

[26 GEO. 5. & *East Lothian County* [Ch. xx.]
1 EDW. 8.] *Council Order Confirmation Act, 1936.*



CHAPTER XX.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Acts 1899 and 1933 relating to East Lothian County Council. A.D. 1936.
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[21st May 1936.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by one of His Majesty's Principal Secretaries of State under the provisions of the Private Legislation Procedure (Scotland) Acts 1899 and 1933 as read with the Secretaries of State Act 1926 and it is requisite that the said Order should be confirmed by Parliament : 62 & 63 Vict.
c. 47.
23 & 24
Geo. 5. c. 37.
16 & 17
Geo. 5. c. 18.

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 is hereby confirmed. Confirmation
of Order in
schedule.

2. This Act may be cited as the East Lothian County Council Order Confirmation Act 1936. Short title.

A.D. 1936.

SCHEDULE.

EAST LOTHIAN COUNTY COUNCIL.

Provisional Order to provide for the regulation of tents vans and other structures in the county of East Lothian to make further provision with regard to the valuation of lands in that county and for other purposes.

WHEREAS the county council of the county of East Lothian (hereinafter referred to as "the County Council") are the local authority for the county of East Lothian (hereinafter referred to as "the county") exclusive of the burghs therein :

And whereas it is expedient to confer upon the County Council the powers in relation to the regulation of tents vans sheds and similar structures used or intended to be used for human habitation within the county in this Order contained :

And whereas it is expedient to amend the Lands Valuation (Scotland) Act 1854 and the Valuation of Lands (Scotland) Amendment Act 1867 in their application to the county as provided in this Order :

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

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Acts 1899 and 1933 :

Now therefore in pursuance of the powers contained in the last-mentioned Acts as read with the Secretaries of State Act 1926 the Secretary of State orders as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Order may be cited as the East Lothian County Council Order 1936.

2. This Order except where otherwise expressly provided shall commence and have effect on and from the date of the passing of the Act confirming this Order which date is in this Order referred to as "the commencement of this Order."

A.D. 1936.
—
Commence-
ment of
Order.

3. This Order is divided into Parts as follows :—

Order
divided into
Parts.

Part I.—Preliminary.

Part II.—Tents vans &c.

Part III.—Valuation of lands.

Part IV.—Finance.

Part V.—Miscellaneous.

4. In this Order unless otherwise expressly provided or unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Public Health Acts or the Lands Valuation Acts (as hereinafter in this section defined) have the same respective meanings And in this Order unless otherwise provided or unless the subject or context otherwise requires the following expressions shall have the meanings hereinafter assigned to them (namely) :—

Inter-
pretation.

"County Council" means the County Council of the county of East Lothian;

"County" means the county of East Lothian exclusive of any burgh therein;

"Special district" means a special lighting drainage water or scavenging district of the county;

"Consolidated rate" means the consolidated rate of the county;

"Public Health Acts" means the Public Health (Scotland) Acts 1897 to 1907 and any Act amending or extending those Acts or any of them;

"Lands Valuation Acts" means the Lands Valuation (Scotland) Act 1854 and any Act amending or extending the same;

A.D. 1936.

“ Statutory borrowing power ” means any power whether or not coupled with a duty of borrowing or continuing on loan or re-borrowing money or of redeeming or paying off or creating or continuing payment of or in respect of any annuity rentcharge rent or other security representing or granted in lieu of consideration money for the time being existing under any Act of Parliament public or local passed or to be passed or under any Provisional Order confirmed by Act of Parliament passed or to be passed or under any order or sanction of any Government department made or given or to be made or given by authority of any Act of Parliament passed or to be passed or any Provisional Order confirmed by Act of Parliament passed or to be passed;

“ Security of the County Council ” means any mortgage bond stock or other security granted or issued by the County Council;

“ County clerk ” and “ county treasurer ” mean respectively the clerk and treasurer of the County Council;

“ Sheriff ” means the sheriff of the Lothians and Peebles and includes his substitutes;

“ Daily penalty ” means a penalty for each day on which an offence is continued after conviction thereof.

PART II.

TENTS VANS &C.

Regulation
of tents
vans &c.

5.—(1) It shall not be lawful for any person without the consent of the County Council acting as the local authority for the county under the Public Health Acts—

(a) to let or use or permit to be used any land situate within the county for occupation by any tent

van shed or similar structure used or intended to be used for human habitation; or A.D. 1936.

- (b) to place or keep on any land situate as aforesaid any such tent van shed or similar structure;

and such consent may be given for such period and on such conditions as the County Council think fit Provided that consent shall not be required by any person in respect of—

- (i) any tent van shed or similar structure placed or kept by the occupier of a dwelling-house upon any land connected therewith and used by him or members of his household;

- (ii) any tent van shed or similar structure provided by or belonging to or used by—

(a) any duly constituted religious or charitable society or body to the main objects of which the provision ownership or use of tents vans sheds or similar structures is merely subsidiary;

(b) any association incorporated by royal charter or any organisation constituted by any such last-mentioned association in pursuance of their charter;

(c) any duly constituted society or body operating throughout Great Britain which by their rules undertake responsibility for the management of the camping grounds provided by or belonging to them or used by their members and for the good conduct of their members when in camp; or

(d) any portion of His Majesty's naval or military or air forces or which may be certified as under supervision of or by a territorial army association or an auxiliary air force association or a county joint association or by a cadet unit of the British National Cadet Association officially recognised by the Army Council or by a university air squadron officially recognised by the Air Council;

- (iii) any tent van shed or similar structure used or intended to be used for human habitation in

A.D. 1936.

the county where such use shall not exceed a period of three months in any period of twelve months;

- (iv) any tent van shed or similar structure erected or to be erected on the property of a railway company for railway purposes or any railway vehicle used as a camping coach on a railway;
- (v) any tent van shed or similar structure used or intended to be used for human habitation by a person whose regular employment or occupation is that of a roundabout proprietor or travelling showman (not being a pedlar or hawker) Provided that the period during which such tent van shed or similar structure is so used in the county shall not exceed a period of six months in any period of twelve months and that such tent van shed or similar structure is only used in connection with his employment or occupation.

(2) Any person aggrieved by the withholding by the County Council of consent under the provisions of this section may within twenty-one days from the date of the decision of the County Council appeal to the sheriff and the sheriff may make such order and on such terms and conditions as to the sheriff may seem just.

(3) If any person offend against any of the foregoing provisions of this section he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and all offences against the said provisions may be prosecuted before a court of summary jurisdiction at the instance of either the public prosecutor or the local authority.

(4) Section 73 (Tents and vans used for human habitation) of the Public Health (Scotland) Act 1897 shall in its application to the county be extended so as to authorise the County Council to make byelaws—

- (a) with respect to the number of tents vans sheds or similar structures used or intended to be used for human habitation to be permitted on any land the area to be allotted to each such tent van shed or similar structure the provision of adequate lighting of such land or area and precautions against fire;

(b) for preventing the amenities of the neighbourhood being prejudicially affected by the state or condition of any such tents vans sheds or similar structures and their surroundings; A.D. 1936.
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(c) for securing the good and orderly conduct of persons frequenting any such tents vans sheds or similar structures and of the occupiers thereof:

Provided that paragraphs (b) and (c) of this subsection shall not apply to any such tent van shed or similar structure as is referred to in proviso (v) to subsection (1) of this section so long as any person occupying any such tent van shed or similar structure is not guilty of any misconduct.

PART III.

VALUATION OF LANDS.

6. This Part of this Order shall come into operation on the fifteenth day of May one thousand nine hundred and thirty-six. Commencement of Part III of Order.

7. For the purposes of this Part of this Order—
“County” means the county of East Lothian including the burghs therein. Definition of county for Part III of Order.

8. In its application to the county section 5 (Notice to be given to persons whose property is valued) of the Lands Valuation (Scotland) Act 1854 shall be read and have effect as if the words “third day of September” were substituted for the words “eighth day of September” occurring therein. Date for issuing notices.

9.—(1) In its application to the county section 9 (Persons entitled to appeal) of the Lands Valuation (Scotland) Act 1854 shall be read and have effect as if the words “not later than the third day of September in each year lodge an appeal in writing with the assessor” were substituted for the words “six days at least before such appeal is heard intimate in writing to the assessor that he is to maintain such appeal” occurring therein. Lodging of appeals.

(2) In its application to the county section 7 (Time for lodging appeals against assessor’s entries in valuation roll) of the Valuation of Lands (Scotland) Amendment Act 1867 shall be read and take effect as if the words

A.D. 1936. — “third day of September” were substituted for the words “tenth day of September” occurring therein.

Penalty on agents or factors making false returns for valuation purposes.

10. Any factor agent or person acting for or in name of or on behalf of a proprietor or tenant or occupier of lands and heritages who shall knowingly or wilfully present or cause to be presented to the assessor for the county under the Lands Valuation Acts a false statement of the yearly rent or value of any such lands and heritages within the county belonging to or occupied by the proprietor or tenant or occupier for or in name of or on behalf of whom he acts shall be liable to pay a penalty of the like amount as is imposed by the Lands Valuation Acts upon proprietors tenants or occupiers of lands and heritages presenting or causing to be presented false statements to such assessor and such penalty shall be recoverable and applied in the manner provided by the Lands Valuation Acts.

Saving for Assessor of Public Undertakings (Scotland).

11. Nothing in this Part of this Order shall extend or apply to the Assessor of Public Undertakings (Scotland) under the Lands Valuation Acts or to the valuation roll made up by him under those Acts.

PART IV.

FINANCE.

Power to re-borrow.

12.—(1) The County Council shall have power—

- (a) to borrow for the purpose of paying off any moneys previously borrowed under any statutory borrowing power 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 County Council in repaying moneys previously borrowed under any statutory borrowing power 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. A.D. 1936.
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(3) The County Council 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 County Council 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
- (d) out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

13. All mortgages to be granted by the County Council after the commencement of this Order for moneys borrowed in exercise of any statutory borrowing power may be in or near to the form contained in the First Schedule to this Order. Form of mortgage.

14. Any person entitled to any such mortgage may transfer his right and interest therein to any other person and every such transfer shall be by deed or by endorsement on the mortgage duly stamped wherein the consideration shall be truly stated. Transfer of mortgages.

15. If any such mortgage be transmitted by reason of the bankruptcy of the person entitled thereto there shall be produced to the County Council official evidence of such bankruptcy and of the vesting of the bankrupt estate in the trustee official assignee or other person to whom such estate shall be transferred. Transfer of mortgages in case of bankruptcy.

16. All mortgages shall be moveable or personal estate and transmissible as such and shall not be of the nature of heritable or real estate. Mortgages to be moveable estate.

17. Any person entitled to any mortgage granted by the County Council under the authority of this Order may discharge the same and his right and interest therein Discharge of mortgages.

A.D. 1936. — in favour of the County Council and every such discharge may be written or partly written and partly printed on the mortgage and such discharge when signed by the person entitled to such mortgage shall be valid and effectual to all intents and purposes.

Protection of holders of securities. 18. A person taking or holding any security issued by the County Council under the authority of this Order shall not be concerned to inquire or to take notice whether the creation or issue thereof was or was not within any statutory borrowing power of the County Council or otherwise in accordance with this Order or whether or not the County Council or any meeting thereof was properly constituted or convened or whether or not the proceedings at any meeting of the County Council or any committee thereof were legal or regular or to see to the application of any money borrowed or be answerable for any loss or misapplication thereof.

As to interest accruing on sinking and other funds. 19. The interest received in any year from the investment of any sums forming part of any sinking fund or redemption fund shall notwithstanding the provisions of any Act or Order relating to any such fund form part of the revenue for that year of the county fund but the contributions to be made to any sinking fund or redemption fund out of the county fund shall in that year be increased by a sum equal to the interest that would have accrued to the sinking fund or redemption fund during that year if interest had been accumulated in the fund at the rate per centum per annum on which the annual payments to the fund are based.

Use of moneys forming part of sinking funds 20. The County Council may use for the purpose of any statutory borrowing power exerciseable by them any moneys forming part but not for the time being required for the purposes of any fund accumulated for the redemption of debt (in this section referred to as "the lending fund") subject to the following conditions:—

- (1) The moneys so used shall be repaid out of the county fund to the lending fund within the period and by the methods within and by which a loan raised under the statutory borrowing power would be repayable. Provided that the County Council shall repay to the lending fund the moneys so used or the balance thereof for the time being outstanding (as the case may be)

as and when the same shall be required for the purposes of the lending fund and may if they so resolve repay the same at any time within the period aforesaid and in either case the repayment shall be made out of the county fund or out of moneys which would have been applicable to the repayment of a loan if raised under the statutory borrowing power :

A.D. 1936.

- (2) In the accounts of the county fund an amount equal to interest calculated at such rate per centum per annum as may be determined by the County Council to be equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the statutory borrowing power on any moneys so used and for the time being not repaid shall be credited to the lending fund and debited to the purpose with reference to which the moneys are so used :
- (3) The statutory borrowing power shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power and the provisions of any enactment as to re-borrowing of sums raised under the statutory borrowing power shall apply accordingly.

21.—(1) The County Council may close the register of transfers of any class of security of the County Council for a period not exceeding thirty days next before any date on which any interest or dividend on the class of securities to which such register relates are payable.

Closing
of registers.

(2) Any transfer of any security of the County Council made during the period when the register of transfers of such security is so closed shall as between the County Council and the persons claiming under the transfer (but not otherwise) be considered as made subsequently to the payment of the dividend or interest on such security as the case may be.

22. No notice of any trust express implied or constructive in respect of any security of the County Council shall be entered in any register or in any other book kept by the County Council or be receivable by

Notice of
trusts.

A.D. 1936. — the County Council or shall affect the County Council but this provision shall not prevent any holder of any such security from being described as a trustee or as possessing any official character.

Receipt in case of persons not sui juris.

23. If any money is payable to a holder of any security of the County Council being a pupil minor idiot or lunatic the receipt of the guardian or trustee of his estate or of his tutor or curator or curator bonis shall be a sufficient discharge to the County Council.

Interest on securities held jointly.

24. Where more persons than one are registered as joint holders of any security of the County Council any one of them may give an effectual receipt for any interest thereon unless written notice to the contrary has been given by any other of them to the county clerk or the county treasurer.

Dividends to executors &c.

25. The County Council shall not be required to pay to any executors or administrators any interest or dividend on any security of the County Council held by the testator or intestate until the confirmation or probate of the will or the letters of administration has or have been left with the County Council for registration.

Evidence of transfer or transmission of securities.

26. It shall not be obligatory on the County Council to receive or register any transfer assignation certificate of death bankruptcy or marriage probate confirmation letters of administration or other document evidencing a transmission of any security of the County Council (except securities issued under the Local Authorities Loans (Scotland) Act 1891) except upon the production to and temporary deposit with the county treasurer of the security or the certificate thereof for the purpose of the endorsement thereon of a memorandum of such transmission or the issue of a new security or certificate thereof and in case of the issue of a new security or certificate for the purpose of cancellation of the security or certificate so deposited.

Evidence of title.

27.—(1) The County Council before allowing any transfer of any security of the County Council or before paying any interest or dividend on any such security may if the circumstances appear to them to make it expedient require evidence of the title of any person

claiming a right to make the transfer or to receive the interest or dividend. A.D. 1936.

(2) That evidence shall be a statutory declaration by one or more competent persons or of such other nature as the County Council may require.

28.—(1) The County Council may give notice to any person being registered as a holder of any security of the County Council that they intend to send interest or dividends to him by post if he does not object and if such person does not within fourteen days from the receipt of such notice give notice to the County Council of such objection the County Council may from time to time send letters containing orders for the payment of interest or dividend warrants to the address of such person appearing in the register. Provided that if such person gives notice to the County Council that he desires such orders or warrants to be sent to another person at a given address the County Council may from time to time send letters containing the same to such other person at such address.

Interest orders and dividend warrants by post.

(2) Where more persons than one are registered as joint holders of any security of the County Council any one of them may for the purpose of this section be regarded as the holder of the security unless contrary notice has been given to the County Council by any other of them.

(3) The posting by the County Council of a letter containing an order for the payment of interest or a dividend warrant in pursuance of this section shall as respects the liability of the County Council be equivalent to the delivery of the order or warrant to the registered holder of the security of the County Council.

(4) Every order or warrant so sent by post shall be deemed to be a cheque and the County Council shall in relation thereto be deemed a banker within the Bills of Exchange Act 1882.

PART V.

MISCELLANEOUS.

29. Notwithstanding anything contained in section 5 (Election and term of office of members of courts) of the Licensing (Scotland) Act 1903 as amended by section 9 (2) Election of members of licensing courts.

A.D. 1936. — of the Local Government (Scotland) Act 1908 as to the date of election and term of office of members of licensing courts—

(1) The next election to licensing courts and courts of appeal therein provided for in the county in the case of justices of the peace shall take place at the same place and on the same date as the statutory meeting of the County Council in December one thousand nine hundred and thirty-eight and in the case of members being county councillors shall take place at the said statutory meeting of the County Council and such justices of the peace and such members being county councillors shall hold office till the date of the statutory meeting of the County Council in December one thousand nine hundred and forty-one when they shall retire and their successors shall be elected and thereafter such retirement and election shall take place on the day appointed for the statutory meeting of the County Council in December in the year of the triennial election of the county councillors of the county. Provided that if any such member elected by the County Council shall cease to be a member of the County Council he shall ipso facto cease to be a member of a licensing court or court of appeal:

(2) The members of licensing courts and courts of appeal in the county in office at the commencement of this Order shall continue in office until the date of the meeting of the County Council in December one thousand nine hundred and thirty-eight.

Acceptance
of gifts of
property.

30.—(1) Subject to the provisions of this section the County Council may accept hold and administer any gift of property whether heritable or moveable for any local public purpose or for the benefit of the inhabitants of the county or of some part thereof and may execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section.

(2) Where the purposes of the gift are purposes for which the County Council are empowered to expend

money raised from a rate they may subject to any condition or restriction attaching to the exercise of that power defray expenditure incurred in the exercise of the powers conferred by the last preceding subsection out of money so raised. A.D. 1936.

(3) Nothing in this section shall affect any powers exercisable by the County Council under or by virtue of the Education (Scotland) Acts 1872 to 1928 or under any scheme in respect of any trust approved under the Educational Endowments (Scotland) Act 1882 the Educational Endowments (Scotland) Acts 1928 to 1935 or any Act amending the aforesaid Acts.

31.—(1) The County Council may for the benefit of any special district by agreement purchase feu or lease land for the erection of and may erect thereon a public hall and offices or may acquire or lease any building or block of buildings already erected which may be suitable for any such hall and offices Provided as follows :— Public halls.

(i) The County Council shall not acquire feu or lease any such land or building or erect a public hall and offices under the powers conferred by this subsection unless the resolution so to do has been agreed to by two-thirds of the members of the County Council entitled to exercise a deliberative vote present at a meeting whereof special notice in writing has been given to each member of the County Council and has been confirmed by two-thirds of the members of the County Council entitled to vote as aforesaid present at a subsequent meeting (of which special notice has been given as aforesaid) held not sooner than four weeks after the preceding meeting and during such four weeks the said subsequent meeting and the said resolution shall be advertised once at least in each of two successive weeks in some newspaper circulating within the county;

(ii) The County Council shall not proceed to carry the resolution into effect until after the expiration of one month from the date of such second meeting and during such month such resolution shall be advertised once at least in each week in some newspaper circulating within the county

A.D. 1936.
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and public notice thereof shall also be given by means of placards posted in public places within the special district and such advertisement and notice shall state that if before the expiration of such month a representation in writing by seven or more electors against such resolution being carried into effect be lodged with the county clerk such resolution shall not be carried into effect unless confirmed by a majority of the electors qualified and voting at a poll of the electors;

- (iii) Upon such representation being lodged as aforesaid the County Council shall be bound to direct a poll to be taken in the manner hereinafter prescribed;
- (iv) The County Council shall direct the poll to proceed at such polling place or places and on such day as they shall fix between the hours of eight in the morning and eight in the afternoon of which day they shall give not less than seven days' notice by advertisement in some newspaper circulating within the county. The county clerk shall act as returning officer and shall appoint the necessary number of presiding officers and poll clerks and shall have poll or ballot books prepared. The voting shall be by ballot subject to any regulations which may be issued by the Secretary of State and no one shall be entitled to vote whose name is not upon the list of electors furnished by the registration officer for the county as hereinafter provided;
- (v) The registration officer for the county shall furnish to the returning officer within fourteen days of an application therefor a certified list of the names and addresses of the electors and such list shall be sufficient proof of the electors named therein;
- (vi) As soon after the close of the poll as may be the presiding officer or officers shall seal up the ballot boxes and transmit them to the returning officer who shall make arrangements for counting the votes and declaring the result of the poll and such declaration shall be final except as

aftermentioned Provided that within three days after the declaration of the poll any elector may demand a scrutiny and on such elector finding caution or security to the satisfaction of the returning officer for the reimbursement of the expenses attending the same such scrutiny shall be made by the returning officer in such way and manner as he may deem proper and the result of such scrutiny shall be final and the person demanding such scrutiny shall be liable in the expenses thereof; A.D. 1936.

(vii) The resolution shall be effectual if it be confirmed by a majority of the electors voting as aforesaid;

(viii) If the resolution shall not be confirmed by a majority of the electors voting as aforesaid it shall be lawful for the County Council as often as they shall think proper thereafter but not sooner than three years from the date of any preceding resolution by such and the like procedure again to adopt the same but such resolution shall always be subject to be confirmed by a majority of the electors voting as aforesaid in the event of a representation being made against such resolution being carried into effect all in manner hereinbefore provided;

(ix) The expression "electors" in this section means persons registered as local government electors in respect of premises within the special district appearing in the register of electors made up in terms of the Representation of the People Act 1918 and Acts amending the same in force as at the date of the confirmatory resolution passed by the County Council.

(2) The County Council may from time to time repair any such hall and offices and furnish and fit up the same and employ proper persons to take care thereof.

(3) The County Council may let any such hall or offices on such terms as they think fit.

(4) The County Council may with the sanction of the Secretary of State borrow such sum or sums of money

A.D. 1936: as may be necessary for the purposes of this section and
— such money shall be applied only to purposes to which
capital is properly applicable.

(5) Any money borrowed under this section shall be repaid within such period and by such method as the Secretary of State may prescribe.

(6) Any expenses falling to be met by the County Council under this section may be charged on such special district rate as the County Council may determine but shall not exceed the produce of a rate of three pence in the pound leviable within such special district. Such expenses shall not be reckoned in any calculation as to the statutory limit of such special district rate.

Adoption
of sections
of Burgh
Police
(Scotland)
Act 1892.

32.—(1) The County Council may subject as hereinafter provided at a meeting called after due notice by resolution adopt within the county or within any special district or districts the sections or parts of sections or any of the sections or parts of sections of the Burgh Police (Scotland) Act 1892 as amended by the Burgh Police (Scotland) Act 1903 and the Road Traffic Act 1934 enumerated in Part I of the Second Schedule to this Order and after a date to be specified in such resolution the adopted sections or parts of sections shall have effect in the county or such special district or districts as the case may be. Provided that subsections (53) and (55) of section 381 of the Burgh Police (Scotland) Act 1892 as amended by section 104 (2) (x) and (y) of the Burgh Police (Scotland) Act 1903 shall not be adoptive except within a special district or special districts:

Provided further that section 412 of the Burgh Police (Scotland) Act 1892 as read with section 30 of the Road Traffic Act 1934 shall not apply to any property found in or on railway property.

(2) Provided further that in such sections and parts of sections as may be adopted in terms of this section there shall be substituted for the words and expressions occurring therein set forth in the first column of Part II of the said Schedule the words and expressions set forth in the second column of the said Part II.

(3) Provided also that offences against and penalties for contravention of the provisions of any of the said sections or parts of sections may be prosecuted and

recovered before the sheriff or any two or more justices of the peace. A.D. 1936.

33. The provisions of sections 183 to 187 of the Public Health (Scotland) Act 1897 (which relate to byelaws made under that Act) shall extend and apply to any byelaws made by the County Council under this Order : As to
byelaws.

Provided that in the application of section 185 of the said Act to byelaws made for the purposes (b) and (c) of subsection (4) of the section of this Order of which the marginal note is " Regulation of tents vans &c." the Secretary of State shall be substituted for the Local Government Board for Scotland as confirming authority.

34. Any penalty under this Order or under any byelaws or regulations made under this Order unless otherwise specially provided for may be recovered in manner provided by the Summary Jurisdiction (Scotland) Acts. Recovery of
penalties.

35. Nothing in this Order shall affect prejudicially any estate right power privilege or exemption of the Crown or shall subject to the provisions of this Order any lands buildings or works vested in or occupied by the Crown or any department of His Majesty's Government except to such extent as His Majesty or such department may voluntarily agree and in particular nothing herein contained shall authorise the County Council 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 heritages 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. Crown
rights.

36. The costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the County Council out of any funds (not being in the nature of capital) rates or revenues belonging to them or under their control or out of Costs of
Order.

A.D. 1936. — moneys to be borrowed by them for that purpose which moneys the County Council are hereby authorised to borrow Provided that any moneys borrowed by the County Council for the purposes of this section shall be repaid within five years from the commencement of this Order.

The SCHEDULES referred to in the foregoing Order.

FIRST SCHEDULE.

(Referred to in the section of this Order of which the marginal note is "Form of mortgage.")

FORM OF MORTGAGE.

THE COUNTY COUNCIL OF THE COUNTY OF EAST LoTHIAN.

Number

By virtue of the Local Government (Scotland) Act 1889 the Local Government (Scotland) Act 1929 the East Lothian County Council Order 1936 and of other Acts and powers in that behalf—

We the County Council of the county of East Lothian (hereinafter in these presents referred to as "the County Council") in consideration of the sum of advanced and paid to us by C. D. of E. as at do hereby bind and oblige ourselves out of the funds rates and revenues of the County Council to repay the said sum of to the said C. D. his executors or assignees within our offices at at the term of or at such future term as shall be specified in a minute or minutes to be endorsed hereon and signed by the said C. D. and by the county treasurer on our behalf which minute or minutes are hereby declared and shall be held to be valid and binding though they may be neither holograph of the said parties nor tested with interest thereon at the rate of per centum per annum or at such other rate as may be mentioned in the said minute or minutes at the terms of Whitsunday and Martinmas in each year from the day of till the said sum is paid and for the further security of the said C. D. we do hereby assign to him his executors or assignees such proportion of the said funds rates and revenues for the time being of the County

Council as shall be equivalent to the said sum now paid to us and the interest thereon as aforesaid Declaring that the said C. D. and his foresaids shall not be entitled to make and that we shall not be bound to register any partial assignation of these presents or of the sums of money principal or interest herein contained and we consent to the registration hereof for preservation and execution.

A.D. 1936.
—

IN WITNESS WHEREOF these presents are subscribed and sealed in pursuance of a resolution passed at a meeting of the County Council held at
upon the _____ day of _____ one thousand
nine hundred and _____ years before these
witnesses :—

(Witness) _____ Member of County Council.

(Witness) _____ Member of County Council.

County Clerk.

SECOND SCHEDULE.

PART I.

Sections and parts of sections of the Burgh Police (Scotland) Act 1892 referred to in the section of this Order of which the marginal note is "Adoption of sections of Burgh Police (Scotland) Act 1892" :—

Section 188 (Penalty for not lighting deposits of building materials or excavations).

Section 289 (Penalty for wilfully setting chimneys on fire).

Section 290 (Penalty for allowing chimneys to catch fire).

Section 381 (Penalties for certain police offences) subsections (10) (18) (52) (53) and (55) as amended by section 104 (Portions of principal Act repealed or amended) subsection (2) (x) and (y) of the Burgh Police (Scotland) Act 1903.

Section 397 (Public shows &c. not to be opened or set up in burgh without sanction of magistrates).

A.D. 1936.

Section 409 (Known or reputed thieves may be apprehended &c.).

Section 412 (Goods &c. found to be reported to police office) as read with section 30 (Lost property) of the Road Traffic Act 1934.

Section 413 (Goods stolen or fraudulently disposed of to be delivered up to owner).

Section 414 (How stolen or unclaimed goods to be kept).

Section 415 (Unclaimed stolen property &c. to be disposed of).

PART II.

For the purposes of the adoption of the above sections and parts of sections by the County Council the words and expressions in the second column of the following table to be substituted for the words and expressions in the first column where occurring in the said sections and parts of sections :—

Numbers of sections and words and expressions occurring therein.	Words and expressions to be substituted in application of sections to county.
Section 188—	
“ Commissioners ” - - -	“ County Council.”
“ streets ” - - -	“ roads.”
Section 290—	
“ magistrate ” - - -	“ sheriff or any two or more justices of the peace.”
Section 381—	
“ burgh ” - - -	“ county.”
“ Commissioners ” - - -	“ County Council.”
“ street ” - - -	“ road.”
Section 397—	
“ burgh.” - - -	“ county.”
“ magistrates ” - - -	“ County Council.”
Section 409—	
“ street ” - - -	“ road.”
“ magistrate ” - - -	“ sheriff or any two or more justices of the peace.”
“ applied for the purposes of this Act ”	“ paid to the county treasurer and carried to the credit of the consolidated rate.”
Section 412—	
“ magistrate ” - - -	“ sheriff or any justice of the peace.”
“ applied to the purposes of this Act ”	“ paid to the county treasurer and carried to the credit of the consolidated rate.”

[26 GEO. 5. & *East Lothian County* [Ch. xx.]
1 EDW. 8.] *Council Order Confirmation Act, 1936.*

Numbers of sections and words and expressions occurring therein.	Words and expressions to be substituted in application of sections to county.	A.D. 1936.
Section 413— “magistrate” - - -	“sheriff or any justice of the peace.”	—
Section 415— “magistrate” - - -	“sheriff or any justice of the peace.”	
“applied for the purposes of this Act”	“paid to the county treasurer and carried to the credit of the consolidated rate.”	
“burgh” - - -	“county.”	

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