



CHAPTER XX.

An Act to confirm a Provisional Order of the Minister of Health relating to Torquay. A.D. 1928.
[2nd July 1928.]

WHEREAS the Minister of Health has made the Provisional Order set forth in the schedule hereto under the provisions of the Local Government Act 1888: 51 & 52 Vict. c. 41.

And whereas it is requisite that the said Order should be confirmed by Parliament:

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 Order as amended and set out in the schedule hereto shall be and the same is hereby confirmed and all the provisions thereof shall have full validity and force. Order in schedule confirmed.

2. This Act may be cited as the Ministry of Health Provisional Order Confirmation (Torquay Extension) Act 1928. Short title.

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SCHEDULE.

BOROUGH OF TORQUAY.

*Torquay
Order.*

*Provisional Order made in pursuance of the Local
Government Act 1888 for the extension of a Borough.*

WHEREAS by virtue of section 54 of the Local Government Act 1888 the Minister of Health is empowered to make a Provisional Order for altering the boundary of any borough;

And whereas the existing Borough of Torquay in the administrative county of Devon is a borough within the meaning of the Local Government Act 1888 and the inhabitants are a body corporate by the name of the mayor aldermen and burgesses of the Borough of Torquay and act by the council of the Borough which now consists of the mayor (who is also a councillor) nine aldermen and twenty-six other councillors and the Borough for the election of councillors is divided into nine wards;

And whereas the Borough is coextensive with the Parish of Torquay and is an urban district under the jurisdiction of the mayor aldermen and burgesses acting by the Council;

And whereas in pursuance of the Education Act 1921 the Council of the Borough are the local education authority for the purposes of elementary education;

And whereas the Parish of Cockington in the administrative county of Devon immediately adjoins the Borough of Torquay and is a contributory place in the Rural District of Newton Abbot:

Now therefore the Minister of Health in pursuance of the powers given to him by sections 54 and 59 of the Local Government Act 1888 and of all other powers enabling him in that behalf hereby orders as follows:—

PART I.

INTERPRETATION AND COMMENCEMENT.

Definitions.

1. In this Order unless the context otherwise requires—
“Existing” in relation to any area altered by this Order means existing immediately before the First day of October Nineteen hundred and twenty-eight;

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- “The Act of 1888” and “the Act of 1894” mean respectively the Local Government Act 1888 and the Local Government Act 1894; A.D. 1928.
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- “The added area” means the existing Parish of Cockington which is coloured blue on the borough maps;
- “The appointed day” means the First day of October Nineteen hundred and twenty-eight;
- “The Borough” means the existing Borough of Torquay as extended by this Order;
- “The borough maps” means the duplicate maps marked “Map of the Borough of Torquay as altered by the Torquay (Extension) Order 1928” and sealed with the official seal of the Minister;
- “The Corporation” means as the context requires the mayor, aldermen and burgesses of the existing Borough or of the Borough acting by the Council;
- “The County” and “the County Council” mean respectively the administrative county of Devon and the county council of that county;
- “The Minister” means the Minister of Health;
- “The Municipal Corporations Acts” means the Municipal Corporations Act 1882 and the Acts amending and extending the same and the Borough Councillors (Alteration of Number) Act 1925;
- “The Parish of Torquay” means that Parish as altered by this Order;
- “The Rural District” and “the Rural Council” mean respectively the Rural District of Newton Abbot and the Rural District Council of Newton Abbot;
- “The ward maps” means the duplicate maps marked “Map of the wards of the Borough of Torquay as altered by the Torquay (Extension) Order 1928” and sealed with the official seal of the Minister.

2. Where the day on which anything by this Order required to be done falls on a Sunday that thing shall be done on the following day. Provision as to Sunday.

3. Save as otherwise expressly provided this Order shall come into operation on the First day of October Nineteen hundred and twenty-eight: Commencement of Order.

Provided that for the purposes of—

- (a) the division of the Borough and Parish of Torquay into wards and all proceedings preliminary or relating

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to any election to be held on or after the appointed day for any area affected by this Order;

(b) the compilation alteration or re-arrangement of any register of electors made under the Representation of the People Acts 1918 to 1926;

(c) Part IV. of this Order relating to rating and valuation and the provisions in Part VI. of this Order as to a rating officer of the Rural Council; and

(d) the preparation of any precept or contribution order to be made on or after the appointed day;

this Order shall operate from the date of the Act of Parliament confirming this Order.

PART II.

ALTERATIONS OF BOUNDARY.

Extension
of Borough.

4.—(1) The boundary of the existing Borough the area whereof is coloured pink on the borough maps shall be altered so as to include in addition to that area so much of the Rural District as comprises the existing Parish of Cockington.

(2) The boundary of the Borough shall be that shown by the red line on the borough maps and the whole of the area within that boundary shall for the purposes of the Municipal Corporations Acts and for all other purposes be the Borough.

Alteration
of parishes.

5. The existing Parish of Cockington shall be added to the existing Parish of Torquay.

Deposit and
copies of
borough and
ward maps.

6.—(1) One of the borough maps and one of the ward maps shall be deposited in the office of the Minister and the duplicate of each map shall be deposited by the town clerk of the existing Borough at his office.

(2) Copies of the borough map deposited with the town clerk certified by him to be true shall be sent by him within one month after the passing of the Act of Parliament confirming this Order to the clerk to the County Council to the clerk to the Rural Council to the clerk to the justices of the Borough to the Board of Inland Revenue to the Commissioners of Customs and Excise to the Registrar-General to the Board of Trade to the Minister of Transport to the Minister of Agriculture and Fisheries and to the Electricity Commissioners.

(3) Copies of the ward map deposited with the town clerk and certified by him to be true shall be sent by him within the period mentioned in paragraph (2) of this article to the clerk to the County Council to the clerk to the Guardians of the Newton Abbot Union to the Registrar-General and to the Minister of Agriculture and Fisheries.

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7.—(1) Copies of or extracts from the borough map deposited with the town clerk certified by him to be true shall be received in all courts of justice and elsewhere as primâ facie evidence of the contents of the map so far as it relates to the boundary of the Borough.

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Copies of
 borough
 map to be
 evidence.

(2) The borough map deposited with the town clerk shall at all reasonable times be open to inspection by any person liable to any rate leviable within the Borough and any such person shall be entitled to a copy of or extract from the map certified by the town clerk to be true on payment of a reasonable fee to be determined by the Corporation.

(3) All fees so received shall be carried to the borough fund.

PART III.

PROVISIONS CONSEQUENT ON EXTENSION OF BOROUGH.

8. Subject to the provisions of the Municipal Corporations Acts the number of councillors of the Borough shall continue to be twenty-seven and the number of aldermen of the Borough shall continue to be nine.

Number of
 councillors
 and aldermen.

9. Subject to the provisions of the Municipal Corporations Acts the following provisions shall have effect:—

Municipal
 wards.

(1) For the purposes of the election of councillors the Borough shall be divided into the nine wards mentioned in column 1 of the First Schedule to this Order and the wards shall be designated by the names appearing in that column;

(2) Each ward shall comprise that portion of the Borough which is indicated by a separate colour and distinguished by the name of the ward on the ward maps;

(3) Three councillors shall be assigned to each ward.

10. The persons who hold office immediately before the appointed day as mayor and aldermen of the existing Borough shall on the appointed day become the mayor and aldermen of the Borough but shall respectively retire from office on the day on which they would have retired from office if this Order had not been made.

Existing
 mayor and
 aldermen.

11. Notwithstanding any enactment to the contrary the following provisions shall have effect with regard to the persons who at the passing of the Act confirming this Order are the councillors of the existing Borough—

Term of
 office of
 existing
 councillors.

(1) The three councillors for the existing Chelston Ward shall retire from office on the First day of November Nineteen hundred and twenty-eight;

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(2) The councillors for each of the other existing municipal wards shall on the appointed day become the councillors for the ward of the same name constituted by this Order but shall retire on the days on which they would have retired from office if this Order had not been made;

(3) If immediately before the appointed day a casual vacancy shall exist in the representation of the existing Chelston Ward the casual vacancy shall not be filled but any casual vacancy existing immediately before that day in the representation of one of the other existing municipal wards shall be deemed to have arisen in the ward of the same name constituted by this Order.

County and
Borough
Councils
(Qualifica-
tion) Act 1914.

12. For the purposes of the application to the Borough of the provisions of the County and Borough Councils (Qualification) Act 1914 the added area shall be deemed to have always formed part of the Borough.

Election of
councillors
in 1928.

13.—(1) Upon the First day of November Nineteen hundred and twenty-eight there shall be held an election of—

(a) three councillors for the Cockington with Chelston Ward of the Borough; and

(b) one councillor for each of the eight remaining wards of the Borough.

(2) The election directed by this article shall extend to any casual vacancy which can be filled at the election but any person elected to fill a casual vacancy shall retire from office on the day on which the person in whose place he is elected would have gone out of office if this Order had not been made.

(3) The mayor and town clerk of the existing Borough or such other persons as the Secretary of State may appoint shall perform the duties devolving at an election upon a mayor and town clerk respectively under the Municipal Corporations Acts and the mayor shall be the returning officer at the election for all the wards but may appoint some other person to act as returning officer at the election for any of the wards.

(4) Where in the representation of a municipal ward constituted by this Order an ordinary vacancy and a casual vacancy are filled at the election held in pursuance of this article the councillor elected by the smaller number of votes shall be deemed to fill the casual vacancy.

(5) If for any reason it is doubtful which of the councillors is to be deemed to fill a casual vacancy the question shall be determined at the first or second meeting of the Council of the Borough by lot conducted under the direction of the person presiding at that meeting.

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(6) The councillors elected at the election shall come into office upon their election. A.D. 1928.

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14.—(1) The councillors of the Borough elected at the first election for the Cockington with Chelston Ward shall retire from office as follows :—

Retirement
of coun-
cillors
elected in
1928.

(a) The councillor who is elected by the smallest number of votes on the First day of November Nineteen hundred and twenty-nine;

(b) The councillor who is elected by the largest number of votes on the First day of November Nineteen hundred and thirty-one;

(c) The remaining councillor on the First day of November Nineteen hundred and thirty.

(2) Any councillor of the Borough who is elected at the election directed by this Order to fill a vacancy (not being a casual vacancy) in the representation of any ward of the Borough other than the Cockington with Chelston Ward shall retire from office on the First day of November Nineteen hundred and thirty-one.

(3) If for any reason it is doubtful which of the councillors elected in pursuance of this Order ought to retire from office on a date mentioned in this article the question shall be determined at the first or second meeting of the Council of the Borough by lot conducted under the direction of the person presiding at that meeting.

15. The powers and duties of the justices of the peace appointed for the existing Borough and of the clerk to those justices shall extend to and apply throughout the Borough :

Jurisdiction
powers and
duties of
borough
justices &c.
extended.

Provided that—

(a) every person committing an offence in the added area prior to the appointed day shall be tried and dealt with as if this Order had not been made;

(b) every proceeding which prior to the appointed day has been begun by or is pending before any justice in relation to any matter arising in or concerning the added area may be continued or completed in like manner and with the like incidents and consequences as nearly as may be as if this Order had not been made.

16.—(1) For the purpose of the election of county councillors the Borough shall be divided into five electoral divisions of the County to be designated by the names appearing in column 2 of the First Schedule to this Order and each electoral division shall be coextensive with the area of the new municipal ward

County
electoral
divisions.

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A.D. 1928. or wards mentioned in column 1 of that Schedule which are
— opposite the name of the new electoral division in column 2 of
Torquay the Schedule.
Order.

(2) The added area shall cease to form part of the Kings-
kerswell Electoral Division of the County.

Allocation
and con-
tinuance of
county
councillors.

17.—(1) Any person who immediately before the appointed
day is in office as a county councillor and represents—

(a) the existing Kingskerswell Electoral Division shall
represent that division as diminished by this Order;

(b) one of the existing electoral divisions of the County
within the existing Borough shall be deemed to have
been elected to represent the electoral division of the
same name constituted by this Order.

(2) The county councillors for the electoral divisions affected
by this Order shall retire from office on the day on which they
would have retired if this Order had not been made.

Newton
Abbot
Isolation
Hospital
District.

18.—(1) The added area shall cease to form part of the
Newton Abbot Isolation Hospital District and the reference to
the contributory place of Cockington in Schedule B to the Newton
Abbot Joint Hospital (Alteration) Order 1913 amending the
Newton Abbot Joint Hospital Order 1898 shall be omitted from
that schedule.

(2) As soon as practicable after the appointed day an
equitable adjustment shall be made under this Order between the
Corporation on the one hand and the Newton Abbot Joint
Hospital Committee on the other hand with respect to the interest
or share of the added area in the property and liabilities of that
Joint Committee.

Corporation
property
liabilities &c.

19. Subject to the provisions of this Order all property
immediately before the appointed day vested in the Corporation
for the benefit of the existing Borough (not being property held
on any charitable trust) shall by virtue of this Order be held
by the Corporation for the benefit of the Borough and the Cor-
poration shall hold enjoy and exercise for the benefit of the
Borough all the powers which immediately before that day are
exercisable by or vested in the Corporation for the benefit of
the existing Borough and all liabilities which immediately before
the appointed day attach to the Corporation in respect of the
existing Borough shall on that day attach to them in respect of
the Borough.

Mortgage
debts of
Corporation.

20.—(1) So much of any sums borrowed by the Corporation
as immediately before the appointed day are owing and charged
upon a fund or rate of the existing Borough or all the revenues
of the existing Borough shall be charged upon the corresponding

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fund or rate of the Borough or all the revenues of the Borough as the case may require. A.D. 1928.

(2) All borrowed moneys to which this article applies with the interest thereon shall be repaid by the Corporation within the respective periods for which the loans in respect of which the said sums are owing were originally sanctioned or within which the same are otherwise required to be repaid or are made repayable.

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Order.

21. Subject to the provisions of this Order—

(1) Any property or liabilities which immediately before the appointed day are vested in or attach to the Rural Council in relation exclusively to the added area (or any part thereof) shall by virtue of this Order be transferred to and vest in the Corporation as the urban authority for the execution of the Public Health Acts 1875 to 1925;

Property
 &c. of Rural
 Council.

(2) Any property or liabilities which immediately before the appointed day are vested in or attach to the Rural Council in relation to the added area (or any part thereof) conjointly with any other portion of the existing Rural District shall be a matter for adjustment under section 62 of the Act of 1888.

22.—(1) The Parish Council of Cockington shall cease to exist but shall liquidate as far as practicable before the appointed day all current debts and liabilities incurred by them.

Dissolution
 powers &c.
 of Parish
 Council.

(2) Any powers and duties vested in or imposed on the Parish Council of Cockington shall be vested in and imposed on the Corporation.

(3) Any property or liabilities held or incurred by the Parish Council of Cockington shall by virtue of this Order be transferred to and vest in or attach to the Corporation.

23.—(1) The confirmation Acts mentioned in the Second Schedule to this Order in so far as they relate to any provisional order or portion of a provisional order specified in that Schedule are hereby repealed.

Repeal of
 provisional
 orders and
 local Acts.

(2) Sections 15 68 to 70 73 82 102 152 and paragraphs (A) and (B) of section 71 of the Torquay Corporation Act 1923 are hereby repealed.

24.—(1) Subject to the provisions of this Order the un-repealed provisions of—

Extension of
 local Acts
 and orders
 applying to
 existing
 Borough.

(a) The local Acts and of the confirmation Acts specified in the Third Schedule to this Order so far as the last-mentioned Acts respectively relate to the provisional orders specified in that Schedule;

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- (b) Any other local Act or provisional order duly confirmed and affecting the existing Borough or the Corporation (including any such local Act or provisional order passed or confirmed during the present session of Parliament);
- (c) Any order affecting the existing Borough or the Corporation which has effect as if enacted by Parliament;

as the same respectively are in force within the existing Borough immediately before the appointed day shall extend and apply to the Borough and any reference therein which is applicable to the existing Borough and the Corporation shall be deemed to refer to the Borough and the Corporation thereof and any reference therein which is applicable to the existing Parish of Torquay shall be read as a reference to the Parish of Torquay:

Provided that—

- (i) Nothing in this article shall extend to the added area any provision which is in force in a portion only of the existing Borough;
- (ii) the provisions of Part V. (Infectious Disease and Sanitary Provisions) and of Part VII. (Food) of the Torquay Corporation Act 1923 shall not extend to the added area unless before the appointed day public notice shall be given in the added area of those provisions in the manner prescribed by sections 65 and 80 of that Act.

(2) Any provision prescribing a maximum charge within the existing Borough for the supply of water by the Corporation shall extend and apply to the Borough in substitution for any such provision which may apply to the added area.

(3) Nothing in this Order shall alter the area for the supply of gas by the Torquay and Paignton Gas Company or shall prejudice or affect the existing rights and powers of that Company.

Adoptive
Acts.

25.—(1) The provisions of—

- (a) The Public Health Acts Amendment Act 1890;
- (b) The Public Libraries Acts 1892 to 1919; and
- (c) The Health Resorts and Watering Places Act 1921;

shall be in force within and apply to the Borough as if the same had been adopted for the Borough.

(2) Such of the provisions of the Public Health Act 1925 as are in force immediately before the appointed day within the existing Borough by virtue of an adoption by the Corporation of those provisions shall be in force within and apply to the Borough.

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(3) The provisions of any adoptive Act in force within the added area or any part thereof shall subject to the provisions of this article cease to be in force within and apply to any part of the added area. A.D. 1928.
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Order.

(4) Any order under the Infectious Disease (Notification) Act 1889 or under any adoptive enactment mentioned in this article which is in force immediately before the appointed day throughout the existing Borough shall extend and apply to the added area and any order under the Infectious Disease (Notification) Act 1889 in force immediately before that day within the added area shall cease to be in force within that area.

26. For the purposes of—

(a) The Public Libraries Acts 1892 to 1919;

(b) The Notification of Births Acts 1907 and 1915 and the Maternity and Child Welfare Act 1918;

Public
libraries
maternity
child
welfare &c.

the Corporation shall be the authority for the Borough to the exclusion of the County Council.

27. Any order made under the Shop Hours Act 1904 or under the Shops Act 1912 or any subsequent Act providing for the closing of shops and in force immediately before the appointed day in any area affected by this Order shall subject to the provisions of those Acts remain in force and apply to the area to which it then applied. Orders under
Shop Hours
Act 1904 or
Shops Acts.

28. Subject to any order which the Minister or the Secretary of State may make on or after the appointed day the following provisions shall have effect as regards orders under the Public Health Acts Amendment Act 1907 or the Public Health Act 1925— Orders under
Public
Health Acts
Amendment
Act 1907 or
Public
Health Act
1925.

(1) The provisions of any order made before the appointed day and declaring to be in force throughout the existing Borough any parts or sections of either of those Acts shall have effect as if any reference in that order to the existing Borough extended and applied to the Borough and as if the said parts or sections were accordingly declared to be in force within the Borough;

(2) Any other order under either of those Acts which is in force immediately before the appointed day throughout the existing Borough shall extend and apply to the added area;

(3) The provisions of any order made before the appointed day and declaring to be in force within the added area any parts or sections of either of those Acts shall cease

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to apply to the added area and the parts or sections declared by any such order to be in force shall save as hereinbefore provided cease to be in force within the added area.

Charities.

29. Nothing in this Order shall affect the power of the Minister to make an order under section 33 of the Act of 1894 with respect to any charity held wholly or partly for the benefit of the inhabitants of the existing Parish of Cockington or any formerly existing parish which is comprised within the Parish of Torquay as if the parishes within the Borough had not been amalgamated.

Byelaws
regulations
scales of
charges &c.

30.—(1) All byelaws made by the Corporation or by the Rural Council and confirmed by the Minister or his predecessors or which if made after the date of this Order would be subject to the Minister's confirmation which are in force within the existing Borough or within the added area immediately before the appointed day—

(a) if made before the First day of January Nineteen hundred and fifteen shall continue to apply to the existing Borough or to the added area as the case may be for one year after the appointed day (unless previously repealed or altered by byelaws made by the Corporation) but shall on the expiration of the period aforesaid cease to be in force within any part of the Borough;

(b) if made on or after the First day of January Nineteen hundred and fifteen shall continue to apply to the existing Borough or to the added area as the case may be until repealed or altered by byelaws made by the Corporation.

(2) Subject to paragraph (1) of this article all byelaws made by the Corporation and in force immediately before the appointed day within the existing Borough shall extend and apply to the Borough until repealed or altered by further byelaws.

(3) All byelaws made by the County Council and in force immediately before the appointed day within the added area shall in so far as byelaws to the like effect could be made by the Corporation cease to be in force within the added area.

(4) In their application to the added area any byelaws made by the Rural Council shall have effect as if they had been made by the Corporation and as if the added area were referred to therein.

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(5) Any proceedings which if this Order had not been made might have been taken for any offence within the added area committed before the appointed day against—

(a) any byelaws of the Rural Council; or

(b) any byelaws of the County Council which by virtue of this article cease to apply to the added area;

may be taken by the Corporation as if the Corporation had been substituted therein for the Rural District Council or the County Council as the case may require and as if the byelaws of the County Council had remained in force.

(6) In this article "byelaws" includes any regulation scale of charges list of tolls or table of fees or payments and any reference to byelaws made by the Corporation or by the Rural Council shall be read as including a reference to byelaws made by the predecessors of the Corporation or the Rural Council as the case may require.

PART IV.

RATING AND VALUATION.

31.—(1) The County of Devon (Assessment Areas and Assessment Committees) Scheme 1926 as approved by the Minister on the Thirty-first day of December Nineteen hundred and twenty-six shall on and after the appointed day be read and have effect as if for references therein to the Borough of Torquay and the Torquay Borough Council there were substituted references to that Borough as extended by this Order and the Borough Council thereof and as if for references to the Rural District of Newton Abbot and the Newton Abbot Rural District Council there were substituted references to the Rural District as altered by this Order and the Council thereof.

(2) Any person who immediately before the appointed day represents the existing Borough or the existing Rural District on the South Devon Assessment Committee shall on that day be deemed to have been appointed to represent the Borough or the Rural District (as the case may require) on that Committee.

32. For the purposes of all valuation lists of the Borough prepared under the Rating and Valuation Act 1925 the amount of the deduction to be made from net annual value in the ascertainment of the rateable value of such rateable hereditaments within the added area as are included in class (3) of the hereditaments specified in column (1) of Part II. of the Second Schedule to that Act shall be 40 per cent. and such alterations of the rateable value of rateable hereditaments within the added area shall be made by the Corporation in the first new valuation list

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Assessment
areas and
committees.

Deduction in
ascertaining
rateable
value of
tithes rail-
ways canals
&c.

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A.D. 1928. under the Act of 1925 as may be necessary to give effect to this provision.

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Order.*

Valuation
lists under
Rating and
Valuation
Act 1925.

33.—(1) For the purposes of the preparation revision and approval of the first new valuation list under the Rating and Valuation Act 1925 the Corporation as from the passing of the Act of Parliament confirming this Order shall have as respects the added area to the exclusion of the Rural Council all the powers duties and liabilities of the rating authority under Part II. of the Rating and Valuation Act 1925.

(2) That portion of the draft of the first new valuation list under the Rating and Valuation Act 1925 for the existing Rural District which relates to the added area shall after the passing of the Act of Parliament confirming this Order be transferred to the Corporation and subject to such alterations therein as may appear to the Corporation to be necessary and to the revision and approval of the list by the assessment committee shall be amalgamated with the draft of the first new valuation list for the existing Borough to form the first new valuation list for the Borough.

(3) All documents relating exclusively to the preparation within the added area of the first new valuation list under the Rating and Valuation Act 1925 shall after the passing of the Act of Parliament confirming this Order be transferred to the Corporation.

(4) Nothing in this Order shall before the appointed day affect the powers and duties of the Rural Council as the rating authority for the Rural District with respect to valuation lists under the Union Assessment Acts 1862 to 1880.

Valuation
lists under
Union
Assessment
Acts 1862
to 1880.

34. Until the first new valuation list for the Borough under the Rating and Valuation Act 1925 comes into force the valuation lists for the existing Parish of Torquay and the existing Parish of Cockington shall on the appointed day form the valuation list of the Parish of Torquay.

County rate
basis.

35.—(1) The aggregate of the bases of the county rate for the existing Parish of Torquay and the existing Parish of Cockington shall form the basis of the county rate for the Parish of Torquay.

(2) Any alteration of the basis of the county rate made under this article shall not have effect for the purposes of any precept of the County Council for a financial period commencing before the appointed day.

Estimates of
produce of
rates.

36. For the purpose of ascertaining the amounts due under the precepts issued by the Guardians of the Newton Abbot Union to the Corporation and to the Rural Council in respect of the

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financial year ending on the Thirty-first day of March Nineteen hundred and twenty-nine the product of a penny rate in the Borough and in the Rural District respectively shall notwithstanding anything in the Rating and Valuation Act (Product of Rates and Precepts) Rules 1926 be determined separately for each half-year of that financial year and the amounts due in respect of the financial year under those precepts shall be ascertained accordingly.

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37.—(1) Notwithstanding the alterations of area effected by this Order all contribution orders and precepts made or issued before the appointed day shall be as valid in law as if this Order had not been made.

Contribu-
tion orders
precepts and
arrears of
rates.

(2) All rates not collected immediately before the appointed day in respect of hereditaments within the added area shall be collected and recovered by the Rural Council as the Rating Authority but shall be a matter for adjustment under this Order.

38. Any expenses incurred by the Corporation in the execution prior to the appointed day of this Part of this Order shall be charged by them on or after the appointed day to the borough fund of the Borough.

Expenses of
Corporation
under this
Part of this
Order.

PART V.

GUARDIANS AND RURAL DISTRICT COUNCILLORS.

39.—(1) The Parish of Torquay shall for the purpose of the election of guardians be divided into nine wards which shall be coextensive with and shall bear the same names as the wards constituted by this Order for the election of councillors of the Borough.

Wards and
guardians of
Parish of
Torquay.

(2) The number of elective guardians for the Parish of Torquay shall be increased from seventeen to eighteen and each ward shall be represented by two guardians.

40.—(1) The number of rural district councillors for the Rural District shall be reduced by one.

Rural
district
councillors
and
guardians.

(2) The person who immediately before the appointed day represents the Parish of Cockington as a rural district councillor shall on the appointed day become a guardian for the Cockington with Chelston Ward of the Parish of Torquay as if he had been elected to that office.

(3) If immediately before the appointed day a casual vacancy in the representation on the Rural Council of the Parish of Cockington shall exist an election of a guardian for the Cockington with Chelston Ward of the Parish of Torquay shall be held.

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Guardians
for existing
wards.

41.—(1) Any person who immediately before the appointed day is in office as a guardian for the Chelston Ward of the existing Parish of Torquay shall on the appointed day be deemed to have been elected as and shall be a guardian of the Cockington with Chelston Ward of the Parish of Torquay and any person who then is in office as a guardian for one of the other existing wards of the existing Parish of Torquay shall on the appointed day become a guardian for that ward of the Parish of Torquay which bears the same name.

(2) If immediately before the appointed day any casual vacancy shall exist in the representation of an existing ward of the existing Parish of Torquay the vacancy shall on the appointed day be deemed to have arisen in that ward of the Parish of Torquay to which the guardian would have been assigned by this article if the office had been full.

Term of
office of
guardians.

42. The guardians for the wards of the Parish of Torquay constituted by this Order shall retire on the Fifteenth day of April in the year Nineteen hundred and thirty-one and in every third year thereafter.

PART VI.

OFFICERS.

Meaning in
this Part
of "local
authority"
and
"officer."

43. In this Part of this Order unless the context otherwise requires—

"Local authority" means a local authority as defined in section 3 of the Local Government and other Officers' Superannuation Act 1922 and includes the standing joint committee of a county;

"Officer" includes a servant and any person whose remuneration is paid by a local authority.

Officers of
Corporation
continued.

44. The town clerk and all other officers of the Corporation of the existing Borough who hold office immediately before the appointed day shall continue to be the town clerk and officers of the Corporation of the Borough and shall hold their offices by the same tenure as before that day.

Transfer of
rating officer
of Rural
Council.

45.—(1) Samuel Wroth a rating officer of the Rural Council (in this article called "the transferred officer") shall on the passing of the Act of Parliament confirming this Order be transferred to and become a rating officer for the Borough as if he had been appointed to that office by the Corporation.

(2) The transferred officer shall hold his office by the same tenure and upon the same terms and conditions as if this Order had not been made and while performing similar duties

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to those which he was required to perform immediately before the appointed day shall receive not less salary or remuneration and shall be entitled to not less pension (if any) than the salary remuneration or pension to which he would have been entitled if this Order had not been made.

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Order.

(3) The transferred officer shall perform such duties in relation to the business of the Corporation as they may direct and the Corporation may abolish the office of the transferred officer.

(4) If at any time within five years after the appointed day the transferred officer is required by the Corporation to perform duties which are not analogous to or which are an unreasonable addition to those which that officer was required to perform immediately before the appointed day the transferred officer may relinquish his office.

(5) The remuneration of the transferred officer shall be paid by the Corporation and the remuneration accruing between the date of the transfer of the officer and the appointed day shall after that day be charged by the Corporation to the borough fund of the Borough.

46.—(1) Every officer in office on the passing of the Act of Parliament confirming this Order who by virtue of this Order or of anything done in pursuance or in consequence thereof suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees salary or emoluments (and for whose compensation no other provision is made by any enactment for the time being in force) shall be entitled to compensation for that loss from the Corporation.

Compensation to existing officers.

(2) If the officer transferred by the preceding article of this Order shall relinquish his office under the power conferred by this Order or if the services of any officer are dispensed with or his fees salary or emoluments are reduced within five years after the appointed day because his services are not required or his duties are diminished in consequence of this Order and not on the ground of misconduct that officer shall be deemed unless the contrary is shown to have suffered a direct pecuniary loss in consequence of this Order.

47.—(1) In determining the compensation payable to any person who becomes entitled to compensation in pursuance of this Order regard shall be had to the conditions and circumstances mentioned in subsection (1) of section 120 of the Act of 1888 and the compensation shall not exceed the limit therein mentioned.

Determination of compensation.

(2) Any compensation payable under this Order to any officer shall be paid out of the borough fund and borough rate of the Borough and the provisions of section 120 of the Act of 1888

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A.D. 1928. shall apply subject to the following and any necessary modifications:—

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Order.*

- (a) Any reference in that section to the county council shall be construed as a reference to the Corporation, and in subsection (7) of that section for the words "the same or any other county council" there shall be substituted the words "the council of any county or county borough or under any district council";
- (b) References in that section to "the passing of this Act" shall be construed as references to the date on which the abolition of office takes effect or the direct pecuniary loss commences as the case may be; and
- (c) The expression in subsection (1) of that section "the Acts and rules relating to Her Majesty's Civil Service" shall mean the Acts and rules relating to Her Majesty's Civil Service which were in operation at the date of the passing of the Act of 1888.

(3) All fees or remuneration received and retained by an officer in connection with the preparation of the jurors book or the register of electors under the Representation of the People Acts 1918 to 1926 shall subject to a reasonable deduction for any expenses incurred by the officer be regarded as part of the emoluments of the officer for the purpose of compensation.

(4) The compensation payable under this Order to an officer who on the passing of the Act of Parliament confirming this Order shall hold two or more offices under any local authority or local authorities and who shall have devoted the whole of his time to the duties of such offices shall not be reduced by reason of the fact that he has devoted only part of his time to each of such offices and for the purpose of this paragraph of this article a superintendent registrar registrar of births and deaths or registrar of marriages shall be deemed to hold an office under a local authority.

(5) If any officer was temporarily absent from his employment during the war whilst serving in His Majesty's Forces or the Forces of the Allied or Associated Powers either compulsorily or with the sanction or permission of the local authority such period of temporary absence shall be reckoned as service under the local authority in whose employment he was immediately before and after such temporary absence:

Provided that in the case of an officer who after the Armistice voluntarily extended his term of service with the Forces no period of absence during such extension shall be so reckoned.

(6) The Corporation may in their discretion and in consideration of the fact that any officer was appointed to his office

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as a specially qualified person or of the fact that he had prior to his appointment served as a deputy assistant or clerk to any officer not holding a temporary appointment add any number of years (not exceeding ten) to the number of years which such officer would otherwise be entitled to reckon for the purpose of computing the compensation to which he would be entitled under the Acts and rules relating to Her Majesty's Civil Service as applied by this Order.

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*Torquay
Order.*

48. No officer shall be entitled to receive both compensation under this Order for pecuniary loss and a superannuation or retiring allowance in respect of the same period of service and the same pecuniary loss.

Compensation and superannuation.

PART VII.

SUPPLEMENTARY.

49.—(1) In the preparation of the register of electors in the year Nineteen hundred and twenty-eight so far as it relates to any area affected by this Order it shall be competent to the Registration Officer of the Parliamentary County of Devon to frame the register in separate parts for each area which will constitute a registration unit after this Order has come into operation instead of in separate parts for each area constituting a registration unit before the operation of this Order.

Provisions as to register of electors.

(2) If the register of local government electors for any electoral area affected by this Order is not so framed as to show the persons entitled to vote at an election or parish meeting to be held for an electoral division parish or ward or other voting area the Registration Officer shall make such alteration or re-arrangement of the register as may be necessary for the purposes of such election or parish meeting.

(3) Any additional expense incurred by the Registration Officer which may be solely attributable to an alteration in the arrangement of a new register of electors or to a re-arrangement of an existing register of electors under the foregoing provisions of this article shall be defrayed by the Corporation.

(4) It shall be the duty of the Town Clerk of the Borough and of any officer designated under article 3 of the Overseers Order 1927 by the Corporation or by the Rural Council for the performance of the duties of overseers in relation to the preparation of the register of electors to render such assistance as may be required by the Registration Officer of the Parliamentary County for the purpose of any alteration or re-arrangement authorised by paragraph (2) of this article.

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(5) Where in the opinion of the Secretary of State the circumstances so require the Secretary of State may make such order as appears to him to be necessary or desirable to give effect to the provisions of this Order and may vary so far as is requisite the provisions in force with regard to the lists and registers of electors.

Local land
charges
registers.

50.—(1) The local registrar for the Rural District under the Land Charges Act 1925 and the rules made thereunder shall within fourteen days after the appointed day supply to the local registrar for the Borough an office copy of every entry in the local land charges register relating to any premises situate within the added area and shall be paid by the Corporation in respect thereof such fees as are prescribed by the said rules.

(2) The local registrar for the Borough shall within fourteen days after the receipt of the office copy mentioned in paragraph (1) of this article enter the same with any necessary modifications in the appropriate part of the local land charges register of the Borough.

(3) Until the expiration of one month after the appointed day the following provisions shall have effect in respect of all land within the added area—

(a) The local registrar for the Borough shall give notice to any person desiring to make a personal search that an additional search should be made in the register for the Rural District;

(b) Where application is made for an official search the local registrar for the Borough shall issue free of charge a certificate of official search in the register of the Borough and shall forward to the local registrar for the Rural District the application received by him together with the fees paid in respect thereof;

(c) The local registrar for the Rural District shall permit and make such searches and furnish such office copies and certificates as he would have been required to permit make and furnish and shall in relation thereto have the same powers and be subject to the same obligations as if this Order had not been made;

(d) Where a local land charge duly registered in the local land charges register of the Rural District is in pursuance of this Order transferred from the register of the Rural District to the register of the Borough such charge shall not be void as against a purchaser for money or money's worth of a legal estate in the land affected thereby by reason only that it has not been entered in the register of the Borough.

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51. For the purposes of the application of section 62 of the Act of 1888 to any adjustment which may become necessary in consequence of this Order that section shall have effect—

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—
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Order.

Adaptation
of provisions
as to ad-
justments.

(a) As if in subsections (5) (6) and (7) of that section the expression "council" included any authority affected by this Order or by anything done in pursuance of this Order;

(b) As if in the case of any such authority not otherwise empowered to borrow under any Act or on any security or in any manner mentioned in subsection (6) of the section that subsection empowered the authority to borrow under any Act relating to and conferring on the authority a power to borrow on the security of all or any of the funds rates and revenues of the authority and in the manner provided by the said Act but without the consent of any other authority and subject to the requirement that all money so borrowed shall be repaid within such period as the Minister may sanction;

(c) As if the fund or rate specified in any agreement or award of adjustment were substituted for any fund mentioned in the section; and

(d) As if the following subsection were added to the section:—

" (8) If it is necessary for the purpose of giving effect to any agreement or award for an adjustment that a separate rate shall be levied in part only of a parish the agreement or award may authorise such sum to be levied in that part as an additional item of the consolidated rate or the general rate as the case may require."

52.—(1) As soon as practicable after the appointed day the Rural Council as regards any balance in their hands derived from a general rate shall estimate the proportion thereof derived from the Parish of Cockington and subject to a deduction on account of undischarged liabilities in respect of that Parish accruing up to the appointed day shall transfer the amount to the Corporation.

Apportion-
ment by
Rural
Council of
balance of
general rate.

(2) The apportionment under this article of any balance shall be subject to review on an adjustment under this Order.

53. Any balance on the appointed day in the hands of the Rural Council which may have been derived from any special rate levied by them within the Parish of Cockington together with the arrears of any such special rate collected after the appointed day shall subject to the discharge of any outstanding

Balance of
special rate
in hands of
Rural
Council.

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- A.D. 1928. liability for any purpose covered by the rate be paid to the Corporation.
- Torquay Order.*
Balances in accounts of Guardians. 54. Any balance standing on the appointed day in the books of the Guardians of the Newton Abbot Union to the credit or debit of the Parish of Cockington shall be carried by the Guardians to the credit or debit of the Parish of Torquay.
- Parish books and documents. 55.—(1) All books and documents belonging to the Parish of Cockington and all documents directed by law to be kept with the public books writings and papers of that Parish (except any book or document relating to ecclesiastical matters) shall be deposited in such custody as the Corporation may direct.
(2) Any ratepayer of the Parish of Cockington shall at all times have the same right of inspection and of making extracts from the parish books and documents which he would have had if this Order had not been made.
- Audit of accounts of Cockington Parish Council. 56.—(1) The accounts of the Parish Council of Cockington shall be made up to the appointed day and shall be audited by the district auditor in like manner and subject to the like incidents and consequences as if this Order had not been made.
(2) Any sum certified by the district auditor to be due from any person at the audit shall be paid to the treasurer of the Borough.
- Poor law settlements. 57. Every person who at any time before the appointed day has acquired or who immediately before that day is in the course of acquiring a settlement in the existing Parish of Torquay or the Parish of Cockington by reason of residence birth or other qualification therein shall be deemed to have acquired or to be in the course of acquiring a settlement in the Parish of Torquay and as if the Parish of Cockington had always been a part of the Parish of Torquay.
- Saving for qualification of aldermen councillors and guardians. 58. Any alderman councillor or guardian who is to continue in office after the appointed day shall not during his present term of office be deemed to lose his qualification for being an alderman councillor or guardian by reason of the alterations of area made by this Order.
- Saving for main roads within added area. 59. Nothing in this Order shall empower the Corporation to claim to maintain and repair any main road situate within the added area.
- Savings for actions contracts &c. 60.—(1) No alteration effected by this Order shall cause to abate or shall prejudicially affect or prevent the continuance of any action cause of action or proceeding which immediately

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before the appointed day is pending or existing by or against the Rural Council or any contract deed bond agreement or other instrument (subsisting immediately before the appointed day) entered into or made by that Council or their predecessors :

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—
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Provided that—

- (a) Any action cause of action or proceeding which immediately before the appointed day is pending or existing by or against the Rural Council in relation exclusively to the added area or any part thereof may be continued prosecuted and enforced by or against the Corporation; and
- (b) All contracts deeds bonds agreements and other instruments (subsisting immediately before the appointed day) entered into or made by the Rural Council (or their predecessors) in relation exclusively to the added area or any part thereof may be continued and enforced as fully and effectually as if instead of that Council (or their predecessors) the Corporation had been a party thereto.

(2) All legal proceedings pending immediately before the appointed day may be amended in such manner as may be necessary or proper in consequence of this Order.

61. Nothing in this Order shall affect prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained shall authorise the Corporation to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands or of the Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Saving for
Crown
rights.

62. Nothing in this Order shall—

- (1) restrict the powers of the Secretary of State the Minister or the County Council under the Act of 1888 the Act of 1894 or the Poor Law Act 1927;
- (2) affect the powers of the County Council for the division of the parliamentary county into polling districts for parliamentary elections or for the division of the county into polling districts for the election of county councillors or any existing order for either of those purposes;

Other
savings.

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- (3) affect the ecclesiastical divisions of any parish or prejudice vary or affect any right interest or jurisdiction in or over any charitable endowment;
- (4) affect the area of any petty sessional division; or
- (5) affect the operation of such of the provisions of the Rating and Valuation Act 1925 as have not come into operation.

Short title.

63. This Order may be cited as the Torquay (Extension) Order 1928.

SCHEDULES:

FIRST SCHEDULE.

WARDS OF THE BOROUGH FOR THE ELECTION OF COUNCILLORS
AND ELECTORAL DIVISIONS WITHIN THE BOROUGH FOR
THE ELECTION OF COUNTY COUNCILLORS.

1. New Wards of the Borough.	2. New Electoral Divisions within the Borough.
<ul style="list-style-type: none"> 1. Babbacombe - - - 2. Saint Mary Church - - - 3. Ellacombe - - - 4. Strand - - - 5. Torwood - - - 6. Upton - - - 7. Waldon - - - 8. Torre - - - 9. Cockington with Chelston 	<ul style="list-style-type: none"> - - - } Torquay Saint Mary Church. - - - } Torquay Ellacombe. - - - } Torquay Torwood. - - - } Torquay Upton. - - - } Torquay Torre Abbey.

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SECOND SCHEDULE.

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CONFIRMATION ACTS REPEALED IN SO FAR AS THEY RELATE TO
 CERTAIN PROVISIONAL ORDERS OR PORTIONS OF PROVISIONAL
 ORDERS THEREBY CONFIRMED.

1. Session and Chapter.	2. Short Title.	3. Provisional Order thereby confirmed.
31 & 32 Vict. c. lxxxv.	The Local Government Supple- mental Act 1868 (No. 4).	The order relating to Tormoham.
39 & 40 Vict. c. cciii.	The Local Government Board's Provisional Orders Confirma- tion (Bilbrough &c.) Act 1876.	The order relating to Tormoham.
40 & 41 Vict. c. lxxvii.	The Local Government Board's Provisional Orders Confirma- tion (Altrincham &c.) Act 1877.	The order relating to Torquay.
43 & 44 Vict. c. lxxxiii.	The Local Government Board's Provisional Orders Confirma- tion (Alnwick Union &c.) Act 1880.	The order relating to Torquay.
55 & 56 Vict. c. lxxii.	The Local Government Board's Provisional Orders Confirma- tion (No. 5) Act 1892.	The order relating to Torquay.
58 & 59 Vict. c. xl.	The Local Government Board's Provisional Orders Confirma- tion (No. 1) Act 1895.	So much of the order dated the 18th March 1895 as relates to Torquay.

THIRD SCHEDULE.

LOCAL ACTS AND CONFIRMATION ACTS EXTENDED TO THE
 BOROUGH.

PART I.—LOCAL ACTS.

Session and Chapter.	Title or Short Title.
43 Geo. III. c. lxxxviii.	- An Act for repairing enlarging and improving the Pier and Quay within the Port or Harbour of Torquay in the County of Devon.
5 & 6 Will. IV. c. xlv.	- An Act for lighting watching and improving the Parish of Tormoham in the County of Devon.

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A.D. 1928.	Session and Chapter.	Title or Short Title.
<i>Torquay Order.</i>	19 & 20 Vict. c. lxxviii.	- The Torquay Waterworks Act 1856.
	49 & 50 Vict. c. cxix.	- The Torquay Harbour and District Act 1886.
	60 & 61 Vict. c. xxiii.	- The Torquay Corporation Water Act 1897.
	3 Edw, 7, c. cvi.	- The Torquay Corporation Water Act 1903.
	12 & 13 Geo. 5. c. lvi.	- The Torquay Corporation (Electricity) Act 1922.
	13 & 14 Geo. 5. c. cii.	- The Torquay Corporation Act 1923.
	17 & 18 Geo. 5. c. lxxxv.	The Torquay Corporation Act 1927.

PART II.—CONFIRMATION ACTS.

Session and Chapter.	Short Title.	Order relating to Torquay thereby confirmed.
13 & 14 Vict. c. 108.	The Public Health Supplemental Act 1850 (No. 3).	The order dated 1st August 1850.
23 & 24 Vict. c. 44.	The Local Government Supplemental Act 1860.	The order dated 11th May 1860.
27 & 28 Vict. c. 93.	The Pier and Harbour Orders Confirmation Act 1864.	The Torquay Harbour Order 1864.
29 & 30 Vict. c. 106.	The Local Government Supplemental Act 1866 (No. 3).	The order dated 29th May 1866.
31 & 32 Vict. c. xlvi.	The Pier and Harbour Orders Confirmation Act 1868 (No. 2).	The Torquay Harbour Order 1868.
42 & 43 Vict. c. xliii.	The Local Government Board's Provisional Orders Confirmation (Ashton-under-Lyne &c.) Act 1879.	The order dated 17th April 1879.
45 & 46 Vict. c. lxii.	The Local Government Board's Provisional Orders Confirmation (No. 4) Act 1882.	The order dated 9th May 1882.
46 & 47 Vict. c. lxxxix.	The Local Government Board's Provisional Orders Confirmation (No. 3) Act 1883.	The order dated 4th May 1883.
51 & 52 Vict. c. clxx.	The Pier and Harbour Orders Confirmation (No. 2) Act 1888.	The Torquay Harbour Order 1888.
54 & 55 Vict. c. lxii.	The Electric Lighting Orders Confirmation (No. 5) Act 1891.	The Torquay Electric Lighting Order 1891.
55 & 56 Vict. c. cciv.	The Pier and Harbour Orders Confirmation (No. 3) Act 1892.	The Torquay Harbour Order 1892.
56 & 57 Vict. c. ciii.	The Pier and Harbour Orders Confirmation (No. 1) Act 1893.	The Torquay Harbour Order 1893.

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Session and Chapter.	Short Title.	Order relating to Torquay thereby confirmed.	A.D. 1928. — <i>Torquay Order.</i>
1 Edw. 7. c. clix.	The Pier and Harbour Orders Confirmation (No. 2) Act 1901.	The Babbacombe Pier Order 1901.	
6 Edw. 7. c. cxiii.	The Pier and Harbour Orders Confirmation (No. 1) Act 1906.	The Torquay Harbour Order 1906.	
10 Edw. 7 & 1 Geo. 5. c. lxxii.	The Pier and Harbour Orders Confirmation (No. 2) Act 1910.	The Torquay Harbour Order 1910.	
10 Edw. 7 & 1 Geo. 5. c. lxxxv.	The Local Government Board's Provisional Orders Confirmation (No. 8) Act 1910.	The Torquay Order 1910.	
1 & 2 Geo. 5. c. cxliii.	The Local Government Board's Provisional Orders Confirmation (No. 4) Act 1911.	The Torquay Order 1911.	
2 & 3 Geo. 5. c. cxxxv.	The Local Government Board's Provisional Orders Confirmation (No. 9) Act 1912.	The Torquay Order 1912.	
10 & 11 Geo. 5. c. cx.	The Ministry of Health Provisional Orders Confirmation (No. 3) Act 1920.	The Torquay Order 1920.	

Given under the Official Seal of the Minister of Health
this Eleventh day of April Nineteen hundred and
twenty-eight.

(L.S.)

MICHAEL HESELTINE
Assistant Secretary Ministry of Health.

Printed by EYRE and SPOTTISWOODE, LTD.,
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WILLIAM RICHARD CODLING, Esq., C.B., C.V.O., C.B.E., the King's Printer of
Acts of Parliament.

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