



**CHAPTER ccli.**

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Dumbarton Corporation. [18th November 1902.] A.D. 1902.

**W**HEREAS His Majesty's Secretary for Scotland has after inquiry held before Commissioners made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament: 62 & 63 Vict. c. 47.

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 shall be and the same is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the Dumbarton Corporation (Further Powers) Order Confirmation Act 1902. Short title.

A.D. 1902.

SCHEDULE.

DUMBARTON CORPORATION (FURTHER POWERS).

*Provisional Order to confer on the Provost Magistrates and Councillors of the Royal Burgh of Dumbarton further borrowing powers and for other purposes.*

WHEREAS by the Dumbarton Corporation Gasworks Pier &c. Act 1873 (herein referred to as "the Act of 1873") the undertaking of the Dumbarton Gas Light Company was transferred to and vested in the Corporation subject to the provisions of the said Act and the Provost Magistrates and Councillors of the Burgh of Dumbarton (herein called "the Corporation") were authorised to supply the burgh and the adjacent district with gas :

And whereas the Corporation were authorised to borrow money for the purposes of the gas undertaking and for the redemption of annuities to the shareholders of the Dumbarton Gas Light Company :

And whereas the sum authorised to be borrowed for the general purposes of the gas undertaking (other than the redemption of the gas annuities) was limited to fifteen thousand pounds to be secured as in the said Act mentioned :

And whereas the said sum has been borrowed and expended on the gas undertaking of the Corporation :

And whereas it is expedient that the Corporation should be authorised to borrow further money for the purposes of the gas undertaking and also for electric lighting purposes :

And whereas the Corporation as local authority under the Electric Lighting Acts within the Burgh of Dumbarton have obtained under the provisions of those Acts the Dumbarton Electric Lighting Order 1902 :

And whereas under the Electric Lighting (Scotland) Act 1890 the security for money borrowed for electric lighting purposes by the local authority is the security of the local rate described in the schedule to the said Act :

And whereas by the Dumbarton Burgh Act 1899 the boundaries of the Burgh of Dumbarton were extended as in that Act mentioned and the provisions of the Act of 1873 with respect to the supply of gas and with respect to the Dumbarton Corporation guarantee rate

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provided under and for the purposes of that Act were made to apply to the limits of the burgh as so extended: A.D. 1902.

And whereas it is expedient to authorise the Corporation to borrow money to defray the cost of the new municipal buildings of the burgh and the acquisition of lands and for other municipal purposes herein-after described and to grant security over the common good of the burgh and to provide a guarantee rate as herein-after mentioned for those purposes:

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

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

1. This Order may be cited for all purposes as the *Dumbarton Corporation (Further Powers) Order 1902* and shall have effect from and after the date of the passing of the Act confirming the same which date is herein-after referred to as “the commencement of this Order.” Short title.

2. The following Acts so far as incorporated by section 2 of the *Dumbarton Corporation Gasworks Pier &c. Act 1873* are incorporated with and form part of this Order (that is to say) the *Commissioners Clauses Act 1847* the *Gasworks Clauses Act 1847* and the *Gasworks Clauses Act 1871*. Incorporation of Acts.

3. In this Order the several words and expressions to which meanings are assigned by the Act of 1873 shall have the same respective meanings as are contained in the said Act subject to the following amendments:— Interpretation.

The expression “the burgh” means the Burgh of Dumbarton within the municipal limits and boundaries thereof as existing at the commencement of this Order;

The expression “the Corporation” means the Provost Magistrates and Councillors of the Burgh;

The expression “gas undertaking” means the gas undertaking as presently existing in the hands of the Corporation.

4. The Act of 1873 is hereby amended as follows (that is to say):— Power to borrow.

Section 41 (Power to Corporation to borrow on mortgage for gas undertaking) shall be read as if the sum of fifteen thousand pounds mentioned in the said section were forty thousand pounds:

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Section 42 (Power to borrow on cash credit) shall be read as including the extended powers of borrowing under the said section 41 as hereby amended :

Section 44 (Application of money borrowed for gas undertaking) shall be read as including within the gas purposes referred to in that section the purposes authorised by and under the *Dumbarton Electric Lighting Order 1902* :

Section 48 (Guarantee rate) shall extend to and include any further moneys to be borrowed under the powers of this Order for gas and electric lighting purposes or either of them and the interest thereof and the sinking fund in this Order provided for repayment of the further money to be so borrowed for those purposes.

Application of provisions of Act of 1873.

5. The provisions of the Act of 1873 with respect to the borrowing for gas purposes and the security for money borrowed and the mortgages and the sinking fund and the application of the guarantee rate authorised by the Act of 1873 as the same are amended by this Order shall apply to the money to be borrowed for the before-mentioned purposes of this Order.

Power to borrow for electric lighting purposes.

6. The Corporation may borrow money for the purposes of the *Dumbarton Electric Lighting Order 1902* in the manner and subject to the consent provided by the *Electric Lighting Acts* but the amount which they may borrow shall not be subject to any limit imposed on the amount which they may borrow for the purposes of their gas undertaking.

Power to borrow for municipal buildings &c.

7. The Corporation in addition to any other moneys which they are now authorised to borrow may for the purposes of the municipal buildings of the burgh and for the acquisition of lands and for the erection of public halls and offices with all public conveniences thereto and also such number of houses for the accommodation of firemen constables and servants of the Corporation as they may consider necessary and also for the erection of a fire station borrow at interest on the credit and security of the common good of the burgh and the revenues of the common good and the guarantee rate herein-after provided the sum of thirty thousand pounds and in security of the money so borrowed and interest thereon may make and grant mortgages or other deeds or securities over the said common good and guarantee rate.

Guarantee rate.

8. The Corporation shall and they are hereby authorised and required from time to time in the event of a deficiency of funds occurring for the payment in any year of interest on moneys

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borrowed under the immediately preceding section of this Order or for the payments to the sinking fund applicable thereto by this Order provided to impose assess and levy in addition to any other assessment upon and from all lands and heritages situate within the burgh a rate of such amount as shall be necessary for the purpose of meeting such deficiency.

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9. The guarantee rate authorised by the immediately preceding section shall be imposed and assessed one-half on the owners and one-half on the occupiers of all lands and heritages within the burgh and shall be levied and recovered in the same manner as the General Improvement Rate leviabie within the burgh under the Burgh Police (Scotland) Act 1892.

Guarantee  
rate how  
imposed.

10. Every mortgage to be granted by the Corporation for money to be borrowed under the section of this Order of which the marginal note is "Power to borrow for municipal buildings &c." shall be by deed duly stamped in which the consideration shall be truly stated and may be in the form contained in the First Schedule to this Order or to the like effect.

Form of  
mortgage.

11. Every such mortgage or other deed to be made granted or executed by the Corporation may be partly in writing and partly printed and shall be sufficient if signed at a meeting of the Corporation by the provost or other magistrate or councillor presiding and the town clerk either with or without the common seal of the burgh being adhibited. Provided that no town councillor or any official of the Corporation shall by his subscription of any deed mortgage interest warrant draft cheque or order be or be held to have rendered himself individually or personally liable for any obligation or for the payment of any money borrowed drawn or received or any interest thereon or of any sums whatsoever in respect thereof.

Manner in  
which mort-  
gages to be  
executed.

12. Any person entitled to any such mortgage may transfer his right and interest therein to any other person and every such transfer shall be by deed or by indorsation on the mortgage duly stamped and may be partly in writing and partly printed and may be in the form of the Second Schedule to this Order or to the like effect and the consideration shall be truly stated in every such transfer.

Transfers of  
mortgages.

13. If any such mortgage be transmitted by reason of the bankruptcy of the person entitled thereto there shall be produced to the town clerk evidence of such bankruptcy and of the vesting

Trans-  
mission of  
mortgages in  
case of  
bankruptcy.

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A.D. 1902. of the bankrupt estate in the trustee official assignee or other person to whom such estate shall be transferred.

Discharge of mortgages.

14. Any person entitled to any such mortgage granted by the Corporation may discharge the same and his right and interest therein in favour of the Corporation and every such discharge may be written or partly written and partly printed on the mortgage and may be according to the form contained in the Third Schedule to this Order or to the like effect and such discharge when signed by the person entitled to such mortgage and duly stamped shall be valid and effectual to all intents and purposes.

Corporation not bound to regard trusts as regards mortgages.

15. The Corporation shall not be bound to see to the execution of any trust whether expressed implied or constructive to which any such mortgage or the money principal or interest thereby secured may be subject and the receipt of the person in whose name any such mortgage stands in the books of the Corporation shall be a sufficient discharge to the Corporation for any money payable in respect thereof notwithstanding any trust to which the same or the money thereby secured may then be subject and the Corporation shall not be bound to see to the application of the money paid upon such receipt.

Priority of existing mortgages and securities.

16. All mortgages and securities granted by the Corporation in pursuance of the powers of the Act of 1873 before the commencement of this Order which shall be then subsisting shall during the continuance of such mortgages and securities have priority over any mortgages or securities to be granted by the Corporation after the commencement of this Order in respect of their gas (including electric lighting) undertaking.

Repayment of borrowed money.

17.—(1) The Corporation may and in the event of their borrowing otherwise than on repayment by instalments shall annually on the fifteenth day of May set apart as sinking funds from the revenues of their gas undertaking and the common good revenues of the burgh respectively a sum of not less than one pound ten shillings per centum in the case of the gas undertaking and a sum of not less than one pound per centum in the case of the common good revenues of the burgh on the amounts which may have been borrowed at or prior to the preceding Whitsunday under this Order for the purposes respectively of their gas undertaking and the municipal purposes as herein-before provided and such respective sinking funds shall be accumulated with interest and shall be applied to the redemption of money borrowed for gas purposes and municipal purposes respectively or the Corporation

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may agree with any mortgagee that the said respective sinking funds or any parts or part thereof shall be annually received by such mortgagee in liquidation pro tanto of the principal debt Provided always that if in any year the income of the said respective sinking funds from investments is not equal to three per centum on the amount which remained at the credit of the funds or either of them at the preceding Whitsunday any deficiency shall be made good by the Corporation out of the gas revenues and common good revenues respectively of that year and if in any year such income is in excess of three per centum on such amount such excess may be imputed towards the contribution to the sinking funds for that year or to the sinking fund to which the same is properly applicable Provided further that whenever any mortgage granted or issued under the authority of this Order shall have been paid off or redeemed out of such sinking funds respectively the Corporation shall in each year until the whole moneys borrowed or raised under the authority of this Order for the respective purposes aforesaid shall have been paid off and redeemed pay into the sinking fund a sum equal to three per centum on the amount which has been applied from the sinking funds respectively to such payment off or redemption.

A.D. 1902.

(2) The Corporation shall pay off all moneys borrowed by them under this Order for the purposes of their gas undertaking within forty years and for their municipal purposes as herein-before provided within fifty years from the time of borrowing the same respectively.

18. The Treasurer of the Corporation shall within two months after the expiration of each financial year during which any sum is by this Order required to be set apart as a sinking fund transmit to the Secretary for Scotland a return in such form as may be prescribed by the Secretary for Scotland and verified by statutory declaration if so required by him showing the amount which has been so set apart in respect of that year and also showing the purposes to which any portion of such sinking fund and the interest thereof have been applied during the same period and the total amount remaining to the credit of such fund at the end of the same period and in the event of any default in making such return the treasurer of the Corporation shall be liable to a penalty not exceeding twenty pounds recoverable by the Secretary for Scotland as a debt to the Crown is recoverable If it appear to the Secretary for Scotland by such return or otherwise that the

Annual  
return to  
Secretary  
for Scotland  
with respect  
to sinking  
fund.

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A.D. 1902. Corporation have failed to set apart the sum required by this Order as sinking funds or have applied any portion of the moneys so set apart or any interest thereof to any purposes other than those authorised by this Order the Secretary for Scotland may by order direct that a sum not exceeding double the amount in respect of which such default shall have been made be set apart as part of the sinking funds and such order shall be enforceable by decree of either division of the Inner House of the Court of Session pronounced in a summary application presented for that purpose.

Protection of lender from inquiry.

19. A person lending money to the Corporation shall not be bound to inquire as to the observance by the Corporation of any of the provisions of this Order or be bound to see to the application or be answerable for any loss mis-application or non-application of such money or of any part thereof.

Application of money borrowed.

20. All money borrowed by the Corporation under this Order shall be applied only to the purposes for which it is authorised to be borrowed and to which capital is properly applicable.

For appointment of judicial factor.

21. The mortgagees of the Corporation may enforce payment of arrears of interest or principal and interest due on their mortgages by the appointment of a judicial factor. In order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than three thousand pounds.

Costs of Order.

22. All the costs charges and expenses of and incident to the preparing for obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Corporation either out of the common good of the burgh or in equal proportions out of their gas revenues or money borrowed for gas purposes and out of the moneys borrowed under the authority of this Order for municipal purposes as herein-before provided and if the costs are paid out of borrowed money the same shall be repaid within five years from the date of borrowing.



The SCHEDULES referred to in the foregoing Order.

A.D. 1902.

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THE FIRST SCHEDULE.

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FORM OF MORTGAGE.

DUMBARTON CORPORATION (FURTHER POWERS) ORDER 1902.

Mortgage No.                      £

By virtue of the Dumbarton Corporation (Further Powers) Order 1902 we the Provost Magistrates and Councillors of the Burgh of Dumbarton in consideration of the principal sum of [*specify amount*] paid by [*name and designation of mortgagee*] to the Treasurer to the Corporation for the municipal purposes of the said Order do hereby grant and assign to the said [*name of mortgagee*] and his executors administrators and assignees [*or as the case may be*] such proportion of the Common Good of the Burgh of Dumbarton and the revenues and income of every description arising therefrom held and administered by the Town Council and the guarantee rate authorised by the said Order to be imposed as the said sum of [*specify amount*] doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said Common Good and the revenues and income thereof to hold to the said mortgagee and his foresaids until the said principal sum and the whole interest due thereon shall be fully paid and satisfied and it is hereby stipulated that the said principal sum shall be repayable on the [*date*] or shall thereafter in virtue hereof remain as a loan to the said Corporation until the expiration of such further term of years and at such rate of interest as shall be specified in a minute or minutes to be indorsed hereon and signed by the said mortgagee or his foresaids and by the Provost (or other presiding Magistrate or Councillor) and by the Town Clerk which minute or minutes are hereby declared and shall be held to be valid and binding though they may be neither holograph of any of the said parties nor tested and the said Corporation shall pay interest on the said principal sum from the            day of            to the said date of repayment first above mentioned (being at the rate of [*specify rate*] per centum per annum) In witness whereof [*testing clause according to the law of Scotland*].

[Signed as provided in section 11 of this Order.]

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THE SECOND SCHEDULE.

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FORM OF TRANSFER OF MORTGAGE.

I [*name and designation of mortgagee*] in consideration of the sum of [*specify amount*] paid to me by [*name and designation of transferee*] do hereby transfer to the said [*name of transferee*] and his executors administrators and assignees [*or as the case may be*] a certain mortgage number

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A.D. 1902. [number of mortgage] dated the [date of mortgage] made in my favour by the  
Provost Magistrates and Councillors of the Burgh of Dumbarton under the  
Dumbarton Corporation (Further Powers) Order 1902 for securing the sum of  
[principal sum in mortgage] [or if the transfer be by endorsement the  
within mortgage] together with the interest thereon from and after the [date  
from which transferee is to be entitled to the interest] In witness whereof  
[testing clause according to the law of Scotland].

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THE THIRD SCHEDULE.

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FORM OF DISCHARGE.

Received from the Treasurer of the Corporation of the Burgh of Dumbarton  
acting on their behalf the sum of  
being the principal sum contained in the within mortgage (all interest due  
thereon having been previously paid) and the said mortgage is now delivered  
up as discharged.

Dated this                      day of                      one thousand nine hundred  
and

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