

[1 & 2 GEO. 6.] *East Lothian Water* [Ch. xxiii.]  
*Order Confirmation Act, 1938.*



## CHAPTER xxiii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to East Lothian Water. A.D. 1938.  
[2nd June 1938.]

**W**HEREAS the Provisional Order set forth in the schedule hereunto annexed has after inquiry held before Commissioners 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 East Lothian Water Order Confirmation Act 1938. Short title.

A.D. 1938.

SCHEDULE.

EAST LOTHIAN WATER.

*Provisional Order to change the name of and re-constitute the East Lothian (Western District) Water Board to transfer to the Board the water undertakings of the town councils of the burghs of Dunbar East Linton Haddington and Tranent and of the county council of the county of East Lothian and part of the water undertaking of the town council of the burgh of North Berwick to extend the limits of supply of the Board to authorise the Board to construct additional waterworks; to confer further powers on the Board and for other purposes.*

WHEREAS by the East Lothian (Western District) Water Order 1922 (hereinafter referred to as "the Order of 1922") the East Lothian (Western District) Water Board (hereinafter referred to as "the Board") were incorporated and were authorised to supply water within the limits of supply therein defined comprising the burgh of Prestonpans the burgh of Cockenzie and Port Seton and the parishes of Aberlady Athelstaneford Bolton Dirleton Garvald and Bara Gladmuir Haddington (exclusive of the burgh of Haddington) Humbie Morham Ormiston Pencaitland Prestonpans Saltoun Tranent (exclusive of the burgh of Tranent) and Yester in the county of East Lothian (hereinafter referred to as "the county") all as existing at the commencement of the Order of 1922 :

And whereas by the Order of 1922 the water undertakings of the county council of the county (hereinafter referred to as "the county council") and the western district committee of the county council within the said limits of supply and of the provosts magistrates and councillors of the burghs of Prestonpans and Cockenzie and Port Seton were transferred to the Board and the Board were authorised to acquire lands and construct the works described in the said Order and to borrow money for the purposes thereof :



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And whereas by the East Lothian Western District Water Order 1930 (hereinafter referred to as "the Order of 1930") the Board were authorised to borrow further moneys : A.D. 1938.

And whereas by an agreement between the Board and the provost magistrates and councillors of the burgh of Haddington (hereinafter referred to as "the Haddington Town Council") dated the eleventh day of June and the sixth day of July and registered in the general register of sasines on the eleventh day of July all in the year one thousand nine hundred and twenty-eight the water undertaking water rights and relative works of the Haddington Town Council in the county so far as situate outside the said burgh were transferred to the Board as from the fifteenth day of May one thousand nine hundred and twenty-four :

And whereas in terms of the said agreement the Board supply water in bulk to the Haddington Town Council for distribution by them within the said burgh as existing at the commencement of the Order of 1922 :

And whereas the burgh of Tranent as existing at the commencement of the Order of 1922 is supplied with water by the provost magistrates and councillors of that burgh from certain works belonging to them situate in the county of Midlothian and they also supply water to certain premises in the county and to the village of Pathhead in the county of Midlothian :

And whereas since the passing of the Act confirming the Order of 1922 the burghs of Haddington and Tranent have been extended to include areas comprised within the limits of supply of the Board :

And whereas the burgh of Dunbar is supplied with water by the provost magistrates and councillors of that burgh from certain works belonging to them within the county supplemented by a supply from the Board :

And whereas the provost magistrates and councillors of the burgh of North Berwick are the owners of water-works within the county and supply and distribute water within and beyond that burgh and they also supply water in bulk to the provost magistrates and councillors of the burgh of East Linton for distribution

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A.D. 1938. — in the burgh of East Linton and to the Board and the county council for distribution within parts of the county :

And whereas there are within the county the special water supply districts of Innerwick Oldhamstocks Stenton Tynninghame and Westbarns constituted under the Public Health (Scotland) Acts 1897 to 1907 and supplied with water by the county council from sources belonging to them or by means of bulk supplies :

And whereas the Board are supplying water within the village of Spott and other parts of the county beyond the limits of supply defined by the Order of 1922 and in bulk to the county council :

And whereas there are parts of the county which are without an adequate supply of water :

And whereas the sources of supply in use or available for use in the county are adequate for the needs of all the inhabitants thereof and could if vested in one authority be conveniently and economically utilised and developed for the supply of water not only to those parts of the county which are adequately supplied but also to those parts of the county in which an adequate supply is not available :

And whereas with the object of making adequate and economical provision for the supply of water throughout the county it is expedient that the whole of the water supplies of the authorities supplying water within the county should be amalgamated :

And whereas for the foregoing and other reasons it is expedient that the name of the Board should be changed that the Board should be re-constituted that the water undertakings of the town councils of the burghs of Dunbar East Linton Haddington and Tranent the water undertaking of the town council of the burgh of North Berwick so far as situate beyond that burgh and the water undertakings of the county council in respect of the said special water supply districts should be transferred to the Board and that the limits of supply defined by the Order of 1922 should be extended to comprise the whole of the county including the burghs therein other than the burgh of North Berwick and that the Board should be authorised to supply water



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in bulk to the town council of the burgh of North Berwick as provided by this Order: A.D. 1938.

And whereas it is expedient to authorise the Board to construct the additional waterworks described in this Order :

And whereas estimates have been prepared by the Board for the purchase of land for and for the construction of the said additional waterworks and such estimates are as follows :—

	£
Purchase of lands and servitudes -	500
Filters—	
Pressure filters and relative works -	8,000
Reservoir—	
Service reservoir and relative works built of mass concrete reinforced concrete and brickwork - -	9,000
Mains—	
Cast iron - - - - -	7,460

And whereas the said works are permanent works and it is expedient that the cost thereof should be spread over a term of years as in this Order provided :

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

And whereas it is expedient that further powers in relation to their undertaking should be conferred upon the Board as hereinafter in this Order provided and that the other provisions in this Order contained should be enacted :

And whereas in relation to the promotion of this Order the requirements of section 145 (Power to apply for further powers &c.) of the Order of 1922 have been observed :

And whereas plans and sections showing the lines and levels of the works authorised by this Order with a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Order have been deposited with the sheriff clerk of the

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A.D. 1938. — county and such plans sections and book of reference are in this Order respectively referred to as the deposited plans sections and book of reference :

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 :—

PART I.

PRELIMINARY.

Short title and citation.

1.—(1) This Order may be cited as the East Lothian Water Order 1938.

(2) The Order of 1922 the Order of 1930 and this Order may be cited together as the East Lothian Water Orders 1922 to 1938.

Commencement of Order.

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.”

Order divided into Parts.

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

Part I.—Preliminary.

Part II.—Change of name and reconstitution of Board.

Part III.—Transfer of undertakings to Board &c.

Part IV.—Extension of limits of supply.

Part V.—Works and lands.

Part VI.—Provisions as to supply of water.

Part VII.—Financial provisions.

Part VIII.—Miscellaneous.

Incorporation of Acts.

4.—(1) The following Acts and parts of Acts (so far as the same are applicable for the purposes of and are not inconsistent with the provisions of this Order)

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are hereby incorporated with and form part of this Order (that is to say):—

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PART I.

—cont.

The Commissioners Clauses Act 1847 with the exceptions mentioned in the Order of 1922; 10 & 11 Vict. c. 16.

The Lands Clauses Acts;

The Waterworks Clauses Act 1847 with the exceptions mentioned in the Order of 1922; 10 & 11 Vict. c. 17.

The Waterworks Clauses Act 1863; and 26 & 27 Vict. c. 93.

The sections and provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and the crossing of roads and other interference therewith. 8 & 9 Vict. c. 33.

(2) This Order shall be deemed a special Act within the meaning of the Acts wholly or partly incorporated herewith.

5.—(1) In this Order 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 Acts wholly or partly incorporated with this Order have the same respective meanings. And in this Order unless the context otherwise requires the following expressions shall have the meanings respectively hereinafter assigned to them (namely):—

“ the Order of 1922 ” and “ the Order of 1930 ” mean respectively the East Lothian (Western District) Water Order 1922 and the East Lothian Western District Water Order 1930;

“ the existing Orders ” means the Order of 1922 and the Order of 1930;

“ the Board ” means the Board incorporated by the Order of 1922;

“ the county ” means the county of East Lothian;

“ the county council ” means the county council of the county;

“ the town council of Cockenzie and Port Seton ”

“ the town council of Dunbar ” “ the town



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PART I.  
—cont.

- council of East Linton” “the town council of Haddington” “the town council of North Berwick” “the town council of Prestonpans” and “the town council of Tranent” mean respectively the provost magistrates and councillors of those respective burghs;
- “the town councils” means the town councils of Cockenzie and Port Seton Dunbar East Linton Haddington Prestonpans and Tranent;
- “the constituent authorities” means the county council and the town councils;
- “constituent authority” means any of the constituent authorities;
- “the date of transfer” means the sixteenth day of May one thousand nine hundred and thirty-nine;
- “the existing limits” means the burghs parishes and parts of parishes mentioned and described in the First Schedule to the Order of 1922;
- “the added limits” means the burghs and parishes mentioned and described in the schedule to this Order;
- “the limits of supply” means the existing limits and the added limits;
- “the water districts” means the special water supply districts of Innerwick Oldhamstocks Stenton Tynninghame and Westbarns;
- “the transferred undertakings” means the water undertakings of the town councils of Dunbar East Linton Haddington and Tranent the water undertaking of the town council of North Berwick so far as situate outside the burgh of North Berwick as existing at the commencement of this Order and the water undertakings of the county council in respect of the water districts;
- “transferred undertaking” means any of the transferred undertakings;
- “the transferor authorities” means the town councils of Dunbar East Linton Haddington North Berwick and Tranent and the county council;



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- “ transferor authority ” means any of the transferor authorities; A.D. 1938.  
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 PART I.  
 —cont.
- “ the undertaking ” means the whole of the undertaking for the time being of the Board;
- “ the Public Health Acts ” means the Public Health (Scotland) Acts 1897 to 1907 and any Acts amending or extending the same;
- “ the Lands Clauses Acts ” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 as such last-mentioned Act is amended by the Acquisition of Land (Assessment of Compensation) (Scotland) Act 1931; 8 & 9 Geo. 5. c. 57.  
 21 & 22 Geo. 5. c. 11.
- “ the tribunal ” means the tribunal to whom any question of disputed purchase money or compensation is referred in pursuance of the Acquisition of Land (Assessment of Compensation) Act 1919;
- “ the sheriff ” means the sheriff of the Lothians and Peebles and includes his substitutes.

(2) In the Acts wholly or partly incorporated with this Order the expressions “ the undertakers ” “ the company ” “ the railway company ” and “ the promoters of the undertaking ” mean respectively for the purposes of this Order the Board.

PART II.

CHANGE OF NAME AND RECONSTITUTION OF BOARD.

6.—(1) As from the commencement of this Order the name of the Board shall be the East Lothian Water Board. Change of name of Board.

(2) The provisions of Part IV (Change of name) of the Companies Clauses Act 1863 are hereby incorporated with this Order and for the purposes of those provisions the Board shall be deemed to be a company. 26 & 27 Vict. c.118.

(3) The seal of the Board shall be altered in accordance with the provisions of this section.

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PART II.

—cont.

Recon-  
stitution of  
Board.

7.—(1) The constitution of the Board shall be as follows:—

Nine members to be appointed by the county council from among the members of the county council representing the electoral divisions of the landward area;

One member to be appointed by the town council of Cockenzie and Port Seton from among the members of that town council;

Two members to be appointed by the town council of Dunbar from among the members of that town council;

One member to be appointed by the town council of East Linton from among the members of that town council;

Two members to be appointed by the town council of Haddington from among the members of that town council;

One member to be appointed by the town council of Prestonpans from among the members of that town council; and

Two members to be appointed by the town council of Tranent from among the members of that town council.

(2) The members appointed by the county council are in this Order referred to as “county members” and the members appointed by the town councils are in this Order referred to as “burgh members.”

Appoint-  
ment of  
members.

8.—(1) The members of the Board in office at the commencement of this Order shall subject to the provisions of this Order continue in office until the appointment of their successors in terms of subsection (2) of this section.

(2) The first appointment of county members and burgh members after the commencement of this Order shall be made at meetings of the county council and each of the town councils to be held within two months after the commencement of this Order or within such further time as the Secretary of State may direct and the county members and burgh members then appointed shall subject



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to the provisions of this Order continue in office until the appointment of their successors in terms of subsection (3) of this section.

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PART II.

—cont.

(3) Subsequent appointments of county members and burgh members shall be made as follows:—

(a) as regards county members at the statutory meeting of the county council in the month of December one thousand nine hundred and forty-one and thereafter at the statutory meeting of the county council in the month of December in the year of the triennial election of county councillors of the county; and

(b) as regards burgh members at a meeting of each of the town councils in the month of November one thousand nine hundred and forty-one and thereafter at a meeting of each of the town councils in the month of November in every succeeding third year;

and the county members and the burgh members then appointed shall hold office until the appointment of their successors in terms of this subsection.

9. If any constituent authority fail to appoint members of the Board as provided by subsection (2) of the immediately preceding section it shall be competent nevertheless for the other members of the Board to carry the provisions of the existing Orders and this Order into execution and if any constituent authority fail to appoint members of the Board at any period of appointment in terms of subsection (3) of the said section the then existing members of the Board representing such constituent authority shall if still qualified continue in office until their successors are appointed.

Provision where failure to appoint.

10. Whenever an appointment of a member of the Board has been made the clerk to the constituent authority by whom the appointment was made shall by writing under his hand certify the appointment to the clerk of the Board.

Appointment of members to be certified.

11. If a member of the Board appointed by a constituent authority ceases to be a member of such constituent authority or becomes disqualified as such member he shall also cease to be a member of and to represent the constituent authority upon the Board except in the case where he only goes out of office by

Member to be disqualified on ceasing to be member of constituent authority.

A.D. 1938. rotation as a member of such constituent authority and is thereupon re-elected.

PART II.

—cont.

No person to be member on behalf of more than one constituent authority.

12.—(1) No person being a member of the Board by appointment from any one of the constituent authorities shall so long as he continues a member by virtue of such appointment be qualified to be also a member of the Board by appointment from any other of the constituent authorities and any such subsequent appointment shall be void.

(2) If the same person shall be appointed a member of the Board by more than one of the constituent authorities at the same appointment he shall choose under which appointment to serve and the other appointment shall be deemed void.

Occasional vacancies.

13.—(1) If any member of the Board dies or resigns or is disqualified or from any other cause ceases to be a member of the Board the constituent authority whom he represented may if they think fit at any time after the happening of such vacancy appoint a member of the Board in his place from among themselves.

(2) Every member of the Board so appointed shall continue in office only so long as the person in whose place he is appointed would have been entitled to continue in office.

Members going out of office eligible for re-appointment.

14. Every member of the Board going out of office shall if otherwise duly qualified be eligible for re-appointment and every person re-appointed shall be deemed a new member.

Resignation of members.

15. A member of the Board may resign his office by intimating his resignation to the Board in writing.

Disqualification of members.

16. A person shall not be disqualified from being a member of the Board by reason of his being interested—

(a) in the sale purchase or lease of any land or any loan of money to the Board;

(b) in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

Chairman and vice-chairman.

17.—(1) The chairman and vice-chairman of the Board in office at the commencement of this Order shall subject to the provisions of this Order continue to act



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as chairman and vice-chairman of the Board until a chairman and vice-chairman are elected in their place as in this Order provided.

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PART II.  
—cont.

(2) At the first meeting of the Board after the commencement of this Order the Board shall by the majority of votes of the members present at such meeting elect two of their body to be their chairman and vice-chairman respectively until the annual meeting of the Board in the year one thousand nine hundred and forty-one when and at each third annual meeting thereafter the Board shall in like manner elect a chairman and vice-chairman for the ensuing three years.

(3) In case the chairman or vice-chairman dies or resigns or ceases to be a member of the Board or otherwise becomes disqualified to act as such the members of the Board present at the meeting next after the occurrence of such vacancy shall choose some other of their number to fill such vacancy and the chairman or vice-chairman so elected shall continue in office so long only as the person in whose place he is elected would have been entitled to continue chairman or vice-chairman.

(4) If at any meeting of the Board the chairman be not present the vice-chairman shall preside at such meeting and if neither the chairman nor the vice-chairman be present one of the members of the Board present shall be elected chairman for such meeting by the majority of the votes of the members of the Board present at such meeting.

18. The number of members to be present to constitute a meeting of the Board shall be seven. Quorum.

19.—(1) The Secretary of State may on the application of one or more of the constituent authorities after giving notice to the other constituent authorities and considering any objections or representations made by them by order alter the number of members of the Board to be appointed by the constituent authorities or any of them in such manner as he may having regard to all the then circumstances of the case think fair and reasonable without reference to the proportions in which the members of the Board are by this Order allocated among the several constituent authorities and may by such Order alter the total number of members of the Board and

Power to alter number of members.

A.D. 1938. may make any provisions incidental to or consequential on any such alteration.

PART II.  
—cont.

(2) Any alteration made under the provisions of this section shall take effect as from the date of the appointment of county members or burgh members in terms of subsection (3) of the section of this Order of which the marginal note is "Appointment of members" which shall occur next after such alteration is made and shall continue in force until a further alteration is made by the Secretary of State under the powers of this section.

PART III.

TRANSFER OF UNDERTAKINGS TO BOARD &C.

Transfer of water undertakings of town councils of Dunbar East Linton Haddington North Berwick and Tranent.

20.—(1) As on and from the date of transfer and subject to the other provisions of this Order the water undertakings of the town councils of Dunbar East Linton Haddington and Tranent and the water undertaking (so far as situate beyond the burgh of North Berwick as existing at the commencement of this Order) of the town council of North Berwick including in each case all waterworks then existing or in course of construction and all lands works mains pipes plant stores and other property and effects belonging to or vested in the said town councils or in any person for or in trust for them respectively and forming part of or held in trust for the said water undertakings or portion of water undertaking respectively and all outstanding accounts rates assessments balances with bankers and other balances money in any reserve depreciation or sinking fund and all other moneys and debts belonging or owing to the said town councils or to any person on their behalf respectively or to or in which they are entitled or interested in connection with the said water undertakings or portion of water undertaking respectively and all estates and interests of the said town councils respectively in any such property shall be and are by virtue of this Order transferred to and vested in the Board who shall thenceforth have possess and enjoy the same subject to all debts and liabilities affecting the same and to the provisions of the existing Orders and this Order.

(2) As on and from the date of transfer and subject to the other provisions of this Order all the powers



rights privileges and authorities of the said town councils under any enactment not repealed by this Order (other than any provision contained in any such enactment with respect to the levying or recovering of water rates or charges or the borrowing or raising of money) so far as relating to the said water undertakings or portion of water undertaking respectively shall by virtue of this Order be transferred to and vest in the Board subject to all obligations and restrictions as if the Board had been referred to in those enactments in lieu of the town council referred to therein.

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PART III.  
—cont.

21. Subject to the provisions of this Order the water districts shall as on and from the date of transfer cease to exist as special water supply districts and shall cease to be assessed for the purposes of water supply by the county council and all the waterworks reservoirs lands and property and the whole water undertakings of the county council in respect of the water districts together with the mains pipes plant and apparatus of and connected with the same so far as the same are the property of the county council and all outstanding accounts rates assessments balances with bankers and other balances money in any reserve depreciation or sinking fund and all other moneys and debts at the date of transfer belonging or owing to the county council within or connected with the water districts together with all the powers rights privileges and authorities pertaining thereto under any Act or Order or agreement decree arbitral or contract so far as relating to the water districts shall as from the date of transfer be and are by virtue of this Order transferred to and vested in the Board and may subject to the provisions of the existing Orders and this Order and the Acts incorporated therewith be held and exercised by the Board subject to all debts liabilities and obligations affecting the same and the provisions of the existing Orders and this Order and the Acts incorporated therewith shall apply to the said waterworks reservoirs lands property mains pipes plant and apparatus in the same manner and to the same effect as if the said waterworks reservoirs lands property mains pipes plant and apparatus had been constructed acquired or laid down under the authority of the existing Orders and this Order.

Abolition  
of water  
districts  
and  
transfer of  
water  
under-  
takings of  
county  
council.

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PART III.  
—cont.  
Vesting of  
property  
transferred  
to Board.

22. All property transferred to or vested in the Board by virtue of this Order shall vest in them without the necessity of recording in the register of sasines any conveyance notarial instrument notice of title or other deed or writing but for the purpose of enabling the Board to complete a title if thought fit to any property transferred to and vested in them by virtue of this Order by expediting a notarial instrument notice of title or otherwise this Order shall be deemed to be and may be used as a general disposition or assignation as the case may be of such property in favour of the Board.

Cesser of  
powers of  
transferor  
authorities  
to supply  
water.

23. Subject to the provisions of this Order the powers of—

- (a) the town councils of Dunbar East Linton Haddington and Tranent and the county council with reference to the supply by them of water; and
- (b) the town council of North Berwick with reference to the supply by them of water outside the burgh of North Berwick as existing at the commencement of this Order;

shall as from the date of transfer cease and determine.

Annulment  
of agree-  
ments  
between  
Board and  
transferor  
authorities.

24. All agreements between the Board and the transferor authorities or between any two or more of the transferor authorities relating to the supply of water to or by the Board or to or by any of the transferor authorities which are in force at the date of transfer shall as from that date be void and of no effect but without prejudice to the right of the Board or any of the transferor authorities to recover any sums accrued due and payable to them respectively at the date of transfer under any such agreement.

Contracts  
&c. to  
remain in  
force.

25. After the date of transfer all feu contracts feu charters dispositions securities contracts agreements and obligations granted made or entered into in favour of or by or with a transferor authority in relation to a transferred undertaking shall subject to the provisions of this Order remain in full force and effect and shall be available to or against the Board in the same manner as the same would or might have been available to or against the transferor authority before the said date.



26. As from the date of transfer—

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(a) the agreement between the commissioners of the burgh of North Berwick and Sir Walter Hamilton Dalrymple of North Berwick Baronet dated the twenty-fifth day of May and the fourth day of June one thousand nine hundred and the agreement between the said Sir Walter Hamilton Dalrymple Baronet and the town council of North Berwick dated the twenty-ninth day of January and the thirteenth day of February one thousand nine hundred and six shall have effect as if the Board had been parties to the said agreements respectively instead of the said commissioners and the town council of North Berwick; and

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PART III.  
—cont.  
Continuance  
of agree-  
ments with  
proprietor  
of North  
Berwick  
Estate.

(b) subjects supplied under and in terms of the said agreements shall not be liable to be assessed to the domestic water rate.

27. All legal or other proceedings begun before the date of transfer and relating to any property or liabilities transferred to the Board in respect of a transferred undertaking may be carried on with the substitution of the Board as party to the proceedings in lieu of the transferor authority from whom the property or liabilities was or were transferred and any such proceeding may be amended in such manner as may be necessary for that purpose.

Proceedings  
not to abate.

28. All books and documents relating to a transferred undertaking which at the date of transfer would have been received in evidence shall on and after the date of transfer be received in evidence as if the Act confirming this Order had not been passed.

Books &c.  
to be  
evidence.

29. All water rates charges and assessments or any proportion thereof and all arrears thereof penalties debts and sums of money at the date of transfer owing to a transferor authority relating exclusively to a transferred undertaking shall be due and payable to the Board with all interest (if any) due or accruing due for the same and may (unless otherwise agreed between the Board and the transferor authority with respect to the collection of such arrears) be recovered and enforced by the Board in like manner and as effectually as they could have been recovered and enforced by the transferor authority.

Water  
rates and  
arrears.

A.D. 1938.  
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PART III.  
—cont.  
Transfer of  
debts.

30.—(1) All debts and sums of money which at the date of transfer are due and owing by a transferor authority in relation to a transferred undertaking and whether by mortgage bond debenture annuity or otherwise shall be and are by this Order as from the date of transfer transferred to and shall be undertaken and be payable by the Board with all interest due or accruing due thereon from time to time and may be recovered and enforced from and against the Board in like manner as they could have been recovered and enforced from and against the transferor authority.

(2) As from the date of transfer the transferor authorities shall be freed and relieved by the Board from any claim or demand made by any creditor holding any such security or securities and of all expenses incurred in connection therewith and the Board may apply any of their funds or the rates and charges authorised by the existing Orders and this Order in payment of any such claim or demand.

Accounting  
between  
transferor  
authorities  
and Board.

31.—(1) All sums of money in the hands or under the control of a transferor authority or the treasurer thereof exclusively or in part applicable to a transferred undertaking shall in whole or in part as the case may be belong to and be handed over to the Board subject to the payment of any debts that may be outstanding in connection therewith (other than the money owing on mortgage bond debenture or annuity) and all questions of and relating to accounting between a transferor authority and the Board for the ascertainment of the sums so due (if any) to or by the Board shall failing agreement be referred to a duly qualified accountant to be mutually appointed by the Board and the transferor authority or failing such appointment within three months after the date of transfer to an accountant to be appointed by the Secretary of State on the application of either the Board or the transferor authority.

(2) The accountant so appointed shall have full right of access to the books accounts and vouchers of the transferor authority for the purpose of such accounting and shall certify the amount (if any) due to or by the Board and the amount so certified (if any) as payable to or by the Board shall be paid to or by the Board within one month after the date of such certificate. The fees payable to such accountant shall be paid by the Board.



[1 & 2 GEO. 6.] *East Lothian Water* [Ch. xxiii.]  
*Order Confirmation Act, 1938.*

32. Subject to the provisions of this Order nothing in this Order contained shall prejudice or affect any mortgages bonds or assignations or other writs granted in security for money borrowed (whether repayable by instalments or otherwise) by a transferor authority in respect of or relating to a transferred undertaking and subsisting at the date of transfer and the same shall during the continuance thereof be as valid and effectual in all respects as if the Act confirming this Order had not been passed. Provided that the water rates and charges authorised by the existing Orders and this Order shall be substituted for and shall come in lieu and place of the water rates assessments and charges on the security of which such money was borrowed.

A.D. 1938.  
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PART III.  
—cont.  
Existing mortgages.

33. Nothing in this Order shall prejudice or affect anything done or suffered before the date of transfer in relation to the transferred undertakings nor any right liability claim or demand incident to or consequent on anything so done or suffered.

Proceedings saved.

34. Until the date of transfer the transferor authorities shall carry on the transferred undertakings as heretofore in the ordinary course of business but after the commencement of this Order no transferor authority shall without the previous consent of the Board under the hand of their clerk make or enter into any contract agreement or obligation except such as shall be in the ordinary course of the construction completion renewal and maintenance of the works and the proper conduct of the transferred undertakings and any expenditure properly made or incurred by the transferor authorities in connection with the transferred undertakings otherwise than out of money borrowed on or arising from the transferred undertakings shall be repaid by the Board.

Maintenance of transferred undertakings until transfer.

35.—(1) Every officer who at the commencement of this Order is in the employment of a transferor authority and who in consequence of the transfer of a transferred undertaking to the Board suffers any direct pecuniary loss by determination of his appointment (otherwise than for misconduct) or by diminution or loss of fees salary or emoluments (and for whose compensation for that loss no other provision is made by any other enactment for the time being in force) shall be entitled to compensation for that loss from the Board.

Compensation to officers.

[Ch. xxiii.] *East Lothian Water* [1 & 2 GEO. 6.]  
*Order Confirmation Act, 1938.*

A.D. 1938.

PART III.  
—cont.

(2) For the purposes of this section an officer of a transferor authority—

(a) who at any time within five years after the date of transfer relinquishes his office by reason of his having been required to perform duties which are not analogous to or which are an unreasonable addition to those which he was required to perform immediately before the said date; or

(b) whose appointment is determined or whose salary is reduced within five years after the date of transfer because his services are not required or his duties are diminished and not on the ground of misconduct or inefficiency;

shall be deemed unless the contrary is shown to have suffered a direct pecuniary loss in consequence of that transfer.

16 & 17  
Geo. 5. c. 47.

19 & 20  
Geo. 5. c. 25.

(3) The provisions of the Second Schedule to the Rating (Scotland) Act 1926 and of paragraph (i) of subsection (1) of section 7 (Transfer of officers and superannuation funds) of the Local Government (Scotland) Act 1929 shall apply in relation to claims for compensation under this section as they apply in relation to claims for compensation under those Acts subject to such modifications as the Secretary of State may by order provide for the purpose of adapting those provisions to cases arising under this Order.

(4) In this section the expression “ officer ” includes servant.

Repeal of  
existing  
byelaws  
&c.

36. All byelaws rules and regulations in force at the date of transfer relating to the transferred undertakings shall as from the date of transfer cease to be in force and the byelaws rules and regulations of the Board made under the powers of the existing Orders shall as from the date aforesaid come into force within the added limits.

Supply in  
bulk to  
town  
council of  
North  
Berwick.

37. The following provisions shall unless otherwise agreed in writing between the town council of North Berwick (hereinafter in this section referred to as “ the town council ”) and the Board apply and have effect as from the date of transfer (that is to say) :—

(1) The town council shall be entitled to require and the Board shall provide and deliver such



daily quantities of filtered water as may from day to day be required by the town council not exceeding in the aggregate in any one year one hundred and twenty-seven million seven hundred and fifty thousand gallons in bulk by meter at a price calculated at the rate of threepence per one thousand gallons payable half-yearly at Whitsunday and Martinmas :

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PART III.

—cont.

- (2) In addition the town council shall be entitled to require and the Board shall provide and deliver a supplementary quantity of filtered water not exceeding in the aggregate in any one year thirty-six million five hundred thousand gallons in bulk by meter at a price calculated at the rate of threepence halfpenny per one thousand gallons payable half-yearly at Whitsunday and Martinmas :
- (3) The maximum quantity of filtered water to be supplied under the provisions of this section in any one day of twenty-four hours shall not exceed six hundred thousand gallons :
- (4) For the purpose of affording the aforesaid supplies the Board shall be bound at their own expense to instal and keep in repair such meters stop-cocks and meter houses and other necessary apparatus as may be required for measuring the aforesaid supplies :
- (5) The Board shall have the sole control of the said meters and apparatus but the town council and any person representing them shall be entitled to all reasonable facilities for checking and verifying the readings of the said meters :
- (6) The said meters shall be placed at such points at or near the boundaries of the burgh of North Berwick as existing at the commencement of this Order as may be mutually agreed upon :
- (7) Notwithstanding the provisions of the section of this Order of which the marginal note is  
“ Transfer of water undertakings of town  
“ councils of Dunbar East Linton Hadding-  
“ ton North Berwick and Tranent ” the water

[Ch. xxiii.] *East Lothian Water* [1 & 2 GEO. 6.]  
*Order Confirmation Act, 1938.*

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PART III.  
—cont.

main outside the boundaries of the said burgh extending from the east boundary thereof to the junction of the Blackdykes Road with the coast road to Dunbar shall remain the property of the town council :

- (8) To enable the Board to supply consumers within the limits of supply who can conveniently be supplied from existing mains belonging to the town council within or without the said burgh the town council shall allow the Board so long as this can be done without detriment to the supply of water within the said burgh to make such connections to the pipes belonging to the town council as may be mutually agreed upon or failing agreement determined by arbitration as hereinafter in this section provided :

The water passing through the mains belonging to the town council and delivered to the Board shall not be taken into account in determining the quantity of water supplied by the Board to and to be paid for by the town council as hereinbefore in this section provided The Board shall be bound at their own expense to instal and keep in repair such meters as may be necessary for measuring the water so delivered by the town council to the Board unless the Board and the town council mutually agree on some other method of adjusting the quantity of water so delivered :

- (9) The town council may enter into and carry into effect agreements with the Board for additional water supplies by the Board to the town council for any purpose and for such remuneration and on such terms and conditions and for such period as may be agreed upon :
- (10) If any difference shall arise between the Board and the town council under this section such difference shall be referred to an arbiter to be appointed by the Board and the town council or failing agreement to be appointed by the Secretary of State on the application of either party.



PART IV.

A.D. 1938.

EXTENSION OF LIMITS OF SUPPLY.

38. As from the date of transfer—

Extension  
of limits of  
supply.

- (a) the existing limits shall be extended to include the added limits;
- (b) the existing Orders as amended by this Order shall be in force within the limits of supply as fully and in the same manner as within the existing limits and the Board shall have and may exercise and shall be subject to all the same powers rights duties and obligations within the limits of supply as they have and may exercise and are subject to within the existing limits as if the added limits had been originally included within the existing limits.

PART V.

WORKS AND LANDS.

39. Subject to the provisions of this Order the Board may—

Power to  
maintain  
&c. trans-  
ferred  
works.

- (a) maintain repair renew alter enlarge improve and extend the waterworks transferred to them by or acquired by them under this Order;
- (b) abandon and discontinue any of the works or sources of supply transferred to them by or acquired by them under this Order which they do not deem it necessary or desirable to retain for the purposes of the undertaking and sell or dispose of any works so abandoned and discontinued;
- (c) take intercept and impound pump raise and use any water which can or may be intercepted by any of the said works or which the transferor authorities or any of them might have intercepted by any of the said works if the Act confirming this Order had not been passed;
- (d) erect lay down provide and maintain upon in over or under any lands vested in the Board or in or over which the Board shall have acquired servitudes additional works and apparatus for the purposes of the undertaking;

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*Order Confirmation Act, 1938.*

A.D. 1938.

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PART V.  
—cont.

(e) lay down provide and maintain additional and other aqueducts mains and pipes subject to the provisions of the existing Orders and this Order and of the Acts incorporated therewith; and

(f) sell and supply water in accordance with the provisions of the existing Orders and this Order:

Provided that nothing in this section shall authorise the Board to construct enlarge or extend any reservoirs other than service reservoirs.

Power to enter into agreements with respect to reduction of compensation water.

40.—(1) The Board and the several persons having an interest in the flow of the waters in the streams known respectively as the Spott Burn the Thorter Burn the Papan Water the Hopes Water the Kidlaw Burn and the Birns Water may from time to time enter into and carry into effect agreements for and with respect to the reduction of the quantity of water now required to be discharged or allowed to flow down any such stream from the Spott reservoir the Thorter reservoir the Donolly reservoir the Hopes reservoir the Lammerloch reservoir the Witches Knowes reservoir and the Stobshiel reservoir as the case may be to any daily quantity in respect of any such stream not being less than the equivalent of one three-hundred-and-sixty-fifth of one-fourth of the available rainfall upon the drainage area or areas tributary to the reservoir or reservoirs on such stream or to any catchwater or catchwaters conveying water to such reservoir or reservoirs.

(2) After the date of any such agreement or agreements if made between the Board and all persons having an interest in the flow of water in any such stream the Board shall not be under any obligation to discharge or allow to flow from their works down such stream a quantity of water in excess of the quantity so from time to time agreed between the Board and such persons as aforesaid.

Power to make works.

41. The Board may subject to the provisions of this Order make and maintain in the lines and according to the levels shown on the deposited plans and sections the waterworks hereinafter described The waterworks hereinbefore referred to and authorised by this Order will be situated in the county and are—

Work No. 1 An installation of filters in the parishes of Garvald and Bara and Whittinghame at



the southern end of the enclosure numbered 219 on the 1/2500 Ordnance map of Haddingtonshire edition of 1907 sheet XI.9;

A.D. 1938.

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PART V.  
—cont.

Work No. 2 A service reservoir in the parish of Prestonkirk in the western portion of the enclosure numbered 557 on the said Ordnance map sheet XI.1 at a point near the eastern end of Traprain Law;

Work No. 3 An aqueduct conduit or line or lines of pipes in the parishes of Whittingehame and Prestonkirk commencing in the existing aqueducts from the Donolly and Thorter reservoirs to North Berwick at points thereon adjoining the eastern boundary of the enclosure numbered 117 on the said Ordnance map sheet XI.5 and terminating in Work No. 2;

Work No. 4 An aqueduct conduit or line or lines of pipes in the parish of Prestonkirk commencing in Work No. 2 and terminating in the existing aqueducts from the Donolly and Thorter reservoirs to North Berwick at points thereon in the south-eastern corner of the enclosure numbered 510 on the said Ordnance map sheet XI.2.

42. The Board may in constructing the waterworks authorised by this Order deviate laterally from the lines and position thereof as shown on the deposited plans to the extent of the limits of lateral deviation shown thereon and where on any street or road no such limits are shown the boundaries of such street or road shall be deemed to be such limits and they may also deviate vertically from the levels of the various works as shown on the deposited sections to any extent upwards not exceeding in the case of the service reservoir (Work No. 2) five feet and in the case of the remaining works thirty feet and in all cases to any extent downwards Provided that except for the purpose of crossing over a stream canal or railway no part of the aqueducts shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections.

Power to deviate.

43. If the works authorised by the section of this Order of which the marginal note is "Power to make works" are not completed by the thirtieth day of June

Period for completion of works.

[Ch. xxiii.] *East Lothian Water* [1 & 2 GEO. 6.]  
*Order Confirmation Act, 1938.*

A.D. 1938. one thousand nine hundred and forty-eight then on the  
— expiration of that period the powers by this Order granted  
PART V. to the Board for making and completing the same shall  
—cont. cease except as to so much thereof as is then completed.

Power to 44. Subject to the provisions and for the purposes  
take lands. of this Order the Board may enter upon take and use  
all or any of the lands delineated on the deposited plans  
and described in the deposited book of reference.

Persons 45. Persons empowered by the Lands Clauses Acts  
under to sell and convey or discharge lands may if they think  
disability fit subject to the provisions of those Acts and of this  
may grant Order grant to the Board any servitude right or privilege  
servitudes (not being a servitude right or privilege of water in which  
&c. by persons other than the grantors have an interest) required  
agreement. for the purposes of this Order in over or affecting any  
such lands and the provisions of the said Acts with  
respect to lands and annual feu duties or grounds annuals  
so far as the same are applicable in this behalf shall  
extend and apply to such grants and to such servitudes  
rights and privileges as aforesaid respectively.

As to 46. All private rights of way over any lands which  
private shall under the powers of this Order be acquired com-  
rights of pulsorily shall as from the date of such acquisition be  
way over extinguished Provided that the Board shall make full  
lands taken compensation to all parties interested in respect of any  
com- such rights and such compensation shall be settled in  
pulsorily. manner provided by the Acquisition of Land (Assess-  
ment of Compensation) Act 1919 with reference to the  
acquisition of land compulsorily.

Compensa- 47. For the purpose of determining any question of  
tion in case disputed compensation payable under the powers of this  
of recently Order the tribunal shall not award any sum of money  
acquired for or in respect of any improvement alteration or build-  
interest. ing made or for or in respect of any interest created after  
the seventeenth day of October one thousand nine  
hundred and thirty-seven if in the opinion of the tribunal  
the improvement alteration or building or the creation  
of the interest in respect of which the claim is made was  
not reasonably necessary and was made or created with  
a view to obtaining or increasing compensation under  
this Order.



48. Whereas in the exercise of the powers of this Order it may happen that portions only of certain properties shown on the deposited plans may be sufficient for the purposes of the Board and that such portions may be severed from the remainder thereof without material detriment thereto Therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in the properties numbered on the deposited plans 1 in the parish of Garvald and Bara and 1 2 and 3 in the parish of Whittingehame whereof parts only are required for the purposes of this Order may if such portions can in the opinion of the tribunal be severed from the remainder thereof without material detriment thereto be required to sell and convey to the Board the portions only of the properties so required without the Board being obliged or compellable to purchase the whole or any greater portion thereof the Board paying for the portions required by them and making compensation for any damage sustained by the owners thereof and any other parties interested therein by severance or otherwise.

49. The powers of the Board for the compulsory purchase of lands for the purposes of this Order shall cease on the first day of October one thousand nine hundred and forty-one.

50. If there be any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Board after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff for the correction thereof and if it appears to the sheriff that the omission misstatement or wrong description arose from mistake he shall certify the same accordingly and he shall in such certificate state the particulars of such omission and in what respect any such matter is misstated or wrongly described and such certificate shall be deposited in the office of the sheriff clerk of the county and a duplicate thereof shall also be deposited with the clerk of the county council and such certificate and duplicate shall be kept by such sheriff clerk and clerk of the county council with the other documents to which the same relate and thereupon the deposited plans and book of reference shall be deemed

A.D. 1938.  
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 PART V.  
 —cont.  
 Owners may be required to sell parts only of certain properties.  
 8 & 9 Vict. c. 19.

Period for compulsory purchase of lands.  
 Correction of errors in deposited plans and book of reference.

[Ch. xxiii.] *East Lothian Water* [1 & 2 GEO. 6.]  
*Order Confirmation Act, 1938.*

A.D. 1938.

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PART V.  
—cont.

Power to  
acquire  
additional  
lands by  
agreement.

to be corrected according to such certificate and it shall be lawful for the Board to exercise the powers of this Order in accordance therewith.

51. In addition to the lands vested in them and the lands authorised to be acquired under the powers of the existing Orders and this Order the Board may from time to time for the purposes of the undertaking purchase by agreement any lands not exceeding in the whole ten acres but nothing in this Order shall exonerate the Board from any action interdict or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land purchased under the powers of this section.

Dwelling-  
houses for  
persons  
employed  
by Board.

52. The Board may purchase or take on lease dwelling-houses for such of the keepers of reservoirs water officers foremen or workmen employed by them as require in consequence of the nature of their duties to reside in close proximity to the places where they are employed and may erect maintain and let dwelling-houses with all necessary conveniences and appurtenances for such persons upon any lands for the time being belonging to the Board and (subject to the terms of the feu or lease) upon any lands for the time being feued or leased to the Board.

Power to  
afforest  
lands.

53. The Board may plant with trees any land vested in them or which may be acquired for the purposes of or in connection with the undertaking under the provisions of the existing Orders or this Order which they may deem suitable for afforestation.

Applica-  
tion of  
certain  
provisions  
of Order of  
1922.

54. Subject to the provisions of this Order the provisions of the sections of the Order of 1922 hereinafter mentioned shall so far as the same are not varied by or inconsistent with the provisions of this Order extend and apply mutatis mutandis to the works authorised by this Order and to the lands which the Board are by this Order authorised to acquire and the powers conferred by those sections may be exercised by the Board with reference to such works and to such lands accordingly :—

Section 48 (Power to make subsidiary works);

Section 50 (Power to open roads &c.);

Section 52 (Board may enlarge or increase works);



[1 & 2 GEO. 6.] *East Lothian Water* [Ch. xxiii.]  
*Order Confirmation Act, 1938.*

Section 53	(Laying mains on public roads);	A.D. 1938.
Section 54	(Board to have powers of a local authority for laying mains);	— PART V. —cont.
Section 61	(Power to acquire servitudes only for lines of pipes);	
Section 63	(Power to acquire and hold lands for prevention of pollution);	
Section 64	(For protection of reservoirs &c. from pollution);	
Section 65	(Power to sell &c. lands);	
Section 66	(Reservation of water rights on sale);	
Section 67	(Power to agree as to drainage of lands);	
Section 68	(Acquisition of minerals by agreement);	
Section 69	(Power to discharge water temporarily into streams);	
Section 77	(For protection of county council of East Lothian);	
Section 78	(For protection of town councils of Haddington Tranent Prestonpans and Cockenzie and Port Seton).	

55. The provisions of section 77 (For protection of county council of East Lothian) of the Order of 1922 shall except so far as otherwise agreed in writing between the town councils of Dunbar East Linton and North Berwick respectively extend and apply for the protection of such respective town councils as if such town councils and the highways and bridges within the said respective burghs maintainable by such town councils had been named in the said section in the place of the county council and the county highways and county bridges respectively.

For protection of town councils of Dunbar East Linton and North Berwick.

56. This Order shall be deemed to be an enactment within the meaning of subsection (4) of section three of the Trunk Roads Act 1936 and the provisions of that subsection shall apply accordingly.

As to trunk roads.  
1 Edw. 8. &  
1 Geo. 6. c. 5.

57. Subject to the provisions of this Order the transferred undertakings and the works authorised by and the lands acquired under this Order shall form part of the undertaking.

Works and lands to form part of undertaking.

A.D. 1938.

[Ch. xxiii.] *East Lothian Water* [1 & 2 GEO. 6.]  
*Order Confirmation Act, 1938.*

PART V.  
—cont.

As to  
purchase  
of private  
water  
supplies.

58. The Board may by agreement acquire any works mains pipes filters or other apparatus within the limits of supply used or intended to be used for the purpose of affording a private supply of water to any village or community or to any lands or other property.

Restriction  
on works for  
abstraction  
of water.

59. The Board shall not construct any works for taking or intercepting water from any lands acquired by or vested in them unless the works are authorised by and the lands upon which the same are to be constructed are specified in the existing Orders or this Order or in an Act of Parliament or Order confirmed by or having the effect of an Act of Parliament :

Provided that for the purposes of this section works which are comprised in the transferred undertakings and any works carried out by the Board under the powers of the section of this Order of which the marginal note is "Power to maintain &c. transferred works" and any works acquired by the Board in pursuance of the section of this Order of which the marginal note is "As to purchase of private water supplies" shall be deemed to be situate upon lands which are specified in this Order.

For pro-  
tection of  
London  
and North  
Eastern  
Railway  
Company.

60. The following provisions for the protection of the London and North Eastern Railway Company (hereinafter in this section called "the company") shall unless otherwise agreed in writing between the company and the Board apply and have effect with respect to the execution by the Board of any works of construction maintenance repair renewal enlargement duplication alteration or improvement of the aqueducts mains or pipes and relative works forming part of the undertaking so far as the same are situate in over under or affecting any works or property belonging to or occupied or maintainable or repairable by the company (which works of construction maintenance repair renewal enlargement duplication alteration or improvement are hereinafter in this section referred to as "the works") (that is to say) :—

- (1) The Board shall not under the powers of the existing Orders or of this Order take or acquire by compulsion any lands or property of the company but the Board may purchase and the company shall sell if required by the Board



such servitudes in under over or upon the lands property and works of the company as may be required for the works :

A.D. 1938.

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PART V.  
—cont.

- (2) Before commencing the works the Board shall submit to the company sufficient plans sections working drawings and specifications thereof showing the manner in which the works are to be carried out as well as the design material and mode of execution thereof for approval of the company which approval shall not be unreasonably withheld and shall be deemed to have been given unless the company signify their disapproval within twenty-one days after submission of the said plans sections working drawings and specifications in which event any questions between the company and the Board shall be determined by arbitration in the manner in this section provided All the works shall be constructed carried out and completed in conformity with the plans sections working drawings and specifications so approved or as settled by arbitration at the sole risk and cost of the Board and at the sight and to the reasonable satisfaction of the engineer of the company Provided that if and whenever the Board fail to make good any want of repair of the works which in any way affects the company or their works or property the company may after giving fourteen days' notice thereof to the Board or in case of emergency without notice make and do all such works and things as may be reasonably requisite in that behalf and the sum from time to time certified by the engineer of the company to be the reasonable amount of the expenditure so incurred shall be repaid to the company by the Board :
- (3) At the points of crossing no part of the works shall unless with the approval of the engineer of the company be less than three feet below the level of the rails of the company's railways or shall be above the level of the company's existing drains culverts or ditches :
- (4) The Board shall not without the previous consent in writing of the company enter upon

A.D. 1938.

PART V.  
—cont.

or interfere with any works or property belonging to or occupied or maintainable or repairable by the company further or otherwise than may be necessary for the works to be laid in upon over or under any such works or property and they shall not except as aforesaid alter or interfere with any of the said works of the company :

- (5) Where stop-valves are required for the protection of any works or property belonging to or occupied or maintainable or repairable by the company the Board shall provide such stop-valves when and as may be necessary and shall maintain the same all at their own expense :
- (6) The Board shall bear and on demand pay to the company the reasonable expenses of the employment by them during the execution by the Board of the works under the railways of the company of a sufficient number of inspectors signalmen or watchmen for watching the railways and works of the company and the conduct of the traffic thereof with reference to and during the execution and maintenance of the works and for preventing as far as may be all interference obstruction danger and accident from any of the operations or from the acts or defaults of any person or persons in the employment of the Board :
- (7) The Board shall pay to and reimburse the company in all reasonable costs charges and expenses which they may incur in connection with or in consequence of the works :
- (8) The works shall be carried out by the Board so as not to injure alter or interfere with or endanger the structure or stability of the same or the electric telephonic or signalling apparatus belonging to or maintainable by the company and the Board shall execute all under-pinning or strengthening necessary or which may be reasonably required by the company to secure the safety of the works or the property of the company as aforesaid and should any danger injury interruption or impediment or interference to or with the passage or conduct of



traffic on the railway of the company be caused by or be in any way owing to the works or the failure of or defect in any of the works the Board shall free of all expense to the company execute and do all such works as may be necessary to restore or remove such injury danger interruption or impediment as the case may be and in the event of their failing so to do or in case of emergency the company may themselves restore or remove such injury danger interruption or impediment and recover from the Board the reasonable expenses of so doing The Board shall also pay all cost and expenses and shall make reasonable compensation to the company for all loss or damage caused by the carrying out of the works and such interruption impediment or interference to or with the aforesaid works or property of the company The Board shall also indemnify the company for all damages or compensation which may be recovered from them by reason of such interruption impediment or interference or by reason of any accident so far as such interruption impediment interference or accident shall have been occasioned by or through the acts or default of the Board :

- (9) Nothing in the existing Orders or in this Part of this Order contained or which may be done in pursuance thereof shall prevent the company from maintaining repairing and whenever in their discretion thought necessary renewing deviating widening enlarging altering or reconstructing their railways bridges or approaches or other works in connection therewith or any stations or buildings or property belonging to the company without interference on the part of the Board and without incurring any liability to the Board or to any person using the works for any loss injury damage or expense which may arise from such maintenance repair renewal deviation widening enlarging alteration or reconstruction unless the same shall arise from some neglect or default of the company or their agents workmen or servants in the execution of such maintenance repair renewal deviation

A.D. 1938.

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PART V.  
—cont.

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PART V.  
—cont.

widening enlarging alteration or reconstruction Provided that in the event of the company exercising any of such powers they shall do so in such manner as to cause as little damage and interference as practicable to and with the said works of the Board and shall give (except in cases of emergency in which cases notice shall be given as soon as possible) twenty-one days' previous notice in writing to the Board before commencing any such operations as may affect any of the said works of the Board and if any avoidable injury or other interruption shall arise to the said works of the Board from or be owing in any way to any neglect or default of the company the company shall forthwith to the satisfaction of the Board make good or remove such injury or interruption at their own expense or the Board may do the same and the company shall pay the Board all costs and expenses loss or damage incurred or sustained by them in respect thereof If for the purposes or in consequence of any such operations of the company as aforesaid the company shall deem it necessary that any of the said works of the Board shall be altered diverted or temporarily removed the Board shall with all reasonable speed after the receipt by them of notice in writing from the company requiring them so to do make at their own expense and to the satisfaction of the engineer of the company all such alterations diversions or temporary removals as may be specified in such notice :

- (10) Any question or difference between the Board and the company arising under this section shall be determined by an arbiter to be agreed upon between the Board and the company or failing agreement to be nominated by the President of the Institution of Civil Engineers on the application of either party :
- (11) Notwithstanding anything contained in section 50 (Power to open roads &c.) and section 69 (Power to discharge water temporarily into streams) of the Order of 1922 the Board



shall not alter or stop up temporarily or otherwise any road or bridge of the company except with the consent of the company (which shall not be unreasonably withheld) and shall not alter or stop up temporarily or otherwise except with the consent of the company the railway or any electric or telephonic apparatus of the company.

A.D. 1938.

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PART V.  
—cont.

## PART VI.

### PROVISIONS AS TO SUPPLY OF WATER.

61. The Board shall not be bound to supply with water otherwise than by meter—

Supply to houses partly used for trade &c.

(a) any building used by an occupier as a dwelling-house whereof a part is used by the same occupier for any trade or manufacturing purpose for which water is required; or

(b) any public institution mental or other hospital (whether public or private) sanatorium school club hotel assembly hall restaurant public-house or inn.

62. Where a person who takes a supply of water for domestic purposes from the Board desires to use any water so supplied for or in connection with a refrigerating apparatus or for or in connection with any apparatus (other than apparatus used for softening water for domestic supplies which does not require water for cleaning cooling regenerating or for motive power or similar purposes) depending while in use upon a supply of continuously running water the Board shall be entitled to require that all water so used shall—

Charges for supplies for refrigerating apparatus &c.

(a) be taken by meter and paid for accordingly and in that event the minimum quarterly charge for the water shall be ten shillings; or

(b) be paid for at such rates as may be agreed between the consumer and the Board.

63.—(1) Notwithstanding anything in the existing Orders or this Order contained a person shall not be entitled to demand or continue to receive from the Board a supply of water to any caravan shack hut tent or other like structure unless he has agreed with the

Special terms for supplies to caravans shacks &c.

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—cont.

Board to take a supply of water by meter and to pay to the Board such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing the supply or supplies required by him and will cover other standing charges incurred by the Board in order to meet the possible maximum demand for his caravan shack hut tent or structure and will yield a reasonable return on the cost of the water consumed or used by him and unless he has secured to the reasonable satisfaction of the Board by way of deposit or otherwise payment of such a sum as may be reasonable having regard to the possible maximum demand of such person for his caravan shack hut tent or structure.

(2) The sum to be so paid and the security to be so given shall be determined in default of agreement by the sheriff who may also order by whom the costs of the proceedings shall be paid and the decision of the sheriff shall be final and binding on all parties.

Penalty for interfering with valves and apparatus.

64. Any person being the owner or occupier of any house or building or part of a house or building or lands or premises to or in respect of which he is not for the time being entitled to a supply or the continuance of a supply of water by the Board who shall without the authority of the Board turn on any valve cock or other work or apparatus attached to any service main or pipe connected with any main of the Board and provided or available for the purpose of affording a supply of water to such house or building or part of a house or building or lands or premises shall be deemed to commit an offence under section 60 (Penalty for destroying valves drawing off water &c.) of the Waterworks Clauses Act 1847 and the said section shall extend and apply accordingly.

Penalty for closing valves and apparatus.

65. Every person who shall (without the consent of the Board) wilfully or negligently close or shut off or interfere with any valve cock or other work or apparatus belonging to the Board whereby the supply of water shall be interfered with shall (without prejudice to any other right or remedy of the Board) be liable on conviction to a penalty not exceeding five pounds and the Board may in addition thereto recover the amount of any damage by them sustained Provided that this section shall not apply to a consumer closing any valve on his communication pipe.



66.—(1) The Board may re-washer any water fittings supplied from the main belonging to any person supplied by them with water and may recover as a civil debt from such person the reasonable charges of the Board in providing the necessary materials and workmanship.

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—  
 PART VI.

—cont.

Power to re-washer water fittings.

(2) Nothing in this section shall apply to any water fittings on the railways or stations or buildings connected therewith (other than dwelling-houses) of any railway company.

67. The Board shall have the exclusive right of executing any works on any of the water mains of the Board for connecting any communication or service pipe therewith and the Board shall on the request of any owner or occupier of any premises who is entitled to be supplied with water by the Board execute on any such main subject to the provisions so far as applicable of the Waterworks Clauses Act 1847 with respect to the breaking up of streets for the purpose of laying pipes any work which shall be necessary to connect the communication or service pipe of such owner or occupier therewith and any expenses incurred by the Board in so doing shall be repaid by the owner or occupier so requesting and shall be recoverable as a civil debt.

Board to connect communication pipes with mains.

68. The engineer of the Board or other officer appointed for that purpose may in any emergency where any waste of water or injury or risk of injury to person or property is caused or likely to be caused by reason of any injury to or defect in any communication pipe which the Board are not under obligation to maintain execute such repairs to the communication pipe as he may think necessary or expedient in the circumstances without being requested so to do and if any injury to or defect in the communication pipe shall have been found the expense reasonably incurred by the Board for the purposes of ascertaining the injury or defect and executing the repairs (including the expense of breaking up filling in reinstating and making good any road pavement or soil for those purposes) shall be recoverable by the Board from the owner of the house building or land supplied with water by such communication pipe Provided that (except in case of emergency) the said engineer or other officer shall not under the powers of this section enter into any house or private premises

Power to Board to repair communication pipes.

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—cont.

unless he shall have given to the occupier of such house or premises and if the water rates in respect of the house or premises are payable by the owner thereof to such owner not less than twenty-four hours' previous notice of his intention so to enter :

Provided further that the powers of this section shall not be exercised on any property (not being a dwelling-house) belonging to a railway company and used by them for the purposes of their undertaking.

Repair of  
common  
pipe.

69. When several houses or tenements of houses in the occupation of several persons are supplied by one common pipe belonging to the several owners or occupiers of such houses or tenements the said several owners or occupiers shall be liable to contribute the amount of any expenses from time to time incurred by the Board in the repair of such pipe and their respective proportions of contributions shall be settled by the Board.

Fittings  
not subject  
to poinding  
&c.

70. Any meters or fittings let for hire by the Board shall not be subject to poinding or to the landlord's remedy for rent or be liable to be taken in execution under any process of any court or any proceedings in bankruptcy against the persons in whose possession the same may be. Provided that such meters or fittings have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof or a distinguishing brand or other mark conspicuously impressed or made thereon sufficiently indicating the Board as the actual owners thereof.

Extension  
of power  
to inspect  
premises.

71. In addition to the powers conferred by section 57 of the Waterworks Clauses Act 1847 any duly authorised officer of the Board may at all reasonable times between the hours of four o'clock and six o'clock in the afternoon enter into any house or premises supplied with water by the Board in order to examine if there be any waste or misuse of such water and if any person hinder any such officer from entering either under the said section 57 or under this section or making an examination under either of those sections he shall for every such offence be liable to a penalty not exceeding five pounds. Provided that no person shall for the same offence have the water supplied to him turned off in pursuance of the said section 57 and be liable to a penalty under this section.



72.—(1) Where the limits of supply are bounded by or abut on any street wholly or for part of its width outside those limits the Board may for the purpose of supplying water to the owner or occupier of any premises abutting on such street and being within the said limits exercise with respect to the whole width of the street the like powers of breaking up the street for the purpose of laying maintaining inspecting repairing and renewing pipes as are exerciseable by them with respect to streets within the said limits and subject to the like conditions.

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 —cont.

As to streets forming boundary of limits of supply.

(2) The Board by means of a pipe laid in any such street as is referred to in subsection (1) of this section may with the consent of any local authority water trustees water board company or person supplying water under parliamentary authority to the area which includes the houses outside the limits of supply abutting upon such street supply such houses with water.

(3) The owner or occupier of a house within the limits of supply which abuts upon a street in which the Board have laid a pipe in pursuance of this section and the owner or occupier of a house without the said limits which the Board are by this section authorised to supply with water may exercise the rights and shall be subject to the obligations in reference to the laying of pipes to communicate with the pipe of the Board which they could have exercised and would have been subject to if the street and the last-mentioned house had been within the said limits.

(4) In this section the word "street" includes any square court or alley highway lane road thoroughfare or public passage or place.

## PART VII.

### FINANCIAL PROVISIONS.

73. The estimates authorised and required to be made up by the Board under and for the purposes of the existing Orders shall be made up and the rates rents and charges authorised and required to be levied by the Board within the existing limits under and for the purposes of the existing Orders shall be levied within the limits of supply so that the same shall include and be sufficient with the other revenues of the Board not only for the purposes specified in the existing Orders but also for the purposes of this Order.

Estimates by Board and rates &c. to include purposes of this Order.

A.D. 1938.

PART VII.

—cont.

Rates in  
burghs of  
Hadding-  
ton and  
Tranent.

74. Notwithstanding anything in the existing Orders or this Order—

- (a) the domestic water rate within the burghs of Haddington and Tranent respectively as existing at the date of transfer shall not in any year up to and including the year ending the fifteenth day of May one thousand nine hundred and forty-nine exceed sevenpence in the pound and in any subsequent year up to and including the year ending the fifteenth day of May one thousand nine hundred and fifty-four tenpence in the pound;
- (b) the public water rate within the said burghs as existing at the date of transfer shall not in any year up to and including the year ending the fifteenth day of May one thousand nine hundred and fifty-four exceed twopence in the pound.

Rates in  
burgh of  
Dunbar.

75. Notwithstanding anything in the existing Orders or this Order the domestic water rate and the public water rate to be assessed by the Board within the burgh of Dunbar as existing at the date of transfer shall not in any year up to and including the year ending the fifteenth day of May one thousand nine hundred and forty-four exceed the respective amounts of one shilling and tenpence in the pound and twopence in the pound.

Rates in  
burgh of  
East  
Linton.

76. Notwithstanding anything in the existing Orders or this Order the domestic water rate and the public water rate to be assessed by the Board within the burgh of East Linton as existing at the date of transfer shall not in any year up to and including the year ending the fifteenth day of May one thousand nine hundred and forty-nine exceed the respective amounts of one shilling and sixpence in the pound and twopence in the pound.

Postpone-  
ment of  
imposition  
of domestic  
water rate  
in added  
limits out-  
with water  
districts  
and certain  
burghs.

77. Notwithstanding anything in the existing Orders or this Order and without prejudice to any existing agreement under which supplies of water are given by the county council or the Board to lands and heritages in the added limits situated outwith the water districts and outwith the burghs of Dunbar East Linton Haddington and Tranent the domestic water rate shall not be imposed or levied earlier than in the financial year beginning on the sixteenth day of May one thousand



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nine hundred and thirty-nine in respect of lands and heritages within the added limits which are situated outwith the water districts and outwith the burghs of Dunbar East Linton Haddington and Tranent. A.D. 1938.  
 —  
 PART VII.  
 —cont.

78. Notwithstanding anything in the existing Orders or this Order the domestic water rate shall not be leviable on shootings or fishings. Provision as to shootings and fishings.

79. Section 117 (Application of rates and charges) of the Order of 1922 shall be read and construed as if— Amend-ment of section 117 of Order of 1922.

(a) Paragraph secondly of the said section also included the interest and the instalments of principal or of principal and interest of money borrowed by the transferor authorities relating to the transferred undertakings;

(b) Paragraph thirdly of the said section also included interest on money borrowed by the Board under this Order;

(c) Paragraph fourthly of the said section also included the instalments or the contributions to the sinking fund for the repayment of money borrowed by the Board under this Order; and

(d) Paragraph fifthly of the said section referred to the reserve fund which the Board are by this Order authorised to establish and maintain.

80.—(1) The Board may if they think fit set aside annually out of their revenues any sum not exceeding two thousand pounds as a reserve fund and may invest and accumulate any part of the amount from time to time standing to the credit of any reserve fund established under the existing Orders and this Order at interest in any securities in which they are authorised to invest sums paid into any sinking fund and any such reserve fund shall be applicable from time to time for renewals of the waterworks plant and apparatus of the Board or to meet any extraordinary claim demand or charge arising against the Board or to answer any deficiency at any time happening in their revenues Provided that the said fund shall never be allowed to accumulate so as to exceed at any time the sum of twenty-five thousand pounds. Reserve fund.

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—cont.

(2) Resort may from time to time be had to the reserve fund for any of the purposes aforesaid although such fund may not at the time have reached or may have been reduced below the said sum of twenty-five thousand pounds.

Power to  
borrow &c.

81. In addition to any money which the Board have borrowed or are authorised to borrow under the existing Orders the Board may from time to time borrow at interest the sums of money necessary for the purposes hereinafter specified and may make and grant mortgages of the rates and charges authorised by the existing Orders and this Order in security of the money so borrowed and interest thereon (that is to say):—

- (a) for repayment of any money borrowed by the transferor authorities previously to the date of transfer and remaining unpaid and relating to the transferred undertakings the sum necessary for the purpose;
- (b) for the acquisition of lands servitudes and other rights and for the construction of the works authorised by this Order the sum of twenty-four thousand nine hundred and sixty pounds; and
- (c) for payment of the costs charges and expenses of and incident to the preparing for obtaining and confirming this Order and otherwise in relation thereto the sum requisite for that purpose.

Applica-  
tion of  
provisions of  
Order of  
1922 as to  
borrowing  
&c.

82.—(1) The provisions as to security repayment of borrowed money reborrowing borrowing on cash account borrowing for current expenses sinking fund mortgages appointment of judicial factor and the other provisions of the Order of 1922 with reference to the sums therein authorised to be borrowed shall apply to the additional money authorised to be borrowed under this Order Provided that the prescribed periods for the repayment of any money borrowed under this Order shall be as follows (that is to say):—

As to money borrowed for the purpose (a) mentioned in the immediately preceding section within such period and by such method as the Secretary of State may prescribe;



As to money borrowed for the purpose (b) mentioned in the said section within fifty years from the date or dates of borrowing the same; A.D. 1938.  
—  
PART VII.

As to money borrowed for the purpose (c) mentioned in the said section within five years from the commencement of this Order. —cont.

(2) Any moneys received by the Board from a transferor authority representing any reserve depreciation or sinking fund shall be applied by the Board in repayment of moneys borrowed or owing by the transferor authority in respect of the transferred undertaking or in repayment of moneys borrowed by the Board for the purpose (a) mentioned in the immediately preceding section or be paid into a sinking fund which may be formed for the repayment of such last-mentioned moneys.

## PART VIII.

### MISCELLANEOUS.

83.—(1) The Board may make byelaws for preventing the pollution fouling or contamination of the water which they are authorised to take for any of their waterworks and may by such byelaws prescribe the construction maintenance and use of proper drains sewers and works and make provision for the prevention of any act or thing tending to pollution of the water. Byelaws for preventing pollution of water.

(2) Section 183 to 187 of the Public Health (Scotland) Act 1897 shall apply to such byelaws as if the Board were a local authority within the meaning of those sections. 60 & 61 Vict. c. 38.

(3) A copy of the proposed byelaws shall be sent to the clerk of the county council one month at least before application is made for their confirmation and if the county council shall within the said month apply to the Department of Health for Scotland for a local inquiry it shall not be lawful for the said department to confirm the proposed byelaws until after the holding of such inquiry.

(4) The Board shall pay compensation to the owners of and other persons interested in any lands in respect of which byelaws shall be made under the provisions of this section whose legal rights shall be injuriously

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—cont.

affected by the restrictions imposed by such byelaws or who are required by such byelaws to construct any works or to do any act or thing which could not lawfully be required by the local authority of the district in which such lands are situate and such compensation shall be settled in default of agreement by an arbiter to be agreed upon or failing agreement to be appointed by the sheriff on the application of either party and the decision of the arbiter shall be final.

As to  
penalties.

84. Except as otherwise in this Order provided sections 139 (Application of penalties) and 140 (Prosecution of offenders) of the Order of 1922 shall apply to the prosecution of any offence against any of the provisions of this Order or of any byelaws made thereunder and to the recovery of any fine or penalty imposed by this Order or by the said byelaws.

Power to  
make  
agreements  
for purposes  
of Order.

85. The Board may from time to time make and carry out agreements with any company body or person with reference to the carrying out of any of the purposes of this Order not herein specially provided for.

Works  
below high-  
water mark  
not to be  
constructed  
without  
consent of  
Board of  
Trade.

86. The Board shall not under the powers of this Order construct on under or over the shore or bed of the sea or of any creek bay arm of the sea or navigable river communicating therewith below high-water mark of ordinary spring tides any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries under secretaries or assistant secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of in writing under hand as last aforesaid and where any such work may have been constructed the Board shall not at any time alter or extend the same without obtaining previously to making any alteration or extension the like consent or approval. If any work be commenced altered extended or completed contrary to the provisions of this section the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost and charge of the Board and the amount of such costs and charges shall be a debt due from the Board to the Crown and shall be recoverable accordingly.



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87. 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 Board 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.

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PART VIII.

—cont.

Crown  
rights.

88.—(1) The following provisions of the Order of Repeal 1922 are hereby repealed (viz.) :—

- Section 6 (Constitution of Board);
- Section 7 (Appointment of members of Board);
- Section 8 (Provision where failure to appoint);
- Section 9 (Appointment of members to be certified);
- Section 10 (Member to be disqualified on ceasing to be member of body by whom appointed);
- Section 11 (No person to be member of Board on behalf of more than one body);
- Section 12 (Casual vacancies);
- Section 13 (Members going out of office eligible for re-election);
- Section 14 (Resignation of members);
- Section 15 (Disqualification of members);
- Section 16 (First meeting of Board);
- Section 17 (Election of chairman and vice-chairman);
- Section 21 (Quorum);
- Section 62 (Limiting powers of Board to abstract water);
- Section 94 (Supply to houses partly used for trade &c.);
- Section 118 (Reserve fund).

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—cont.

2 & 3 Geo. 5.

c. cxlviii.

(2) As from the date of transfer—

(a) the Dunbar Water Order Confirmation Act 1912; and

(b) the following provisions of the Order of 1922 (viz.) :—

Subsections (4) and (5) of section 27 (For protection of town council of Haddington);

Section 43 (As to supply by town council of North Berwick);

The reference to the provost magistrates and councillors of the burgh of Tranent in section 44 (For protection of Henry Callander and town council of Tranent) and subsections (2) and (3) of that section;

Section 45 (As to supply by town council of Tranent);

shall be repealed.

Costs of  
Order.

89. The costs charges and expenses of and incidental to the preparing for obtaining and confirming this Order and otherwise in relation thereto shall be paid by the Board out of their revenues or out of money to be borrowed for that purpose by virtue of this Order.

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The SCHEDULE referred to in the foregoing Order. A.D. 1938.

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ADDED LIMITS.

The burghs of Haddington and Tranent as existing at the commencement of the Order of 1922; and

The parishes of Dunbar Innerwick North Berwick Oldhamstocks Prestonkirk Spott Stenton Whitekirk and Tynninghame and Whittingehame including the burghs of Dunbar and East Linton but excluding the burgh of North Berwick all as existing at the commencement of this Order.

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