



CHAPTER lxxxi.

An Act to provide for the extension of the limits for the supply of water and electricity by the corporation of Birkenhead and for other purposes. A.D. 1932.
[12th July 1932.]

WHEREAS the mayor aldermen and burgesses of the county borough of Birkenhead (in this Act referred to as "the Corporation" and "the borough" respectively) in pursuance of the Acts relating to their water undertaking supply water within the borough (except the townships of Landican Thingwall and Prenton which form the Prenton Ward of the borough) and within certain areas outside the borough and it is expedient that the limits for the supply of water by the Corporation should subject to the provisions of this Act be extended so as to include the whole of the borough and the townships of Noctorum Upton and Woodchurch and a portion of the township of Arrowe in the rural district of Wirral :

And whereas the townships of Noctorum Upton and Woodchurch and the said portion of the township of Arrowe are proposed to be included within the borough under proposals which have been made to the Minister of Health by the county council of the administrative county of Chester under section 46 of the Local Government Act 1929 except a small portion of the township of Upton which under the said proposals is proposed to be included in the county borough of Wallasey :

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And whereas it is expedient that the Corporation should in certain events be empowered to purchase the mains pipes and other works of the West Cheshire Water Board for the distribution of water (other than trunk mains) within the said townships and portion of township by this Act included within the limits for the supply of water by the Corporation :

And whereas it is expedient that the limits for the supply of electricity by the Corporation should be extended as in this Act provided :

And whereas it is expedient that the other powers contained in this Act should be conferred :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

And whereas in relation to the promotion of the Bill for this Act the requirements of the Borough Funds Acts 1872 and 1903 have been observed :

May it therefore please Your Majesty that it may be enacted and be it 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 (that is to say) :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the Birkenhead Corporation Act 1932.

Division of Act into Parts.

2. This Act is divided into Parts as follows :—

Part I.—Preliminary.

Part II.—Provisions as to limits for supply of water and electricity.

Part III.—Streets buildings sewers &c.

Part IV.—Finance.

Part V.—Miscellaneous.

3. Subject to the provisions of this Act and unless the subject or context otherwise requires the several words and expressions to which by the Public Health Acts meanings are assigned shall in this Act have in relation to the relative subject-matter the same respective meanings And in this Act—

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Interpreta-
tion.

“The borough” means the borough of Birkenhead;

“The Corporation” means the mayor aldermen and burgesses of the borough acting by the council;

“The town clerk” and “the surveyor” mean respectively the town clerk and the surveyor of the borough and respectively include any person duly appointed by the Corporation to discharge temporarily the duties of either of such officers;

“The general rate fund” and “the general rate” mean respectively the general rate fund and the general rate of the borough;

“The Minister” means the Minister of Health;

“Daily penalty” means a penalty for every day on which any offence is continued after conviction;

“Statutory security” means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Corporation; and

“Revenues of the Corporation” includes the revenues of the Corporation from time to time arising from any land undertakings or other property for the time being of the Corporation and the rates or contributions leviable by or on the order or precept of the Corporation.

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PART II.

PROVISIONS AS TO LIMITS FOR SUPPLY OF WATER AND
ELECTRICITY.Agreements
with West
Cheshire
Water
Board.

4. As from the first day of April one thousand nine hundred and thirty-three section 45 (Power to purchase portion of undertaking of West Cheshire Water Board) of the Birkenhead Extension Act 1927 shall be read and have effect as if the expression "added area" where used therein included the townships of Noctorum Upton and Woodchurch and the portion of the township of Arrowe which is described in the schedule to this Act.

Purchase
of part of
under-
taking of
West
Cheshire
Water
Board in
certain
events.

5.—(1) As from the date upon which the sale and purchase referred to in subsection (3) of this section takes effect the limits for the supply of water by the Corporation shall extend to and for all purposes include the townships of Landican Thingwall and Prenton (forming the Prenton Ward of the borough) and the townships of Noctorum Upton and Woodchurch and the portion of the township of Arrowe which is described in the schedule to this Act all of which are in this section together referred to as "the added limits."

(2) As from the said date the Corporation shall have and may exercise within the added limits all and the like powers privileges and authorities for and in relation to the supply of water and shall be subject to all and the like duties liabilities and obligations in respect thereof as they now have may exercise and are subject to within their limits for the supply of water as existing at the passing of this Act.

(3) Subject to the proviso to this subsection the West Cheshire Water Board (in this section referred to as "the board") shall sell to the Corporation and the Corporation shall purchase from the board so much of the undertaking of the board as lies within the added limits (except the Prenton pumping station and works and the lands held by the board in connection therewith and except any trunk mains connecting the said pumping station with the remainder of the limits of supply of the board) upon terms of the Corporation paying to the board the fair market value of the said portion of undertaking as a going concern exclusive of any compensation for compulsory sale and such value shall failing agreement

be determined in accordance with the provisions of the Arbitration Act 1889 by an arbitrator to be appointed failing agreement by the Minister : A.D. 1932.

Provided that such sale and purchase shall not take place unless and until the board (a) apply to Parliament or to the Minister for power to obtain a supply of water greater than the quantity obtainable under their existing powers at their Prenton Hooton or Mouldsworth pumping stations or (b) obtain a bulk supply of water other than a supply to meet temporary emergencies.

(4) From and after the date upon which such sale and purchase take effect all obligations of the board for the supply of water or otherwise in respect of the added limits shall cease and determine and the added limits shall be deemed to be excluded from the limits of supply of the board but notwithstanding anything in this section contained the board shall have and may exercise within the added limits the like powers with respect to the breaking up of streets for the purpose of laying maintaining removing and renewing pipes required for supplying water outside the added limits as they would have if the added limits were included within their limits of supply.

6. As from the first day of April one thousand nine hundred and thirty-three the township of Woodchurch and the portion of the township of Arrowe which is described in the schedule to this Act shall for all purposes be included within the limits for the supply of electricity by the Corporation and the Wirral and Neston Electricity Special Order 1925 so far as it relates to the said township and portion of township is hereby repealed. Within one month after the passing of this Act the Corporation shall deposit with the Electricity Commissioners a map showing the boundary of the area by this Act included within the limits for the supply of electricity by the Corporation. Electricity limits.

PART III.

STREETS BUILDINGS SEWERS &C.

7.—(1) Water shall not be permitted to drain or to be pumped or discharged from any land or premises on to or over any part of the footpath of any street but shall be conveyed to some drain sewer or watercourse by a gutter drain or channel or in such other manner as the Water from buildings &c. to be conveyed to sewers.

A.D. 1932. Corporation may require Any person who permits any water to be drained pumped or discharged in contravention of the provisions of this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

(2) It shall be the duty of all owners of land or premises to provide lay and keep in repair such gutters drains channels and other works as may be requisite for complying with this section and for the purpose of laying and repairing the same the owner of any land or premises may take up so much of any street as may be requisite and such gutters drains channels and other works shall be laid and thereafter kept in good repair and condition and the street shall be reinstated under the direction of the surveyor and all damage occasioned to the street shall be made good by such owner to the satisfaction of the surveyor.

(3) In the event of default on the part of the owner of any land or premises to comply with the provisions of subsection (2) of this section the Corporation may execute any necessary work and recover the cost of so doing from such owner summarily as a civil debt or as private improvement expenses to be charged upon the lands or premises in respect of which they were incurred in accordance with the provisions of section 257 of the Public Health Act 1875.

(4) This section shall not apply to any land or premises forming part of the estate of the Mersey Docks and Harbour Board Provided that water shall not be permitted to drain or to be pumped or discharged from any such land or premises on to or over any part of the footpath of any street outside the said estate except as provided by subsection (1) of this section.

(5) Section 18 (Water from buildings to be conveyed in pipes) of the Birkenhead Improvement Act 1884 is hereby repealed.

Abandoned
drains to be
filled up.

8. Where any person shall reconstruct or lay in a new position or permanently discontinue the use of any drain which communicates with any sewer or other drain such person shall cause any drain or portion of drain thereby rendered unnecessary to be cut off and sealed at each end of the drain or portion of drain so discontinued

or rendered unnecessary and such portion of discontinued or unnecessary drain shall be taken up destroyed or filled in with lime or concrete or in such other manner as may be required by the Corporation. Any person who contravenes the provisions or fails to comply with the requirements of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings :

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Provided that this section shall not apply to the Mersey Docks and Harbour Board except as regards any drain or portion of drain belonging to the said board which may be discontinued or rendered unnecessary between the boundary of the estate of the said board and any sewer or other drain outside the said estate with which it communicates.

9.—(1) The Corporation may if they think fit require any person constructing or responsible for constructing a new street or passage to provide separate sewers for the reception of surface water and of sewage respectively.

Separate
sewers for
sewage and
surface
water.

(2) The Corporation may also from time to time by resolution declare that any sewer or sewers for the time being belonging to them shall be appropriated and used for surface water only or for sewage only.

(3) Where in any street provision has been made for separate sewers for surface water and for sewage as aforesaid no sewage shall be allowed to pass into the surface-water sewer and so far as practicable no surface or storm water shall be allowed to pass into the sewage sewers.

(4) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(5) In the case of any house or premises existing at the time of the provision of separate sewers as aforesaid the drains whereof would but for the passing of this Act have been sufficient effectually to drain such house or premises the Corporation shall at their own expense make all necessary alterations which they may require to the drains and pipes of such house or premises in order to keep separate the sewage and surface-water drainage thereof and no penalty shall be incurred under this section

A.D. 1932. — in the case of such house or premises until the completion of such alterations as aforesaid.

(6) Nothing in this section shall apply to any street or passage on the estate of the Mersey Docks and Harbour Board or to any land or other property belonging to the said board except with the consent of that board first being obtained but such consent shall not be unreasonably withheld and any question as to whether such consent is unreasonably withheld shall be determined by the Minister.

PART IV.

FINANCE.

Power to borrow and repayment of borrowed moneys.

10.—(1) The Corporation may in addition to any moneys which they are now authorised to borrow or which they may be authorised to borrow under the provisions of any public general Act borrow at interest the sum requisite for paying the costs charges and expenses of this Act as hereinafter defined and all moneys so borrowed shall be chargeable on the revenues of the Corporation and shall be repaid within five years from the passing of this Act.

(2) The Corporation may also with the sanction of the Minister borrow such moneys as may be necessary for any of the purposes of this Act and any moneys borrowed under the powers of this subsection shall be chargeable upon the revenues of the Corporation and be repaid within such periods not exceeding sixty years as the Minister may prescribe.

(3) The provisions of this section shall not limit the powers conferred upon the Corporation by section 129 (Power to use one form of mortgage for all purposes) of the Birkenhead Corporation Act 1923.

Incorporation of certain financial provisions.

11. The following provisions of the Acts in this section mentioned shall so far as applicable extend and apply to and in respect of moneys borrowed by the Corporation under this Act as if they were re-enacted herein (that is to say) :—

The Birkenhead Corporation Act 1881—

Section 287 (Protection of lenders from inquiry).

The Birkenhead Corporation Act 1897— A.D. 1932.

Section 48 (Repayment of moneys hereafter borrowed under existing powers);

Section 49 (General provisions as to sinking funds).

The Birkenhead Corporation Act 1914—

Section 12 (Mode of raising money);

Section 15 (Power to borrow under Local Loans Act 1875);

Section 16 (Power to re-borrow);

Section 17 (Application of money borrowed);
and

Section 18 (Audit of accounts):

Provided that the periods for repayment referred to in the section of this Act whereof the marginal note is "Power to borrow and repayment of borrowed moneys" shall respectively be deemed to be "the prescribed period" for the purposes of such application of the said sections.

12. All expenses incurred by the Corporation in carrying into execution the provisions of this Act with respect to which no other provision is made shall be defrayed out of the general rate fund and the general rate. Expenses of execution of Act.

PART V.

MISCELLANEOUS.

13. The Corporation may erect construct provide maintain furnish equip regulate and manage medicated and other baths (including baths the efficient properties of which are due to agencies other than water) and they may demand and take such reasonable charges for the use thereof as they may think fit. Medicated and other baths.

14. The Corporation may use or may let on such conditions as they may think fit any swimming bath or bathing pool belonging to them for swimming contests practices aquatic exercises water polo matches life-saving classes aquatic exhibitions and entertainments of a Use of swimming baths for exhibitions &c.

A.D. 1932. — similar nature or for meetings and the Corporation may also demand and take such charges as they may think fit for admission to and for letting any swimming bath or bathing pool as aforesaid on any such occasion or for any of such purposes.

Byelaws
for control
of playing
fields &c.

15. The Corporation may make byelaws with respect to the management control and use of the playing fields provided by them under section 69 of the Public Health Act 1925 and of so much of Arrowe Park as may be used for purposes other than playing fields and for the enforcement of such byelaws by the servants of the Corporation Provided that nothing in this section shall extend affect or interfere with the area of jurisdiction of any police force.

All byelaws from time to time made by the Corporation under the powers of this section shall be made under and in accordance with the provisions contained in sections 182 to 185 of the Public Health Act 1875 so far as they relate to byelaws made by an urban sanitary authority.

Penalty on
occupier
refusing
execution
of Act.

16. If the occupier of any house or part of a house shall prevent the owner thereof from carrying into effect any requirement of the Corporation under or in pursuance of Part III (Streets buildings sewers &c.) of this Act then after notice of this provision shall have been given by the owner to the occupier any court of summary jurisdiction upon proof thereof may make an order in writing requiring the occupier to permit the owner to execute the works required by the Corporation to be done and if after the expiration of seven days from the service of such order the occupier shall continue to refuse to permit the owner to execute the said works he shall for every day during which he shall so continue to refuse be liable to a penalty not exceeding two pounds and during the continuance of his refusal the owner shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Power
to enter
premises.

17. The provisions of sections 102 and 103 of the Public Health Act 1875 shall extend and apply to the purposes of Part III (Streets buildings sewers &c.) of this Act as if those purposes had been mentioned in the said section 102 :

Provided that in the exercise at any railway station or upon any premises of any railway company of the powers conferred upon the Corporation by this section the Corporation shall conform to such reasonable requirements of that railway company as are necessary to prevent the working of their traffic being obstructed or interfered with. A.D. 1932.

18. Any person deeming himself aggrieved by any order judgment determination or requirement or the withholding of any certificate licence or consent or approval of or by the Corporation or of or by any officer of the Corporation under the provisions of Part III (Streets buildings sewers &c.) of this Act or by any conviction or order made by a court of summary jurisdiction or a petty sessional court under any provision of this Act may if no other mode of appeal be provided by this Act or by any other Act appeal to the next practicable court of quarter sessions under and according to the provisions of the Summary Jurisdiction Acts and in regard to any such order made by a court of summary jurisdiction or a petty sessional court the Corporation may in like manner appeal. Appeal.

19. Proceedings for the recovery of any demand made under the authority of this Act whether provision is or is not made for the recovery in any specified court or manner may be taken in any county court having otherwise jurisdiction in the matter provided that the demand does not exceed the amount recoverable in that court in a personal action. Recovery of demands.

20. The provisions contained in the sections of the Birkenhead Corporation Act 1923 the numbers and marginal notes of which are set forth in this section shall so far as applicable extend and apply as if they were re-enacted in this Act (that is to say):— Incorporation of certain provisions of Act of 1923.

Subsections (1) and (2) of section 151 (Inquiries by Minister of Health);

Section 158 (Recovery of penalties &c.);

Section 162 (Saving for indictments &c.); and

Section 164 (Powers of Act cumulative).

21. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown. Crown rights.

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Costs of
Act.

22. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the general rate fund or out of such other funds and in such proportions as the Corporation shall determine or out of moneys to be borrowed under this Act for that purpose.

The SCHEDULE referred to in the
foregoing Act.

PORTION OF TOWNSHIP OF ARROWE TO BE ADDED TO
LIMITS FOR SUPPLY OF WATER AND ELECTRICITY
BY THE CORPORATION.

So much of the township of Arrowe as is situate to the east of a line drawn along the west boundary of the township of Arrowe from the point where the boundaries of the townships of Arrowe Upton and Greasby meet to Arrowebrook Lane thence across that lane and along the west boundary of the Arrowe Park estate of the Corporation to Irby Road.

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