising against the Corporation in respect of the omnibus undertaking or for payment of the cost of renewing any part of the omnibuses and buildings and works connected therewith and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens Provided that resort may be had to the reserve fund under the foregoing provisions although such fund may not at the time have reached or may have been reduced below the prescribed maximum :

And the Corporation shall carry to the credit of the revenue of the tramway undertaking of the Corporation

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A.D. 1924. so much of any balance remaining in any year of the income of the omnibus undertaking (including the interest on the reserve fund when such fund amounts to the prescribed maximum) as may in the opinion of the Corporation not be required for carrying on the omnibus undertaking and paying the current expenses connected therewith respectively.

(2) Any deficiency in the revenue of the omnibus undertaking shall be made good out of the revenue of the tramway undertaking of the Corporation or if that revenue be insufficient for the purpose then to the extent necessary to meet such deficiency out of the police rate.

Power to
re-borrow.

30.—(1) The Corporation shall have power—

- (a) To borrow for the purpose of paying off any moneys previously borrowed under this Order which are intended to be forthwith repaid; or
- (b) To borrow in order to replace moneys which during the previous twelve months have been temporarily applied from other funds of the Corporation in repaying moneys previously borrowed under this Order and which at the time of such repayment it was intended to replace by borrowed moneys.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the period prescribed for the repayment of that loan which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section.

(3) The Corporation shall not have power to borrow for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys.

(4) The Corporation shall not have power to borrow in order to replace any moneys previously borrowed which have been repaid—

- (a) by instalments or annual payments; or
- (b) by means of a sinking fund; or
- (c) out of moneys derived from the sale of land; or

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(d) out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose. A.D. 1924.

31. In the application to the burgh of section 49 (Power to borrow temporarily) of the Burgh Police (Scotland) Act 1903 the expression "any public general Act" shall be deemed to include this Order. Borrowing for current expenses.

32. The provisions of the following sections of the Order of 1904 shall (with the necessary modifications and subject to the provisions of this Order) extend and apply mutatis mutandis to the moneys borrowed under this Order namely:— Application of provisions of Order of 1904.

Section 58 (Bonds for borrowed money);

Section 59 (Interest warrants);

Section 60 (Borrowing on cash account);

Section 61 (Register of bonds);

Section 62 (Rates to include interest and sinking fund);

Section 63 (Present bonds and securities by Corporation not to be prejudiced);

Section 64 (Protection of lenders from inquiry);

Section 70 (Annual return to Secretary for Scotland with respect to sinking fund);

Section 71 (Bonds to be lien on tramway revenue and police rate);

Section 72 (For appointment of a judicial factor).

33. Money borrowed by the Corporation under this Order shall be applied only to the purposes for which it is authorised to be borrowed being in every case purposes to which capital is properly applicable. Application of money borrowed.

34. The Corporation shall pay off all moneys borrowed by them (other than money borrowed for current expenses) under this Order either by equal yearly or half-yearly instalments of principal or of principal and interest combined or by means of a sinking fund or partly by one of those methods and partly by another or others of them. Mode of payment off of money borrowed.

35.—(1) If the Corporation determine to repay by means of a sinking fund any moneys borrowed by virtue Sinking fund.

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A.D. 1924. of this Order such sinking fund shall be formed or maintained either—

- (a) By payment to the fund throughout the prescribed period 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 hereinafter called a non-accumulating sinking fund; or
- (b) By payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding four per centum per annum or such other rate as the Secretary for Scotland may from time to time allow 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 hereinafter 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 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 Corporation the Corporation 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 Corporation towards the equal annual payments to the fund.

(4) The Corporation 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 Corporation 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

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invested at the rate per centum per annum on which the annual payments to the sinking fund are based. A.D. 1924.

(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 Corporation.

(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 Corporation in addition to the payments provided for by this Order.

(7) If it appears to the Corporation or the Secretary for Scotland 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 Corporation to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose.

(8) If the Corporation 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 Corporation be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Corporation may with the consent of the Secretary for Scotland reduce the payments to be made to the sinking

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A.D. 1924. 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 Corporation be sufficient to repay the loan in respect of which it is formed within the prescribed period the Corporation may with the consent of the Secretary for Scotland 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 as the Corporation may determine.

(12) The period at which the payments into the sinking fund shall commence shall in respect of moneys borrowed under this Order be within one year from the date of borrowing.

Costs of
Order.

36. The costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Corporation out of the revenue of the common good fund of the burgh or out of any funds (not being in the nature of capital) rates or revenues belonging to them or under their control for the purposes of their tramways and omnibus undertakings or out of any moneys borrowed for that purpose under this Order.

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