



Edinburgh Corporation Order Confirmation Act 1971

CHAPTER xxxvii

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ELIZABETH II



1971 CHAPTER xxxvii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Edinburgh Corporation.

[27th July 1971]

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

Be it therefore enacted by the Queen'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 Edinburgh Corporation Order Confirmation Act 1971.

SCHEDULE

EDINBURGH CORPORATION

Provisional Order to authorise the Corporation of the city of Edinburgh to acquire lands; to construct new sewers within the city and to provide sewage treatment works; to enact provisions with regard to the disposal of sewage effluent; to confer further powers on the Corporation in relation to the finances of the Corporation; to borrow money for the purposes of the Order; and for other purposes.

Whereas the lord provost, magistrates and council of the city and royal burgh of Edinburgh (hereinafter referred to as "the Corporation") are vested with the municipal government and administration of the said city and royal burgh (hereinafter referred to as "the city") and are the local authority therein:

And whereas by the Edinburgh Corporation Order 1967 (hereinafter referred to as "the Order of 1967") the Corporation have a general duty to provide for the drainage of the city:

And whereas the sewage of the city is at present discharged into the Firth of Forth in a crude state:

1965 c. 13. And whereas it has become necessary for the Corporation in consequence of conditions imposed by the Lothians River Purification Board in granting consent under the Rivers (Prevention of Pollution) (Scotland) Act 1965 to make provision for the treatment of the sewage of the city:

And whereas the conditions of such consent of the said Board can best be met by means of the works and relative provisions authorised by this Order:

1968 c. 47. And whereas by virtue of the provisions of the Sewerage (Scotland) Act 1968 the existing general powers of the Corporation to provide sewers may be superseded, it is expedient that the Corporation should be empowered to construct the works authorised by this Order and to discharge the contents of the sewers so authorised into the waters of the Firth of Forth:

And whereas it is expedient that the Corporation be empowered to construct the works in connection with the reclamation of land authorised by this Order:

And whereas estimates have been prepared by the Corporation in respect of the following purposes and such estimates are as follows:—

For the purchase of lands and servitudes	...	£220,000
For the construction of the works	£12,840,000

And whereas the works included in such estimates are permanent works of the Corporation and it is expedient that the cost thereof should be spread over a term of years:

And whereas the Corporation are desirous of obtaining additional powers with regard to the finances of the Corporation:

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

And whereas following the passing of certain subsequent enactments or consequent on the passing of time or other circumstances it is expedient that certain provisions of the Order of 1967 and of the Edinburgh Corporation Order 1969 should be amended or repealed as provided by this Order:

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

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 and other property required or which may be taken for the purposes or under the powers of this Order have been deposited with the sheriff-clerk of Midlothian and with the town clerk of the city 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 Private Legislation Procedure (Scotland) Act 1936:

1936 c. 52.

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

PART I

PRELIMINARY

1.—(1) This Order may be cited as the Edinburgh Corporation Order 1971. Short and collective titles.

(2) This Order and the Edinburgh Corporation Orders 1967 to 1970 may be cited together as the Edinburgh Corporation Orders 1967 to 1971.

PART I
—cont.
Interpretation.

2.—(1) In this Order, unless there is something in the subject or context repugnant to such construction, words and expressions to which meanings are assigned by the Edinburgh Corporation Orders 1967 to 1970 shall have the same respective meanings and—

1845 c. 19.

“ Act of 1845 ” means the Lands Clauses Consolidation (Scotland) Act 1845;

“ lands ” includes houses and buildings;

“ the level of high-water ” means the level of mean high-water springs;

“ Order of 1967 ” means the Edinburgh Corporation Order 1967;

“ sewage treatment works ” means the works authorised by section 20 (Power to reclaim lands and provide sewage treatment works) of this Order;

“ sewers ” means the sewers authorised by this Order;

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

“ tidal work ” means so much of any work authorised by this Order as is on, under or over tidal waters or tidal lands below the level of high water;

“ works ” means the works authorised by this Order and includes the sewage treatment works.

(2) Any reference in this Order to any other enactment shall, except so far as the context otherwise requires, be construed as a reference to that enactment as amended by or under any other enactment, including this Order.

Incorporation
of Acts.

3. The following Acts, so far as they are applicable to the purposes of and are not inconsistent with this Order, are hereby (except where expressly varied by this Order) incorporated with this Order:—

the Lands Clauses Acts (except section 120 of the Act of 1845);

1845 c. 33.

the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of land near the railway during the construction thereof and in that Act where applied to this Order the expressions “ the promoters of the undertaking ” and “ the company ” mean the Corporation, and the expressions “ the railway ” and “ the undertaking ” mean the works;

and this Order shall be deemed to be a special Act within the meaning of those Acts.

PART II

LANDS

4. Subject to the provisions of this Order, the Corporation may enter upon, take and use all or any of the following lands described in the deposited book of reference which they may require for the purposes of the works, that is to say:—

(a) all lands within the limits of deviation for works shown on the deposited plans; and

(b) the lands shown on the deposited plans to be reclaimed and used for sewage treatment works under the provisions of section 20 (Power to reclaim lands and provide sewage treatment works) of this Order and described in Schedule 1 to this Order.

5. The Corporation may use the lands within the limits of land providing access to works as shown on the deposited plans for the purpose of access to or construction, maintenance, repair, extension or enlargement of the works and may also make temporary roads over the said lands for such purposes subject only to the provisions of section 16 (Claims for compensation) of this Order.

6. The powers of the Corporation for the compulsory purchase of lands under this Order shall cease on the 31st December, 1976.

7.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land or in their statement or description of the ownership or occupation of any land, the Corporation, after giving ten days' notice to the owner, lessee and occupier of the land in question, may apply to the sheriff for the correction thereof.

(2) If on any such application it appears to the sheriff that the misstatement or wrong description arose from mistake, he shall certify the fact accordingly and he shall in his certificate state in what respect any matter is misstated or wrongly described.

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments and a copy thereof in the Private Bill Office, House of Commons, with the sheriff-clerk of Midlothian and with the town clerk of the city, and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Corporation to take the land and execute the works in accordance with the certificate.

(4) Any certificate or copy deposited under this section with any person shall be kept by him with the other documents to which it relates.

8. Persons empowered by the Lands Clauses Acts to sell and convey or dispose of lands may, if they think fit, subject to the provisions of those Acts and of this Order, grant to the Corporation any servitude, right or privilege (not being a servitude, right or privilege of water in

PART II
—cont.

which persons other than the grantors have an interest) required 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 rentcharges or feu duties 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.

Set-off of
betterment
against
compensation.

9. In determining the amount of compensation or purchase money payable to any person in respect of his interest in land acquired under this Order in a case where—

- (a) he has an interest in any other land contiguous with or adjacent to the land so acquired; and
- (b) the value of his interest in any such contiguous or adjacent land is enhanced by reason of the execution of the works authorised by this Order or any of them;

the amount of the enhancement in value shall be set off against the compensation or purchase money:

Provided that any such enhancement in value of an interest in land shall be estimated on the assumption that planning permission in respect of that land would be granted under the Planning Act for the operations or uses specified in Schedule 3 to that Act but not for any other development.

As to private
rights of way
over lands
taken
compulsorily.

10. All rights over any lands to be reclaimed under the powers of section 20 (Power to reclaim lands and provide sewage treatment works) of this Order and all private rights of way over any lands which under the powers of this Order are acquired compulsorily shall as from the date of such acquisition be extinguished:

1963 c. 51.

Provided that the Corporation shall make compensation to all parties interested in respect of any such rights and such compensation shall be settled, failing agreement, in the manner provided by the Land Compensation (Scotland) Act 1963 for settling disputed compensation for lands authorised to be acquired compulsorily.

Power to
enter, survey,
etc., lands.

11.—(1) The power to enter premises conferred on authorised officers by section 629 (Power to enter premises) of the Order of 1967 shall include power to enter, examine and lay open the lands authorised by this Order to be taken and used or any of them for the purpose of surveying, measuring, taking levels, examining works and valuing the said lands or any other purpose ancillary to the powers conferred by this Order:

Provided that such power shall not be exercised with respect to any lands unless notice of the intention to enter such lands and the nature of the operations to be carried out has been given to the occupier not less than seven days before the first entry (except in case of emergency, in which case notice shall be given as soon as possible) and in any case further notice shall not be required in respect of any subsequent entry on the lands for the purpose of carrying out the operations specified in the notice.

(2) An authorised officer acting in the exercise of the powers conferred by the preceding subsection shall cause as little detriment or inconvenience to any person as circumstances allow, and the Corporation shall, subject to the provisions of this Order, make compensation to the owners and occupiers of any lands injuriously affected by the exercise of these powers.

12. At any time after notice to treat has been served for any land which the Corporation are authorised by this Order to purchase compulsorily the Corporation may, after giving to the owner and occupier of the land not less than twenty-eight days' notice, enter on and take possession of the land or such part thereof as is specified in the notice without previous consent or compliance with sections 83 to 89 of the Act of 1845 but subject to the payment of the like compensation for the land of which possession is taken and interest on the compensation awarded as would have been payable if those provisions had been complied with. Further powers of entry.

13.—(1) In lieu of acquiring any land that may be acquired under this Order the Corporation may, for the purpose of constructing, using and maintaining so much of the sewers as will be laid underground and doing anything necessary in connection therewith, acquire such servitudes and rights in that land as they may require for that purpose. Power to acquire servitudes only.

(2) Accordingly the Corporation may give notice to treat in respect of any such servitude or right describing the nature thereof and the provisions of the Lands Clauses Acts shall apply in relation to the acquisition of such servitudes and rights as if they were lands within the meaning of those Acts.

(3) Where the Corporation have acquired a servitude or right only in any land under this section—

- (a) they shall not be required or (except by agreement) entitled to fence off or sever that land from the adjoining land; and
- (b) the owner or occupier of the land for the time being shall, subject to the servitude or right, have the same right to use and cultivate the land as if the Act confirming this Order had not been passed.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for a servitude or right is given under this section requires the Corporation to acquire the land, the Corporation shall not be entitled to acquire the servitude or right unless the tribunal determines that the servitude or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house, and if the tribunal does not so determine the Corporation may acquire the land compulsorily notwithstanding that the period mentioned in section 6 (Period for compulsory purchase) of this Order has expired but may not so acquire the land later than one year after the determination of the tribunal:

Provided that nothing in this subsection shall apply to land forming part of a street.

PART II
—cont.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of the last foregoing subsection.

Power to enter on lands for construction of works.

14.—(1) Where any lands which the Corporation are by this Order authorised to enter upon, take and use for the purposes of the works are situated in or under the carriageway, pavement or footpath of any street, shown on the deposited plans and described in the deposited book of reference the Corporation shall not for the purpose of constructing and maintaining the works, notwithstanding anything in this Order, be obliged to take such lands or any part thereof but may without notice enter upon such lands and construct and maintain the works in, through or under the said lands, subject only to the provisions of section 16 (Claims for compensation) of this Order:

Provided that the Corporation shall not, except for the purpose of manholes or other openings, permanently take or use the surface of any such street.

(2) With respect to any lands (other than the lands referred to in the foregoing subsection) shown on the deposited plans and described in the deposited book of reference which the Corporation are authorised by this Order to enter upon, take and use for the purposes of the works the Corporation shall not for the purpose of constructing and maintaining the works, notwithstanding anything in this Order, be obliged to take the said lands or any part thereof but may after giving not less than fourteen days' notice to the owners, lessees and occupiers thereof enter upon such lands and construct and maintain the works in, through or under the said lands, subject only to the provisions of section 16 (Claims for compensation) of this Order.

Power to purchase cellars, etc.

15. Notwithstanding anything in this Order the owners of and other persons interested in any cellar, vault or other construction in or under any lands which the Corporation are authorised by this Order to enter upon, take and use for the purposes of this Order, shall, if need be, sell the same for the purposes of this Order, the Corporation paying such sum for such cellar, vault or other construction including compensation for any damage sustained by such owners or persons by severance or otherwise as, failing agreement, shall be settled by the tribunal and such cellar, vault or other construction to be taken and used as aforesaid shall not be deemed part of a house or other building or manufactory within the meaning of section 90 of the Act of 1845.

Claims for compensation.

16. The Corporation shall make reasonable compensation to the owners, lessees and occupiers of any lands for—

- (a) damage to, or injurious affection of, such lands; or
- (b) any loss sustained by them in relation to such lands;

in consequence of the exercise by the Corporation of any of their powers under this Order and the provisions of Schedule 10 to the Order of 1967 shall apply in relation to claims for such compensation.

Underpinning or otherwise strengthening houses.

17. Whereas in order to avoid, in the execution and maintenance of any works authorised by this Order, injury to the houses and buildings within 100 feet (30.48 metres) of such works, it may be

necessary to underpin or otherwise strengthen the same: Therefore the Corporation at their own expense may, and if required by the owners or lessees of any such house or building shall, subject as hereinafter provided in this section, underpin or otherwise strengthen the same and the following provisions shall, unless otherwise agreed, have effect and be binding on the Corporation (that is to say):—

PART II
—cont.

- (a) At least twenty days' notice shall, unless in case of emergency, be given to the owners, lessees and occupiers or by the owners or lessees of the house or building so intended or so required to be underpinned or otherwise strengthened:
- (b) Each such notice if given by the Corporation shall be served in manner prescribed by section 18 of the Act of 1845 and if given by the owners or lessees of any such house or building to be underpinned or strengthened shall be sent to the principal office of the Corporation:
- (c) If any owner, lessee or occupier of any such house or building or the Corporation, as the case may require, within fourteen days after the giving of such notice give a counter-notice in writing that he or they, as the case may be, dispute the necessity of such underpinning or strengthening, the question of the necessity shall (failing agreement) be determined by an engineer to be agreed upon or, in case of difference, appointed as arbiter at the instance of either party by the President of the Institution of Civil Engineers:
- (d) The arbiter appointed shall forthwith upon the application of either party proceed to inspect such house or building and determine the matter referred to him and, in the event of his deciding that such underpinning or strengthening is necessary, he may, and if so required by such owner, lessee or occupier shall, prescribe the mode in which the same shall be executed and the Corporation may and shall proceed forthwith so to underpin or strengthen the said house or building:
- (e) If in any case in which any house or building has been underpinned or strengthened such underpinning or strengthening proves inadequate for the support or protection of the house or building against further injury arising from the execution or use of the works of the Corporation then, and in every such case, the Corporation shall make compensation to the owners, lessees and occupiers of such house or building for such injury:
- (f) Nothing in this section nor any dealing with any property in pursuance of this section shall relieve the Corporation from the liability to compensate under the Act of 1845 or under any other Act:
- (g) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Lands Clauses Acts.

18. In settling any question of disputed purchase money or compensation payable under this Order by the Corporation, the tribunal shall not award any sum of money for or in respect of any improvement, alteration or building made for or in respect of any interest in the lands

Compensation
in case of
recently
altered
buildings.

PART II
—cont.

created after the 20th November, 1970, 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 purchase money or compensation under this Order.

PART III

CONSTRUCTION OF WORKS

Power to
construct
works.

19. Subject to the provisions of this Order, the Corporation may construct and maintain in the lines and according to the levels shown on the deposited plans and sections the works hereinafter in this section described, together with all necessary and proper appliances, works and conveniences incidental or subsidiary thereto (that is to say):—

Work No. 1 A sewer of maximum internal diameter 10 feet 6 inches (3,200 millimetres) and 3 miles 216 yards (5.027 kilometres) or thereabouts in length wholly in the city and parish of Edinburgh commencing at a point in enclosure No. 5279 on the 1/2500 Ordnance Survey Plan 36/2875 (revised edition 1946) 315 feet (96.01 metres) or thereabouts south-east of the south-east corner of the crematorium and 337 feet (102.72 metres) or thereabouts south-west of the west corner of No 1 Seafield Street and terminating at a point on the centre line of Coillesdene Drive at its intersection with the north kerb line of Coillesdene Avenue.

Work No. 2 A sewer of maximum internal diameter 5 feet (1,520 millimetres) and 670 yards (0.613 kilometres) or thereabouts in length wholly in the city and parish of Edinburgh commencing by a junction with the sewer Work No. 1 hereinbefore described at a point in enclosure No. 8890 on the 1/2500 Ordnance Survey Plan 36/2874 (revised edition 1946) 195 feet (59.44 metres) or thereabouts north-east of the junction of Craigentenny Road and Loaning Road and 280 feet (85.35 metres) or thereabouts north of the junction of Craigentenny Road and Loganlea Drive and terminating at a point 7 feet (2.14 metres) or thereabouts west of the centre line of Piersfield Place and 70 feet (21.34 metres) or thereabouts north of the centre line of Portobello Road.

Work No. 3 A sewer of maximum internal diameter 10 feet 6 inches (3,200 millimetres) and 6 miles 846 yards (10.429 kilometres) or thereabouts in length wholly in the city and parish of Edinburgh commencing at the point of commencement of the sewer Work No. 1 hereinbefore described and terminating at a point in enclosure No. 3491 on the 1/2500 Ordnance Survey Plan 36/1976 (revised edition 1947) 40 feet (12.19 metres) or thereabouts north-east of the south-west boundary of the said enclosure and 546 feet (166.62 metres) or thereabouts south-east of the south-east corner of Cramond House.

Work No. 4 A sewer of maximum internal diameter 7 feet 6 inches (2,290 millimetres) and 656 yards (0.600 kilometres) or thereabouts in length wholly in the city and parish of Edinburgh commencing by a junction with the sewer Work No. 3 hereinbefore described at a point in McDonald Road 17 feet (5.18 metres) or thereabouts south-east of the junction of McDonald Road and Bellevue Road and 12 feet (3.66 metres) or thereabouts from the north-east kerb line of McDonald Road and terminating at a point in Broughton Road 200 feet (60.96 metres) or thereabouts south-west of the junction of Broughton Road and Logie Green Road and 8 feet (2.44 metres) or thereabouts from the north-west kerb line of Broughton Road.

Work No. 5 A sewer of maximum internal diameter 13 feet (3,960 millimetres) and 67 yards (0.061 kilometres) or thereabouts in length and thereafter a sewer comprising four parallel pipes constructed as an inverted syphon each of maximum internal diameter 6 feet 6 inches (1,980 millimetres) and 128 yards (0.117 kilometres) or thereabouts in plan length all wholly in the city and parish of Edinburgh commencing at the point of commencement of the sewer Work No. 1 and of the sewer Work No. 3 hereinbefore described and terminating at a point on the landward side of the existing Seafield sea wall 242 feet (73.76 metres) or thereabouts north-west of the north-west corner of No. 44 Seafield Road and 183 feet (55.78 metres) or thereabouts north of the east corner of No. 1 Seafield Street.

Work No. 6 A sewer of maximum internal diameter 1 foot (300 millimetres) and 212 yards (0.194 kilometres) or thereabouts in length wholly in the city and parish of Edinburgh commencing by a junction with the sewer Work No. 3 hereinbefore described at a point in enclosure No. 7208 on the 1/2500 Ordnance Survey Plan 36/2277 (revised edition 1946) 160 feet (48.78 metres) or thereabouts south-south-east of the south-east corner of Caroline Park and 400 feet (121.92 metres) or thereabouts east-south-east of the north-east corner of enclosure No. 3605 on the said Ordnance Survey Plan and terminating at a point on the eastern boundary of enclosure No. 6632 on the said Ordnance Survey Plan 308 feet (93.88 metres) or thereabouts north-east of the north-west corner of Royston House.

Work No. 7 A sewer comprising two parallel pipes each of maximum internal diameter 3 feet (910 millimetres) and 1,140 yards (1.041 kilometres) or thereabouts in length and thereafter a sewer of maximum internal diameter 7 feet 6 inches (2,290 millimetres) and 157 yards (0.144 kilometres) or thereabouts in length all wholly in the city and parish of Edinburgh commencing by a junction with the sewer Work No. 5 hereinbefore described at a point 53 feet (16.15 metres) or thereabouts from the commencement thereof thence to a pumping station to be situated between Albert Road and

PART III
—cont.

Marine Esplanade and thence to its point of termination by a junction with an existing sewer of the Corporation at a point on enclosure No. 0749 on the 1/2500 Ordnance Survey Plan 36/2876 (revised edition 1946) 353 feet (107.59 metres) or thereabouts west of the junction of Albert Road and Marine Esplanade and 322 feet (98.15 metres) or thereabouts north-west of the centre line of Albert Road.

Work No. 8 A sewer of maximum internal diameter 2 feet (610 millimetres) and 338 yards (0.309 kilometres) or thereabouts in length wholly in the city and parish of Edinburgh commencing by a junction with the sewer Work No. 5 at the point of commencement of the sewer Work No. 7 both as hereinbefore described and terminating at a point on the east boundary of Craigentenny Avenue North 60 feet (18.29 metres) or thereabouts north-east of the north-east corner of No. 1 Craigentenny Avenue North.

Work No. 9 A sewer of maximum internal diameter 3 feet (910 millimetres) and 1,398 yards (1.278 kilometres) or thereabouts in length wholly in the city and parish of Edinburgh commencing at the termination of the sewer Work No. 1 hereinbefore described and terminating by a junction with an existing sewer of the Corporation 56 feet (17.07 metres) or thereabouts south-east of the south-east corner of No. 318 Milton Road East and 102 feet (31.09 metres) or thereabouts south-west of the south kerb line of Musselburgh Road.

Work No. 10 An embankment or sea wall wholly in the city and parish of Edinburgh commencing at a point on the existing sea wall alongside Marine Esplanade 1,007 feet (306.93 metres) or thereabouts south-east of the junction of Marine Esplanade and Albert Road thence extending seaward for 574 yards (0.525 kilometres) or thereabouts in a south-easterly direction in continuation of the line of the said Marine Esplanade from Albert Road thence proceeding in a south-south-easterly direction for a further 498 yards (0.456 kilometres) or thereabouts and terminating at the existing sea wall at a point 719 feet (219.15 metres) or thereabouts south-east of the junction of Seaford Road with Craigentenny Avenue North.

Work No. 11 A sewer constructed as an effluent outfall pipe of maximum internal diameter 13 feet 2 inches (4,000 millimetres) commencing in the city and parish of Edinburgh in the sewage treatment works authorised by the next succeeding section at the point where the embankment Work No. 10 hereinbefore described changes its direction thence proceeding seaward in a north-easterly direction for a distance of 3,062 yards (2.800 kilometres) or thereabouts to its termination in a diffuser pipe of maximum internal diameter 10 feet (3,050 millimetres) partly submerged in the sea-bed, the said point of termination being 8,820 feet (2,698 metres) or thereabouts from the commencement and 10,350 feet (3,155 metres) or thereabouts from the termination of the embankment Work No. 10 hereinbefore described.

20.—(1) Subject to the provisions of this Order, the Corporation may reclaim from the foreshore or bed of the Firth of Forth so much of the foreshore or bed of the Firth of Forth as is shown within the limit of land to be reclaimed and used for sewage treatment works delineated on the deposited plans and described in Schedule 1 to this Order and may on the said lands provide, maintain and from time to time alter, reconstruct, improve, enlarge and renew sewage treatment works including such buildings and appurtenances and other works and such equipment, conveniences and appliances as may be necessary or expedient in connection therewith.

PART III
—cont.

Power to
reclaim lands
and provide
sewage
treatment
works.

(2) In connection with the provisions of the foregoing subsection the Corporation may carry out works for the purpose of levelling up the lands reclaimed under the provisions of this section.

21. In the construction of the works the Corporation may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and vertically from the levels shown on the deposited sections to any extent not exceeding 3 feet (0.91 metre) upwards and to any extent downwards.

Power to
deviate.

22.—(1) For the purposes and during the construction of the works and in maintaining, renewing, altering and repairing the same and subject to the provisions of this Order the Corporation may use, break up or cross over or under, alter or stop up temporarily any streets, quays, bridges, railways, passages, sewers, drains, watercourses, mill lades or mill dams, sluices, gas pipes and water pipes and electric or telephonic apparatus in any of the lands shown on the deposited plans and specified in the deposited book of reference which they may from time to time find it expedient for any of those purposes so to interfere with, providing, when possible, a proper temporary substitute before interrupting the traffic on any such street, quay, bridge, railway or passage or the flow of water, gas, sewage or electricity or telephonic communication in any such sewer, drain, watercourse, mill lade, mill dam, sluice, pipe or apparatus, as the case may be, and making compensation to all persons injuriously affected by the exercise of the powers granted to the Corporation under this Order.

Power to stop
up, alter, etc.,
streets, etc.,
temporarily.

(2) Nothing in this Order contained shall extend to authorise any interference with—

- (a) any telegraphic line or other property of the Post Office; or
- (b) any works of any undertakers within the meaning of the Electricity (Supply) Acts 1882 to 1935 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with and subject to the provisions of that section; or
- (c) any mains, pipes or apparatus belonging to the Scottish Gas Board except on complying with such conditions as to the mode of making such alterations or stopping up as may be agreed upon between the Corporation and the Board or in case of difference as may be determined by an arbiter to be agreed on or failing agreement to be appointed by the President of the Institution of Civil Engineers on the application of either party.

1882 c. 56.

PART III
—cont.

(3) The Corporation shall not exercise the powers of this section with respect to any road upon which a service of stage carriages or express carriages is operated unless not less than 48 hours' previous notice is given to the traffic commissioners and to the holders of the road service licence under which that service is authorised.

(4) The exercise of the powers conferred by this section in relation to a street shall not affect the powers of the Post Office under the Telegraph Acts 1863 to 1916 to maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that street for any of those purposes.

1878 c. 76. (5) In this Order the expression "telegraphic line" has the same meaning as in the Telegraph Act 1878.

Sewers and drains to be connected with works.

23. Subject to the provisions of this Order, the Corporation may in, under or across any streets or roads or upon lands belonging to them or over which they shall possess a servitude in that behalf or which they are by this Order authorised to enter upon, take and use for the purposes of this Order whether within or beyond the city from time to time make and maintain all such sewers, drains, pipes and appurtenances as may be necessary for connecting any sewers or drains with the sewers or with the existing sewers of the Corporation or for discharging or conducting the contents of such sewers and drains into the sewers or into the existing sewers, and may make and maintain all necessary sluices, valves, manholes, ventilators, cleansing shafts, bridges, approaches, pipes, overflows or appurtenances required for carrying out the purposes of this Order and may from time to time, for the purposes before mentioned, vary, extend, diminish, enlarge or remove any such sewers or drains.

Works to be in the city and parish of Edinburgh.

24. The works shall be deemed to be for all purposes within the city and parish of Edinburgh.

Sewers to be public sewers.

25. The sewers shall be public sewers to which the provisions of the Order of 1967 (other than section 315 (Right of owners and occupiers within city to drain into public sewers) and section 316 (Use of public sewers by other local authorities and by owners and occupiers outwith city)) relating to public sewers shall apply.

Discharge into Firth of Forth.

26. Subject to the provisions of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965, the Corporation shall have power to discharge into the Firth of Forth the effluent from the sewage treatment works by means of the effluent outfall pipe referred to in section 19 of this Order as "Work No. 11".

Sewage may be discharged into rivers in certain events.

27.—(1) Subject to the provisions of the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965, the Corporation may, during the time when the sewers or any sewers or works connected therewith or any of them are being repaired, cleansed, altered or renewed or are stopped up or interfered with by any accident or other cause or during times of excessive rainfall, discharge or allow to be discharged the contents of such sewers and works or part thereof into the Firth of Forth or into any sewer or watercourse connecting therewith.

PART III
—cont.

(2) When the Corporation propose to discharge the contents of any public sewer into any watercourse while it is being repaired, scoured, altered or renewed, they shall (except in a case of emergency) give not less than seven days' notice of their intention to the Lothians River Purification Board, and shall have due regard to any representations made to them by the said Board as to the time, mode and rate of discharge with a view to avoiding or minimising injury or inconvenience from such discharge.

28.—(1) A tidal work shall not be constructed, renewed, enlarged or altered except in accordance with plans and sections approved by the Secretary of State and subject to any conditions and restrictions imposed by the Secretary of State before the work is begun.

Tidal works not to be executed without approval of Secretary of State.

(2) If a tidal work is constructed, renewed, enlarged or altered in contravention of this section or of any condition or restriction imposed under this section—

(a) the Secretary of State may by notice in writing require the Corporation at their own expense to remove the tidal work or any part thereof and restore the site thereof to its former condition; and if on the expiration of thirty days from the date when the notice is served upon the Corporation they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice; or

(b) if it appears to the Secretary of State urgently necessary so to do, he may himself remove the tidal work or part of it and restore the site to its former condition;

and any expenditure incurred by the Secretary of State in so doing shall be a debt due from the Corporation to the Crown and shall be recoverable accordingly.

29. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work constructed by the Corporation or of the site upon which it is proposed to construct the work and any expenditure incurred by the Secretary of State in any such survey and examination shall be a debt due from the Corporation to the Crown and shall be recoverable accordingly.

Survey of tidal works.

30.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof, the Corporation shall forthwith notify the Commissioners of Northern Lighthouses and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

Provision against danger to navigation.

(2) If the Corporation fail to comply in any respect with the provisions of this section, they shall be guilty of an offence against this Order and shall be liable on summary conviction to a fine not exceeding £100.

31.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Corporation at their own expense either to repair and restore the work

Abatement of works abandoned or decayed.

PART III
—cont.

or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

(2) Where a work authorised by this Order and consisting partly of a tidal work and partly of works on, or over, land above the level of high water is abandoned or suffered to fall into decay and that part of the work on or over land above the level of high water is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.

(3) If, on the expiration of thirty days from the date when a notice under this section is served upon the Corporation, they have failed to comply with the requirements of the notice the Secretary of State may execute the works specified in the notice and any expenditure incurred by him in so doing shall be a debt due from the Corporation to the Crown and shall be recoverable accordingly.

Lights on tidal works during construction.

32.—(1) The Corporation shall at or near a tidal work during the whole time of the construction, renewal, enlargement or alteration thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Secretary of State shall from time to time direct.

(2) If the Corporation fail to comply in any respect with a direction given under this section they shall be guilty of an offence against this Order and shall be liable on summary conviction to a fine not exceeding £100.

Permanent lights on tidal works.

33.—(1) After the completion of a tidal work the Corporation shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the Commissioners of Northern Lighthouses shall from time to time direct.

(2) If the Corporation fail to comply in any respect with a direction given under this section they shall be guilty of an offence against this Order and shall be liable on summary conviction to a fine not exceeding £100.

For protection of Post Office.

34. Any electrical works or equipment constructed, erected, laid down, maintained, worked or used pursuant to the powers conferred by this Order shall be so constructed, erected or laid down and so maintained, worked and used as to prevent interference with any telegraphic line belonging to or used by the Post Office or with telecommunication by means of any such line.

For protection of statutory undertakers.

35. For the protection of the undertakers the following provisions shall unless otherwise agreed in writing between the Corporation and the undertakers apply and have effect:—

(1) In this section—

“ apparatus ” means—

(a) in relation to the South of Scotland Electricity Board, electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the said board; and

(b) in relation to the Scottish Gas Board, any mains, pipes or other apparatus belonging to the said board; and includes any building, structure or works constructed for the lodging therein of apparatus;

“ in ” in a context relating to apparatus includes under, over, across, along or upon;

“ plans ” means plans, sections, elevations, working drawings and specifications;

“ position ” includes depth;

“ specified work ” means such part of any of the works authorised by this Order as in its execution and maintenance will or may interfere with or affect the support of any apparatus;

“ the undertakers ” means the South of Scotland Electricity Board and the Scottish Gas Board or either of them as the case may be;

and references to the acts or defaults of the Corporation include the acts or defaults of their workmen or servants or of their contractors or agents or the workmen or servants of such contractors or agents:

- (2) Notwithstanding anything in this Order or shown on the deposited plans the Corporation shall not acquire otherwise than by agreement any apparatus or land belonging to the undertakers:
- (3) At least twenty-eight days before commencing the execution of any specified work the Corporation shall give the undertakers notice thereof in writing accompanied by plans of such specified work showing the manner in which and the materials with which the same is to be executed and also showing the means to be employed by the Corporation not only for protecting the apparatus during the execution of such specified work and for securing a continuous supply of electricity or gas but also for making good any damage to or interference with the apparatus resulting from the execution of such specified work and if it should appear to the undertakers that such specified work will interfere with, damage or endanger their apparatus or materially impede the supply of electricity or gas the undertakers may within twenty-one days of the receipt of such notice require the Corporation to alter the position of the apparatus or to support the same or to substitute such other apparatus as may be required by the undertakers in such manner as may be agreed or determined by arbitration in accordance with the provisions of this section:

Provided that if the undertakers do not requisition the Corporation as aforesaid the Corporation may proceed with the execution of such specified work in accordance with the notice given by them and the accompanying plans:

PART III
—cont.

- (4) Where a requisition has been given by the undertakers under the last foregoing subsection the protective works agreed upon or determined as aforesaid shall be executed by and at the expense of the Corporation but to the satisfaction of and under the superintendence of the undertakers (if after notice given to them by the Corporation of the time and place of such execution they choose to be represented thereat) and the whole reasonable expenses incurred by the undertakers by or through such superintendence shall be paid by the Corporation:

Provided that the undertakers may intimate by notice in writing to the Corporation within fourteen days after the receipt by the undertakers of notice of the intended commencement of the specified work their intention themselves to do and execute such protective works and the Corporation shall on the completion thereof pay to the undertakers the reasonable expenses incurred by them in the execution of such protective works as may be agreed on or determined as aforesaid:

- (5) If the position of any of the apparatus is altered by the Corporation or the undertakers or if other apparatus is substituted therefor as provided for in subsections (3) and (4) of this section the undertakers may within twenty-one days of the receipt by them of the notice referred to in subsection (3) of this section require the Corporation to or may within the said period notify the Corporation of their intention themselves to substitute and may substitute apparatus of a greater size than the apparatus so altered or removed and in that event the undertakers shall pay to the Corporation or shall themselves bear the additional cost attributable to the substitution of such larger apparatus:
- (6) The Corporation shall indemnify the undertakers against all claims, demands, costs, damages and expenses made or taken against or recovered from or incurred by the undertakers by reason or in consequence of any damage done by the Corporation to any apparatus or of any interruption in the supply by the undertakers of electricity or gas which may without the written authority of the undertakers be in any way occasioned either by reason of the execution by the Corporation of the works authorised by this Order or by the acts or defaults (in or in connection with such execution) of the Corporation:
- (7) Notwithstanding the temporary stopping up of any street under the powers of this Order the undertakers may exercise the same rights of access as they now enjoy to any apparatus:
- Provided that in exercising the said rights of access the undertakers shall not interrupt the execution, maintenance or use of any work of the Corporation authorised by this or any other Order and the undertakers shall compensate the Corporation for any damage to such works occasioned by the exercise of the said rights:

- (8) The undertakers shall if so requested by the Corporation furnish to the Corporation all available information relative to the position and nature of any apparatus which in the opinion of the chief engineer of the undertakers might be affected by any of the works authorised by this Order:
- (9) Any difference between the Corporation and the undertakers in connection with any of the provisions of this section or with anything contained in this Order shall failing agreement be determined by an arbiter to be mutually agreed upon between them or failing agreement to be appointed by the sheriff on the application of either party: if in determining any such dispute or difference any question of law arises the said arbiter shall at the request of either party state a case for the opinion and judgment of the Court of Session.

36. The following provisions for the protection of the British Railways Board (hereinafter in this section called "the board") shall unless otherwise agreed in writing between the Corporation and the board apply and have effect (that is to say):—

For protection
of British
Railways
Board.

- (1) In this section the expression "the railway and works" means any railway of the board and all sidings, stations, depots, roads, bridges, bridge approaches, tunnels and other works and conveniences connected therewith or any property or buildings of the board:
- (2) The sewers where the same are intended to be constructed under or across or near to or which may in any way affect the railway and works shall be constructed of such design, strength and durability as shall be sufficient for the effectual and safe support of the railway and works and shall be constructed and completed and thereafter altered, repaired, renewed and maintained under the superintendence of the board at the expense in all things of the Corporation and in accordance only with plans and specifications to be submitted to the board at least three weeks before the commencement of the construction of the sewers or of any alterations, repairs or renewals thereof or if the board shall object to the sewers or to any such alterations, repairs or renewals as shown on any plans and specifications so submitted to them then failing agreement as to any modification thereof in accordance only with plans and specifications to be settled by the arbiter to be appointed as hereinafter in this section provided, of which last-mentioned plans and specifications a copy shall be delivered to the board at least three weeks before the commencement of the construction of the sewers or of any such alterations, repairs or renewals:

Provided that if the board shall not express their approval or disapproval of any plans and specifications within twenty-one days after the same shall have been submitted to them as aforesaid the Corporation shall be entitled to proceed with the construction of the sewers and with the said alterations,

PART III
—cont.

repairs or renewals in accordance with such plans and specifications but the board shall not be held to have approved or acquiesced in such plans and specifications:

- (3) The fact that the sewers or any such alterations, repairs or renewals have been constructed or carried out in accordance with any plans and specifications approved or not objected to by the board or with any requirement of the board or under the superintendence of the engineer of the board shall not excuse the Corporation from any liability for damage caused to the railway and works or affect any claim by the board for injury caused to the railway and works:
- (4) The Corporation shall not either temporarily or permanently enter upon or interfere with the railway and works further or otherwise than may be necessary for constructing, maintaining or effecting repairs to the sewers which may be constructed under or across or near to the railway and works in accordance with any such plans and specifications as aforesaid and they shall not alter or interfere with the lines or levels of the railway and works and they shall not unless with the consent of the board acquire any land or property of the board but only such a servitude through in or over any land or property of the board as may be necessary for the sewers:
- (5) The Corporation shall pay to the board all reasonable expenses which the board may incur in connection with or in consequence of the construction, alteration, renewal, repair or maintenance of the sewers including (without prejudice to the said generality) any reasonable expense incurred by the board in connection with the employment of inspectors, signalmen, watchmen and others and for superintendence of such works and all extra precautions for the safety and working of the board's railway traffic or protection of their railway and works or the protection of the servants of the Corporation engaged within the property of the board on account of the construction, alteration, renewal, repair or maintenance of the sewers:
- (6) The sewers shall be constructed, altered, renewed, repaired and maintained by the Corporation so as not to alter or interfere with (except so far as may be necessary for carrying out the works) or injure or endanger the structure or stability of the railway and works and the Corporation shall at their own expense execute all underpinning or other works which may be necessary to secure the support or safety of the railway and works or any part thereof and should any damage or injury to or interference with the traffic on the railway and works be caused by or be due to the construction, alteration, renewal, repair or maintenance by the Corporation of or the failure of or defect of the sewers the Corporation shall free of all expense to the board execute all such works as may be necessary for repairing and making good the damage or preventing such interference as the case may be, or the board in their option may on giving the Corporation as long

previous notice in writing as possible in the circumstances enter upon the works or property of the Corporation and execute all such works as may be necessary for repairing and making good such damage or preventing such interference and the Corporation shall repay to the board all reasonable expenses so incurred by them in connection therewith:

- (7) The Corporation shall make full compensation to the board for all loss or damage which the board may incur caused by the construction, alteration, renewal, repair or maintenance of or failure to maintain the sewers or by any interruption, impediment or interference to or with the railway and works consequent on the construction, alteration, renewal, repair or maintenance of or failure to maintain the sewers and the Corporation shall also free and relieve the board of and from all claims, damages or compensation which may be made against or recovered from the board arising out of or in consequence of the construction of the sewers or the alteration, renewal, repair or maintenance thereof or failure to maintain the same so far as such may have been occasioned by the act or default of the Corporation or those for whom they are responsible:
- (8) Should it be necessary in constructing, altering, renewing, repairing or maintaining the sewers to alter or remove any telegraph or telephone posts, wires or other telegraphic, telephonic or signalling apparatus belonging to or maintained by the board any works reasonably necessary for such alteration or removal may be executed by the board and the Corporation shall pay to the board all reasonable expenses incurred in connection therewith:
- (9) Nothing in this Order contained or which may be done in pursuance thereof shall prevent the board from maintaining and repairing and whenever in their discretion thought necessary reconstructing, altering, renewing, strengthening, widening, deviating or enlarging the railway and works under statutory powers existing at the date of the passing of the Act confirming this Order:

Provided that such operations shall not injuriously affect the sewers or interrupt the flow of sewage therein otherwise than may be reasonably necessary for carrying out such operations and if any injury or interruption shall arise to the sewers the board shall forthwith make good or remove the injury or interruption so far as such injury or interruption may have been occasioned by the act or default of the board or of those for whom they are responsible. Before commencing any operations under the provisions of this subsection the board shall give twenty-eight days' previous notice in writing to the Corporation and any such operations shall so far as they may interfere with the sewers be carried out to the reasonable satisfaction of the city engineer. Any extra expense which the board may incur in carrying out such

PART III
—cont.

operations by reason of the existence of the sewers shall be paid by the Corporation and such extra expense may in the event of any difference of opinion be determined by an arbiter to be appointed as hereinafter in this section provided:

- (10) Nothing in this section contained shall prejudice or affect the rights, powers and immunities reserved to and conferred on the Corporation and the board by any Acts public or private or any agreements with or relating to the board conferring rights, powers and immunities and imposing liabilities, duties and obligations upon the Corporation and the board with reference to any sewers, property and works of the Corporation and to the railway and works:
- (11) If any difference shall at any time arise between the Corporation and the board or their engineers with respect to any of the matters referred to in this section such difference shall be referred to and determined by an arbiter to be agreed on or failing agreement to be appointed by the President of the Institution of Civil Engineers on the application of either the Corporation or the board, provided always that the award or decision of such arbiter shall not relieve the Corporation of their liability to make compensation to the board for loss or damage and to relieve them from claims as provided in subsection (7) hereof. If any question of law shall arise in the course of such arbitration the arbiter shall have power at the request of either party to state a case for the opinion of the Court of Session and the court shall determine such question.

PART IV

AMENDMENTS AND REPEALS

Amendments and repeals of Orders of 1967 and 1969.

37.—(1) The provisions of the Order of 1967 specified in Schedule 2 to this Order shall have effect subject to the amendments set out in that Schedule.

(2) Section 548 (Calculation of fractions in determining superannuation contributions) of the Order of 1967 and section 7 (Costs of Order) of the Edinburgh Corporation Order 1969 are hereby repealed.

PART V

FINANCIAL AND MISCELLANEOUS

Power to raise money abroad.

38.—(1) Any method by which the Corporation are empowered by any enactment to raise any money which they are authorised to borrow shall, notwithstanding anything in such enactment, be deemed to include the raising of money by that method outside the United Kingdom or in any foreign currency.

(2) The powers conferred by the foregoing subsection shall be exercised only with the consent of the Treasury and subject to such conditions as the Treasury may impose.

(3) The enactments empowering the Corporation to raise money shall have effect in relation to a transaction authorised by this section for the raising of money in a foreign currency as if—

PART V
—cont.

- (a) for any reference in those enactments to sterling there were substituted a reference to the foreign currency, and
- (b) for any reference therein to a sum expressed in terms of sterling there were substituted a reference to the sum expressed in terms of the foreign currency (adjusted, where necessary, to produce an amount which the Corporation consider appropriate having regard to all the circumstances of the transaction).

39.—(1) The Corporation may from time to time borrow any money necessary—

Borrowing by
Corporation
for purposes
of Order.

- (a) for the purposes of this Order to which capital is properly applicable and for which borrowing powers are not otherwise available; and
- (b) for paying the costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order, or otherwise in relation thereto;

in the same manner as if the said purposes were included among the purposes mentioned in section 258 (1) of the Act of 1947, and Part XII of the Act of 1947 shall extend and apply with respect to the borrowing of money under this section.

(2) Notwithstanding anything in section 262 of the Act of 1947 (which relates to the period of repayment of sums borrowed by a local authority) any money borrowed for the purposes specified in paragraph (a) of the foregoing subsection shall be repaid within forty years from the date or dates of borrowing the same, and any money borrowed for the purposes of paragraph (b) of the said subsection shall be repaid within five years from 29th May, 1972, or from the date of borrowing, whichever be the later.

40.—(1) Nothing in this Order shall authorise the exercise of any power of borrowing money or the making of any issue of capital otherwise than in compliance with the provisions of any order in force under section 1 of the Borrowing (Control and Guarantees) Act 1946, or of section 259 of the Act of 1947.

Saving for
control on
borrowing,
1946 c. 58.

(2) Nothing in this Order shall be taken as exempting the Corporation from the provisions of the Exchange Control Act 1947.

1947 c. 14.

41. Nothing in this Order shall affect prejudicially any estate, right, power, privilege or exemption of the Crown or shall subject to the provisions of this Order any lands, buildings or works vested in or occupied by the Crown or any department of Her Majesty's Government, except to such extent as Her Majesty or such department may agree, and in particular nothing herein contained shall authorise the Corporation to take, use or in any manner interfere with any portion of the shore or bed of the sea, or any river, channel, creek, bay or

Crown rights.

PART V
—cont.

estuary or any land, heritages, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of the said commissioners on behalf of Her Majesty first had and obtained for that purpose.

Costs of Order. 42. The costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Corporation out of the burgh fund in such manner as the Corporation may determine.

SCHEDULES

SCHEDULE 1

Sections 4
and 20.

DESCRIPTION OF LAND TO BE RECLAIMED AND USED FOR SEWAGE TREATMENT WORKS

A piece of land 40 acres or thereabouts in extent wholly in the city and parish of Edinburgh, situated on the foreshore or bed of the Firth of Forth and lying within the following boundary, namely: commencing at a point on the existing sea wall alongside Marine Esplanade 1,007 feet (306.93 metres) or thereabouts south eastwards from the junction of Marine Esplanade and Albert Road thence extending seaward for 574 yards (0.525 kilometres) or thereabouts in a south easterly direction in continuation of the line of the said Marine Esplanade from Albert Road thence proceeding in a south south easterly direction for a further 498 yards (0.456 kilometres) or thereabouts to a point on the existing sea wall 719 feet (219.15 metres) or thereabouts south eastwards of the junction of Seafield Road with Craigentenny Avenue North, thence proceeding westwards and north westwards along the seaward side of the existing sea wall to the point of commencement.

SCHEDULE 2

Section 37.

AMENDMENTS OF ORDER OF 1967

1. In subsection (1) of section 3 (Interpretation)—

(a) for the definition of “ constable ” there shall be substituted—

“ ‘ constable ’ means any constable (as defined by the Police (Scotland) Act 1967) being a member of 1967 c. 77. the police force of the city; ”

(b) in the definition of “ museums ” the words “ of section 42 (Power to provide museums) ” shall be omitted;

(c) in the definition of “ Planning Acts ” for “ 1966 ” there shall be substituted “ 1969 ”; and

(d) for the definition of “ premises licensed for entertainment ” there shall be substituted—

“ ‘ premises licensed for entertainment ’ means premises in respect of which a cinematograph licence, a licence under the Theatres Act 1968, 1968 c. 54. a public entertainment licence, or a public show permit, is in force ”.

2. In subsection (1) and subsection (3) (b) of section 13 (Filling casual vacancies among town councillors) for the word “ issue ” there shall be substituted the word “ publication ”.

c. xxxvii *Edinburgh Corporation Order Confirmation
Act 1971*

SCH. 2
—cont.

3. For section 63 (Byelaws as to seashore) there shall be substituted the following section:—

“ Byelaws
as to
seashore.

63.—(1) The Corporation may make byelaws with respect to the regulation and use of the seashore, and such byelaws may contain, inter alia, provisions—

(a) prescribing the limits within which persons may bathe; and

(b) preventing any indecent exposure of the persons of bathers.

(2) A printed copy, or sufficient abstract, of any byelaws made under this section shall be exhibited by the Corporation in such characters, at such places and in such positions as to secure that adequate notice is given to the public of the effect of such byelaws.”

4. For section 67 (Savings in respect of Part VII) there shall be substituted the following section:—

“ Savings in
respect of
Part VII.

67. Nothing in this Part of this Order shall affect prejudicially the rights of—

(a) the Forth Ports Authority in relation to the harbour and docks of Leith and Granton Harbour; or

(b) the owner of Cramond Island.”

5. For paragraph (d) of subsection (2) of section 188 (Loudspeakers not to be used in streets without consent) there shall be substituted the following paragraph:—

“ (d) in connection with a local government election on or between the date of publication of the notice of election and the date on which a candidate is deemed or declared to be elected; or ”.

6. For subsection (3) of section 345 (Restrictions on nature, etc., of trade effluent discharged into Water of Leith sewers) there shall be substituted the following subsection:—

“ (3) The Corporation shall give notice of any prescribed conditions and of the date on which they shall come into operation to the occupiers of all premises affected thereby.”;

and for subsection (5) the following subsection shall be substituted:—

“ (5) Any dispute between the occupier of any premises and the Corporation as to—

(a) the reasonableness of any prescribed conditions; or

(b) the date on which any prescribed conditions shall come into operation;

shall be settled by arbitration.”

7. For the definition of "place of public entertainment" in section 363 (Definition for head A of Part XXIV) there shall be substituted—

SCH. 2
 —cont.

" 'place of public entertainment' means any premises kept or used—

(i) for the performance of theatrical representations (other than plays within the meaning of the Theatres Act 1968); or

1968 c. 54.

(ii) for entertainments in the nature of dramatic entertainments or exhibitions (other than such plays as aforesaid); or

(iii) as a music hall, concert hall, dance hall or other place of public resort;

to which the public is admitted for valuable consideration for the purpose of being entertained, the purchase of any article or refreshment as a condition of admission being deemed to be admission for valuable consideration."

8. For subsection (2) of section 390 (Penalty for using unlicensed vehicle as a cab) there shall be substituted the following subsection:—

"(2) Any person who carries passengers for hire or reward in any motor vehicle (not being a vehicle excluded from the definition of 'cab' in section 388 (Definitions for head F of Part XXIV) of this Order) shall, unless he is the holder of a private hire cab licence or a taxi-cab licence in respect of such vehicle, or is acting as driver of such vehicle in the course of his employment with the holder of such licence, be guilty of an offence."

9. Section 417 (Fees for licences) shall have effect as if for the following words and figures—

" Place of public entertainment:—		£	£
(i) theatre regularly used as such	5	3
(ii) place of public entertainment other than a theatre regularly used as such	2	1 "

contained in the table in subsection (2) of the said section the following words and figures were substituted:—

Place of public entertainment	" £	£
		2	1 "

10. Subsection (2) of section 434 (Burgh court judges) shall have effect as if the words " or, in his absence, the acting chief magistrate " were omitted.

11. Section 438 (Additional powers with respect to appointment of interim city prosecutor) shall have effect as if the words " or the acting chief magistrate " were omitted.

12. In subsection (1) of section 525 (Reserve fund for British Commonwealth Games) the words " (being the fund described in the repealed Acts as the British Empire Games Fund) " and the words " or in any of the subsequent five years " shall be omitted, and subsection (4) shall also be omitted.

SCH. 2
—cont.

13. In paragraph (c) of subsection (1) of section 535 (Power to lend to certain public and other bodies) the words “(the terms ‘managers’ and ‘educational establishment’ having the same meanings as in the Education (Scotland) Act, 1962)” shall be omitted.

14. In section 562 (Re-employment of retired officers and servants) the words “, in any case where they consider it expedient in the interests of the public service to do so,” shall be omitted.

15. For section 658 (Saving for Part II of Coast Protection Act 1949) there shall be substituted the following section:—

1949 c. 74. “Saving for
Coast Protection
Act 1949. 658. Nothing in this Order shall be in derogation of the Coast Protection Act 1949.”

16. In section 664 (Saving for licensing of public entertainments, etc.) for the words “or a cinematograph exhibition” there shall be substituted “, a cinematograph exhibition or the public performance of plays”.

17. For paragraph (b) of subsection (1) of section 676 (Repeal of Acts, etc.) there shall be substituted the following paragraph:—

1913 c. lxxiv. “(b) The byelaws for regulating street hawking, etc., made by the Corporation on 5th March, 1925, in pursuance of section 97 of the Edinburgh Corporation Act, 1913, and confirmed by the sheriff on 17th June, 1925, are hereby revoked.”

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