

[1 & 2 GEO. 6.] *Forfar Corporation Water* [Ch. xix.]
Order Confirmation Act, 1938.



CHAPTER xix.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to Forfar Corporation Water. A.D. 1938.
[26th May 1938.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936 and it is requisite that the said Order should be confirmed by Parliament: 26 Geo. 5. & 1 Edw. 8. c. 52.

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 Forfar Corporation Water Order Confirmation Act 1938. Short title.

A.D. 1938.

SCHEDULE.

FORFAR CORPORATION WATER.

Provisional Order to authorise the provost magistrates and councillors of the royal burgh of Forfar to borrow additional money for their water undertaking and for other purposes.

WHEREAS the provost magistrates and councillors of the royal burgh of Forfar in the county of Angus (hereinafter called "the Corporation") are vested with the municipal administration of the said royal burgh (hereinafter called "the burgh") and are the local authority inter alia for the supply of water within the burgh:

41 & 42 Vict.
c. cxcvi.

And whereas by the Forfar Water Act 1878 (hereinafter called "the Act of 1878") the then commissioners of police of the burgh were empowered to provide a supply of water to the burgh and places adjacent and for that purpose to acquire lands waters and streams and to make and maintain the works in the Act of 1878 described and for the purposes of the said Act to borrow such sums as the said commissioners should think requisite not exceeding in the whole fifty thousand pounds:

63 & 64 Vict.
c. 49.

And whereas the water undertaking of the said commissioners became vested in the Corporation under and in virtue of the Town Councils (Scotland) Act 1900 and is now maintained and managed by them:

25 & 26 Vict.
c. 101.

54 & 55 Vict.
c. cxlvi.

And whereas by the Provisional Order relating to Forfar water made by the Secretary for Scotland under the General Police and Improvement (Scotland) Act 1862 and confirmed by Parliament by the Forfar Water Order Confirmation Act 1891 (hereinafter called "the Order of 1891") it was provided that the section of the Act of 1878 authorising the borrowing of fifty thousand pounds should be read as if the words sixty-two thousand pounds had been inserted therein instead of the words fifty thousand pounds:

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And whereas by the Forfar Corporation Water Order 1906 (hereinafter called "the Order of 1906") the Corporation were empowered to make further works in the said Order described and it was enacted that the powers to borrow money conferred by the Act of 1878 as amended by the Order of 1891 might be exercised by the Corporation for the purposes of the Order of 1906 to which capital was properly applicable :

A.D. 1938.
—
6 Edw. 7.
c. xcvi.

And whereas since the passing of the Order of 1906 certain improvements in the reservoirs of their water undertaking have been effected by the Corporation under the Reservoirs (Safety Provisions) Act 1930 :

20 & 21
Geo. 5. c. 51.

And whereas owing to the increasing demand for water and the condition of the existing pipe it became imperative that a duplicate main pipe should be laid from Glenogil reservoir to Baggerton reservoir both of which reservoirs belong to the Corporation and such duplicate main pipe is laid entirely on land belonging to the Corporation or in respect of which they have by agreement obtained wayleaves and such duplicate main pipe has been laid at a cost of twenty-one thousand eight hundred and forty pounds :

And whereas the Corporation's borrowing powers for and in respect of their water undertaking are exhausted and they have incurred a capital expenditure of twenty-five thousand and seventy pounds in excess of the aggregate amount of such borrowing powers and it is expedient that the Corporation should be empowered to borrow additional money to meet such expenditure and for the general purposes of their water undertaking :

And whereas it is expedient that the further powers in this Order contained should be conferred on the Corporation and that the other provisions in this Order contained 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) Act 1936 :

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

1. This Order may be cited for all purposes as the Short title.
Forfar Corporation Water Order 1938.

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The Forfar Corporation Water Acts 1878 to 1906 and this Order may be cited together as the Forfar Corporation Water Act and Orders 1878 to 1938.

Interpreta-
tion.

2. In this Order unless there be something in the subject or context inconsistent with or repugnant to such construction the following words and expressions shall have the meanings assigned to them in this section (that is to say):—

“ burgh ” means the royal burgh of Forfar as constituted at the date of the commencement of this Order;

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

“ the Act of 1878 ” means the Forfar Water Act 1878;

“ the Order of 1891 ” means the Order confirmed by the Forfar Water Order Confirmation Act 1891;

“ the Order of 1906 ” means the Forfar Corporation Water Order 1906;

“ sheriff ” means the sheriff of Perth and Angus and includes his substitutes;

“ water undertaking ” means and comprehends the existing waterworks and water undertaking of the Corporation including the works executed under the Reservoirs (Safety Provisions) Act 1930 and the duplicate main pipe from Glenogil reservoir to Baggerton reservoir;

“ the commencement of this Order ” means the date of the passing of the Act confirming this Order.

Vesting of
water
undertaking
in Corpora-
tion.

3. The works executed by the Corporation under the Reservoirs (Safety Provisions) Act 1930 and the duplicate main pipe along with the other works forming part of the water undertaking of the Corporation shall for all purposes be and be deemed to be part of the water undertaking and the provisions of the Forfar Corporation Water Act and Orders 1878 to 1938 shall be read and apply accordingly.

Power to
borrow.

4.—(1) The Corporation may from time to time borrow at interest for the several purposes hereinafter

appearing sums not exceeding the amounts hereinafter mentioned for the respective purposes following (that is to say):— A.D. 1938.
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- (a) for repaying the moneys expended in excess of the amount already authorised to be borrowed the sum of twenty-five thousand and seventy pounds;
- (b) with the sanction of and subject to the conditions as to period of repayment and otherwise prescribed by the Secretary of State such further sums as may be requisite for the purposes of the Forfar Corporation Water Act and Orders 1878 to 1938 and of the water undertaking;
- (c) in respect of the costs charges and expenses of and incidental to the preparing and applying for and the issue of this Order and the confirmation thereof by Parliament or otherwise in relation thereto such sum as may be necessary.

(2) All moneys borrowed under this section shall be applied only to the purposes for which they are authorised to be borrowed being in every case purposes to which capital is properly applicable.

(3) If having borrowed any money under the powers of this section the Corporation pay off the same or any part thereof otherwise than by instalments or by means of a sinking fund or out of the proceeds of the sale of lands or other moneys received by them on capital account (not being borrowed money) they may reborrow the same and so on from time to time Provided that all moneys so reborrowed shall for the purposes of repayment be deemed part of the original loan and shall be repaid within the period prescribed for the repayment of the moneys in lieu of which such reborrowing has been made.

(4) Any money borrowed or raised under this section except (a) money borrowed with the sanction of the Secretary of State and (b) money borrowed in respect of the costs charges and expenses of the Order shall be repaid within forty years from the date of borrowing the same.

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As to
mortgages.
19 & 20
Geo. 5. c. 25.

5. All bonds for moneys to be borrowed by the Corporation under this Order may be in the form and tenor provided by the Act of 1878 as amended or extended by the Order of 1891 and the Order of 1906 and section 23 (1) of the Local Government (Scotland) Act 1929.

Powers of
Secretary
of State in
relation to
borrowing.
52 & 53 Vict.
c. 50.

6. In relation to any sanction to be given by the Secretary of State to the borrowing of money by the Corporation under this Order the Secretary of State shall have and may exercise all the powers of section 93 of the Local Government (Scotland) Act 1889 :

Provided that for the purposes of this provision the sum of five guineas shall be substituted for the sum of three guineas in that section mentioned.

Estimate
&c. by
Corporation
to include
purposes of
this Order.

7. The estimate required to be made and the rates and charges and other water revenues authorised and required to be imposed levied charged collected and recovered by the Corporation under and for the purposes of the Act of 1878 the Order of 1891 and the Order of 1906 shall be made imposed levied charged collected and recovered and the Corporation are hereby authorised and required to make impose levy charge collect and recover the same so that such rates and charges and other water revenues shall not only include and be sufficient for the purposes of defraying the annual sums or expenditure mentioned in section 37 (Commissioners to estimate annual sums required) of the Act of 1878 but also the interest and instalments of any money that may be borrowed due or raised under or for the purposes of the Order of 1891 the Order of 1906 and of this Order and the payment to the sinking fund and all other annual expenditure in connection with the water undertaking arising out of the exercise of the powers conferred by or under the provisions of this Order.

Applica-
tion of
revenue.

8.—(1) The proceeds of the rates and charges levied imposed received and collected by the Corporation under the Act of 1878 the Order of 1891 the Order of 1906 and of this Order shall be applied in manner following (that is to say) :—

Firstly In defraying the expenses of the management and maintenance of the water undertaking and the annual costs charges and

expenses of providing and supplying water and in payment of any feu duties or ground annuals or other annual payments exigible in respect of any lands streams or property forming part of the water undertaking;

Secondly In payment of the interest on money borrowed (a) under the authority of the Act of 1878 the Order of 1901 and the Order of 1906 and (b) under the authority of this Order;

Thirdly In setting apart the instalments or sinking fund for paying off the money borrowed under the Forfar Corporation Water Act and Orders 1878 to 1938 or any of them;

Fourthly In carrying the other powers and provisions of the Forfar Corporation Water Act and Orders 1878 to 1938 into execution;

Lastly In payment of such portion of the cost of enlarging or increasing and renewing the number of mains and pipes and of extending the works mains and pipes from time to time as the Corporation shall think it reasonable to charge against the revenue for the year and of any other necessary annual expenditure.

(2) Section 46 (Application of rates) of the Act of 1878 and section 23 (Application of revenue) of the Order of 1906 are hereby repealed.

9. All costs charges and expenses of and incident to the preparing for obtaining and confirmation of this Order or otherwise in relation thereto shall be paid by the Corporation out of the revenues of their water undertaking or out of moneys to be borrowed by the Corporation Provided that if the said costs charges and expenses be paid out of borrowed money the same shall be repaid within five years from the commencement of this Order.

Costs of
Order.

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