



CHAPTER xlvi.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to Girvan Water.

A.D. 1922.

[20th July 1922.]

WHEREAS His Majesty's Secretary for Scotland has 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.

Confirma-
tion of
Order in
schedule.

2. This Act may be cited as the Girvan Water Order Confirmation Act 1922.

Short title.

A.D. 1922.

SCHEDULE.

GIRVAN WATER.

Provisional Order to authorise the provost magistrates and councillors of the burgh of Girvan to provide an additional water supply and to construct and maintain new waterworks and for other purposes.

WHEREAS the provost magistrates and councillors of the burgh of Girvan in the county of Ayr (hereinafter respectively called "the Town Council" and "the burgh") are the local and sanitary authority within the burgh under the Burgh Police (Scotland) Acts 1892 to 1911 and the Public Health (Scotland) Acts 1897 to 1907 :

And whereas the water supply for the burgh was introduced under and by virtue of the Public Health (Scotland) Act 1867 by the parochial board of the parish of Girvan :

And whereas such water supply and the existing waterworks are now vested in and managed and maintained by the Town Council :

And whereas in consequence of the rapid growth of the burgh in recent years and the erection of many dwelling-houses and other buildings therein and of the increase of the residential population principally in connection with the mining industry and the influx of visitors during several months of every year the present supply of water has become inadequate and insufficient for the domestic and trade requirements and for the health and convenience of the community :

And whereas it is expedient that a more abundant supply of water should be provided for use within the burgh and that the Town Council should be empowered for that purpose to acquire lands and construct and maintain additional waterworks :

And whereas it is expedient that the limits within which the Town Council are required to give a supply of water should be the burgh and that they should be authorised to supply water beyond such limits :

And whereas it is expedient that the Town Council should be authorised to raise money by rates assessments and charges and by borrowing for the purposes of this Order and of their water supply in accordance with the provisions in that behalf of the Burgh Police (Scotland) Acts 1892 to 1911 and this Order : A.D. 1922.

And whereas it is expedient that further powers should be conferred on the Town Council in relation to their waterworks and water supply :

And whereas estimates have been prepared by the Town Council for the construction and completion of the said additional waterworks and other works and for the purchase of lands and such estimates are as follows :—

	£
Purchase of lands and servitudes - - - - -	2,000
Reservoir and embankment (Works Nos. 7 and 8) - - - - -	12,400
Filters and tanks (Works Nos. 3 5 and 6) - - - - -	5,500
Conduits or lines of pipes (Works Nos. 1 and 4) and intake or weir (Work No. 9) - - - - -	10,200
Roads of access (Works Nos. 2 and 10) - - - - -	900
Subsidiary works - - - - -	1,000

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

And whereas plans and sections showing the lines and levels of the works authorised by this Order and also a book of reference 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 were duly deposited with the principal sheriff clerk of the county of Ayr 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 of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899 :

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Confirmation Act, 1922.

A.D. 1922.

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

Short title
and com-
mencement
of Order.

1. This Order may be cited for all purposes as the *Girvan Water Order 1922* and shall come into operation at the date of the passing of the Act confirming the same which date is referred to in this Order as “the commencement of this Order.”

Incorporation of
Acts.

2. The following Acts and parts of Acts (so far as the same respectively are applicable for the purposes and are not inconsistent with the provisions of this Order) are hereby incorporated with and form part of this Order (namely) :—

(1) The Waterworks Clauses Act 1847 except—

(a) The sections and provisions thereof with respect to the communication pipes to be laid by the undertakers;

(b) Clauses 68 70 71 and 72;

(c) Clauses 75 to 82 with respect to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit and section 83 relating to accounts :

(2) The Waterworks Clauses Act 1863—

In construing the provisions of the foregoing Acts “the undertakers” “the company” and “the promoters of the undertaking” shall mean the Town Council :

(3) The Lands Clauses Acts :

(4) The sections and provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and the crossing of roads and other interference therewith and in construing the said sections and provisions “the company” means the Town Council “the railway” means the works authorised by this Order and the works connected therewith and “the centre of the railway” means any part of those works.

This Order shall be deemed a special Act within the meaning of the provisions of the said Acts wholly or partly incorporated herewith. A.D. 1922.

3. In this Order unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings and the following expressions shall have the meanings respectively assigned to them in this section (namely):— Interpretation.

“The burgh” means the burgh of Girvan;

“The Town Council” means the provost magistrates and councillors of the burgh;

“The Burgh Police Acts” means the Burgh Police (Scotland) Acts 1892 to 1911;

“The water undertaking” means the existing waterworks and water undertaking of the Town Council and the waterworks and water undertaking authorised by this Order;

“The sheriff” means the sheriff of the county of Ayr or any of his substitutes;

“The tribunal” means the tribunal to whom any question of disputed purchase money or compensation is referred in pursuance of the Acquisition of Land (Assessment of Compensation) Act 1919.

4. Subject to the provisions of this Order the limits for the compulsory supply of water by the Town Council shall be the burgh which limits are in this Order referred to as “the limits of compulsory supply.” Limits of supply.

5. Subject to the provisions of this Order the Town Council may wholly in the county of Ayr and in the lines and situation and upon the lands delineated on the deposited plans and described in the deposited book of reference make and maintain the following works shown on the deposited plans and sections (that is to say):— Power to make works.

Work No. 1 A conduit or line of pipes commencing in the burgh and parish of Girvan by a junction with the existing water main of the Town Council at a point in the Avenue near the north end thereof and terminating in the parish of Girvan in the filters and tanks (Work No. 3);

A.D. 1922.

Work No. 2 A road of access in the parish of Girvan commencing in the public road from Coalpots to Whitehill at or near the point at which that road is crossed by the Glasgow and South Western Railway (Ayr and Stranraer Branch) and terminating at a point opposite the south end of the road leading into Fauldribbon Farm Steading;

Work No. 3 Filters and tanks in the parish of Girvan situate on the north-east side of the enclosure numbered 542 on the $\frac{1}{2500}$ Ordnance Survey map Ayrshire sheet No. LV.-8 edition of 1909;

Work No. 4 A conduit or line of pipes commencing in the parish of Girvan in the filters and tanks (Work No. 3) and terminating in the parish of Dailly at a point on the stream known as Penwhapple Burn two hundred and eighty-five yards or thereby east of the bridge carrying the public road leading from Girvan to the village of Barr over that burn;

Work No. 5 A break pressure tank in the parish of Dailly situate in the enclosure numbered 124 on the $\frac{1}{2500}$ Ordnance Survey map Ayrshire sheet No. LVI.-1 edition of 1909 at a point one hundred and twenty yards or thereby west of the south-west corner of the enclosure numbered 123 on the said map;

Work No. 6 A break pressure tank in the parish of Dailly situate in the enclosure numbered 20A on the $\frac{1}{2500}$ Ordnance Survey map Ayrshire sheet No. LVI.-2 edition of 1909 at a point two hundred and forty yards or thereby east of the west corner of that enclosure;

Work No. 7 A reservoir in the parish of Dailly on the line of the Penwhapple Burn and tributary streams and on lands adjacent thereto commencing at the embankment (Work No. 8) and terminating at a point on the said burn five hundred and twenty yards or thereby east of the sheepfold in the east corner of the enclosure numbered 23 on the $\frac{1}{2500}$ Ordnance Survey map Ayrshire sheet No. LVI.-3 edition of 1909;

Work No. 8 An embankment in the parish of A.D. 1922.

Dailly to be formed across the Penwhapple Burn at a point one hundred and twenty-five yards or thereby east of the said road leading from Girvan to Barr which embankment will be ninety yards or thereby in length;

Work No. 9 An intake or weir in the parish of Dailly on the line of the Penwhapple Burn situate at the point hereinbefore described as the termination of the conduit or line of pipes (Work No. 4);

Work No. 10 A road of access in the parish of Dailly commencing by a junction with the said public road from Girvan to Barr at a point immediately north of the bridge carrying that road over the Penwhapple Burn and terminating at the north end of the embankment (Work No. 8).

6. In addition to the foregoing works the Town Council may upon the lands delineated on the deposited plans and described in the deposited book of reference make maintain and use all such buildings machinery works and apparatus of whatever character as may be necessary or convenient in connection with or subsidiary to the beforementioned works or any or either of them but nothing in this section shall exonerate the Town Council from any action or other proceeding for nuisance in the event of any nuisance being caused or permitted by them.

Power to
make
subsidiary
works.

7. In the construction of the works by this Order authorised the Town Council may deviate laterally to any extent not exceeding the limits of lateral deviation shown on the deposited plans and where on any road no such limits are shown the boundaries of such road shall be deemed to be such limits and they may also deviate vertically from the levels shown on the deposited sections to any extent not exceeding in the case of the reservoir (Work No. 7) three feet upwards and five feet downwards in the case of the embankment (Work No. 8) three feet upwards and to any extent downwards and in the case of other works five feet upwards and to any extent downwards Provided as follows (that is to say):—

Limits of
deviation.

The Town Council shall not construct the embankment (Work No. 8) of a greater height above the general surface of the ground than that shown

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A.D. 1922. on the deposited sections in respect thereof and three feet in addition;

Except for the purposes of crossing over a stream no part of any pipe shall be raised above the surface of the ground unless and except so far as is shown on the deposited sections.

User of
accommo-
dation road.

8. The Town Council may acquire a servitude over or right of user of the accommodation road numbered upon the deposited plans 29 in the parish of Girvan and the provisions of the Lands Clauses Acts shall apply to such servitude or user as if the same was included in the word "lands" in those Acts.

Power to
take waters.

9. Subject to the provisions of this Order the Town Council may collect impound take use divert and appropriate for the purposes of the water undertaking the waters of the stream known as Penwhapple Burn and all streams and tributaries which flow into that stream above the site of the embankment (Work No. 8) and all such streams springs and waters as may be intercepted by the works by this Order authorised.

Restrictions
as to taking
water.

10.—(1) Until the date of the completion of the reservoir (Work No. 7) the Town Council may take from the stream known as Penwhapple Burn any water they may require subject to the following restrictions:—

(a) They shall place a gauge weir across the said stream at or near the proposed intake through an aperture through which thirty thousand gallons of water shall be allowed to pass and flow down the stream every day of twenty-four hours;

(b) On any such day during such time as the flow of water in the said stream shall be less than at the rate of thirty thousand gallons per day of twenty-four hours the Town Council shall not be entitled to draw any water therefrom but during such time as the flow is in excess of such rate the Town Council may take all or such part of the excess as they may require.

(2) After the said reservoir is completed the following provisions shall apply:—

(a) The Town Council shall during every day of twenty-four hours discharge or deliver into the

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said stream at a point therein immediately below the foot of the embankment (Work No. 8) not less than four hundred and fifty thousand gallons of water in a continuous flow;

- (b) For the purpose of measuring the quantity of water to be so discharged or delivered into the said stream the Town Council shall erect and maintain at a point on the said stream immediately below the foot of the said embankment a proper and suitable measuring gauge over or through which the said compensation water shall flow and the same shall be under the sole management and control of the Town Council and shall be open to the inspection and examination at all reasonable times of persons duly authorised by the Girvan District Fishery Board and of all other persons interested therein.

(3) In case of any neglect on the part of the Town Council to maintain any gauge in a state of efficiency and in case of any other neglect on the part of the Town Council by or in consequence of which the said respective quantities of compensation water shall not so flow the Town Council shall for every day on which such neglect occurs forfeit and pay to each of the persons affected thereby including the said fishery board (who may sue for and recover the same) the sum of five pounds.

(4) If any difference arises between the Town Council and the said fishery board or any person so interested with respect to the construction or use of any gauge or the state of repair or condition thereof such difference shall be referred to the arbitration of an engineer to be nominated (unless otherwise agreed upon) on the application of either of them by the sheriff.

(5) The provisions of this section shall be accepted and taken by all persons interested as full compensation for all water of the said stream which the Town Council can divert collect impound or appropriate by means of the works by this Order authorised.

11. The Town Council may subject to the consent of the road authority at any time for the purposes of conveying water from any of the existing waterworks of the Town Council or of the works by this Order

Laying
mains on
public
roads.

A.D. 1922. — authorised or for distributing and supplying water beyond the burgh lay down make maintain and use aqueducts conduits or lines of pipes through over under along across or into any public road or highway and renew alter enlarge duplicate and increase the number and size thereof or extend the same and stop up temporarily any such public road or highway for such purposes providing when possible a proper temporary substitute to the reasonable satisfaction of the road authority before interrupting the traffic on any such road or highway and making full compensation to all persons injuriously affected by anything done under the provisions of this section Provided that the consent aforesaid of the road authority shall not be unreasonably withheld and any question as to whether such consent has been unreasonably withheld shall be referred to and determined by an arbiter to be nominated failing agreement by the sheriff on the application of either party and the decision of such arbiter shall be final Provided also that nothing in this section shall prejudice extend or affect the powers or provisions of this Order with respect to the works authorised by this Order.

Power to
alter roads
&c. tempo-
rarily.

12. For the purposes and during the execution of the several works which the Town Council are by this Order authorised to make and in maintaining the same and subject to the provisions of this Order the Town Council may temporarily from time to time break up or cross over or under alter or stop up any streets highways roads lanes footways footpaths bridges tramways railways canals passages sewers drains watercourses 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 highway road lane footway footpath bridge tramway railway canal or passage or the flow of water gas sewage or electricity or telephonic communication in any such sewer drain watercourse canal pipe or apparatus and making full compensation to all persons injuriously affected thereby Provided that nothing in this section shall extend to authorise any interference with any telegraphic line (as defined by the Telegraph

Act 1878) or other property of His Majesty's Postmaster-General Provided also that nothing in this section shall extend to or authorise any interference with any works of any undertakers within the meaning of the Electricity (Supply) Acts 1882 to 1919 to which the provisions of section 15 of the Electric Lighting Act 1882 apply except in accordance with the provisions of that section. A.D. 1922.

13. The Town Council may from time to time subject to the provisions of this Order and notwithstanding the expiration of the period limited for completion of the works by this Order authorised lay down maintain use extend alter renew relay replace enlarge and increase the number and size of the works (other than reservoirs) mains pipes filters filter beds tanks channels and other works and conveniences from time to time in use or required for filtering storing conveying and distributing water for the purposes of the water undertaking Provided always that such extension enlargement or increase shall be executed only on lands or property belonging to the Town Council or over which the Town Council have acquired a servitude or which may be acquired by them by agreement or in roads and streets which they are by the Waterworks Clauses Acts 1847 and 1863 entitled to open and break up for such purposes. Town Council may enlarge or increase number of pipes.

14. The Town Council may on any lands which they may acquire under the powers of this Order or otherwise construct all such drains channels and other works as they may think necessary or desirable for preventing sewage or polluting liquids or contaminated or impure water from entering or polluting any of the reservoirs conduits or watercourses of the Town Council or any waters flowing into the same. For protection of reservoirs &c. from pollution.

15. The Town Council on selling any lands acquired for or in connection with the purposes of this Order and not required to be retained for those purposes may subject to the provisions of the section of this Order of which the marginal note is "Limiting powers of Town Council to abstract water" reserve to themselves all or any part of the water rights belonging thereto and may make the sale subject to such reservation accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to use of water exercise of noxious trades or discharge. Reservation of water rights on sale.

A.D. 1922. or deposit of manure sewage or other impure matter or otherwise as they may think fit.

Power to agree as to drainage of lands.

16. The Town Council may make and carry into effect agreements with the owners lessees or occupiers of any lands within the drainage area of the reservoir and works by this Order authorised with reference to the execution by the Town Council or such owners lessees or occupiers of such works as may be necessary for the purpose of draining such lands or any of them or for more effectually collecting conveying and preserving the purity of the waters by this Order authorised to be diverted collected and appropriated by the Town Council flowing to upon or from such lands directly or derivatively into such reservoir and works.

Power to discharge water temporarily into streams.

17. The Town Council may at any time for the purpose of constructing repairing examining emptying or cleansing any of the waterworks of the Town Council cause the water in any such work to be temporarily discharged into any available drain stream or watercourse.

In the exercise of the power conferred by this section the Town Council shall do as little damage as may be and shall make full compensation to all persons for any damage sustained by them by reason or in consequence of the exercise of such power the amount of compensation to be settled in case of difference by an arbiter agreed on between the parties or failing agreement appointed by the sheriff on the application of either party.

Power to use lands already acquired.

18. The Town Council may hold retain and use for the purposes of the water undertaking any lands already acquired for the purposes of their existing waterworks.

Power to acquire lands.

19. Subject to the provisions of this Order the Town Council may purchase acquire hold enter upon take appropriate and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purposes of this Order.

Owners may be required to sell parts only of certain properties.

20. Whereas in the exercise of the powers of this Order it may happen that portions only of certain properties shown on the deposited plans may be sufficient for the purposes of the Town Council and that such portions may be severed from the remainder thereof without material detriment thereto Therefore notwithstanding section 90

of the Lands Clauses Consolidation (Scotland) Act 1845 A.D. 1922.
the owners of and other persons interested in the pro-
perties described in the schedule to this Order and whereof
parts only are required for the purposes of this Order
may if such portions can in the opinion of the tribunal
to whom the question of disputed compensation shall
be submitted be severed from the remainder thereof
without material detriment thereto be required to sell
and convey to the Town Council the portions only
thereof so required without the Town Council being
obliged or compellable to purchase the whole or any
greater portion thereof the Town Council paying for the
portions required by them and making compensation
for any damage sustained by the owners thereof or other
parties interested therein by severance or otherwise.

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

22.—(1) The Town Council may in lieu of acquiring Power to
any lands for the purposes of the works authorised acquire
by this Order where the same are intended to be con- servitudes
structed underground acquire such servitudes only in only in
such lands as they may require for such purposes and certain
may give notice to treat in respect of such servitudes cases.
describing the nature thereof and the provisions of the
Lands Clauses Acts shall apply to and in respect of the
acquisition of such servitudes as fully as if the same were
lands within the meaning of those Acts.

(2) As regards any lands in respect of which the
Town Council have acquired servitudes only under the
provisions of this section the Town Council shall not be
required or entitled to fence off or sever such lands from
the adjoining lands but the owners or occupiers for the
time being shall subject to such servitudes have the same

A.D. 1922. — rights to use and cultivate the said lands at all times as if this Order had not been confirmed.

(3) Provided that nothing in this section contained shall authorise the Town Council to acquire by compulsion any such servitude in any case in which the owner in his particulars of claim shall require the Town Council to acquire the lands in respect of which they have given notice to treat for the acquisition of a servitude only and every notice to treat for the acquisition of a servitude shall be endorsed with notice of this provision.

Power to
acquire and
hold lands
for pro-
tection of
works and
prevention
of pollution.

23. The Town Council may hold any lands acquired by them for the purposes of or in connection with their existing waterworks and any lands acquired by them under this Order and may also by agreement purchase acquire and hold any lands or take servitudes or restrictions over any lands which they may deem necessary or desirable for the purpose of securing the purity of the water in the drainage area of the waterworks of the Town Council and of protecting their water supply against pollution fouling contamination nuisance encroachment or injury and so long as such necessity shall continue such lands shall not be deemed to be superfluous lands within the meaning of this Order or the Lands Clauses Acts respectively. Provided that the Town Council shall not create or permit a nuisance on any such lands and shall not erect or permit the erection of any buildings thereon other than offices and dwellings for persons in their employ and such buildings and works as may be incident to or connected with the water undertaking or farm buildings.

The Town Council may let for such period as they think fit or sell or feu any land acquired under this section on such terms conditions and restrictions as regards its use as to the Town Council may seem fit and to secure that such land shall not be manured or broken up for tillage and that no buildings which may prejudicially affect the water supply or the purity of the water shall be erected thereon. The proceeds of the sale of any land by the Town Council shall only be applied to purposes of this Order to which capital is properly applicable.

Power to
acquire
additional
lands by
agreement.

24. The Town Council may from time to time for the purposes of this Order purchase by agreement in addition to the lands by this Order authorised to be acquired by compulsion any lands not exceeding in the

whole twenty acres but nothing in this Order shall exonerate the Town Council from any action interdict or other proceeding for nuisance in the event of any nuisance being caused or permitted by them upon any land purchased under the powers of this section and no house or building shall be erected on any such lands other than any houses or buildings which may be required in connection with the water undertaking. A.D. 1922.

25. The Town Council shall not construct any works for taking or intercepting water from any lands acquired by them unless the works are authorised by and the lands upon which the same are to be constructed are specified in this Order or some other Order confirmed by or having the effect of an Act of Parliament or in some Act of Parliament. Limiting powers of Town Council to abstract water.

26. The powers of the Town Council for the compulsory purchase of lands for the purposes of this Order shall cease after the expiration of five years from the commencement of this Order. Period for compulsory purchase of lands.

27. If the works in this Order described are not completed within ten years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the Town Council for executing the same shall cease except as to so much thereof as is then completed. Period for completion of water-works.

28. The Town Council shall if and when required by the local authority of the district in which the works authorised by this Order are situate (in this section called "the local authority") make provision to the satisfaction of the local authority for the proper housing and sanitary requirements of the persons employed in constructing the said works and for the treatment of cases of sickness (other than infectious disease) and accident occurring among the said persons during the construction of the said works. In considering what provision ought to be made for the said purposes the local authority shall take into consideration the provision already available in the neighbourhood of or conveniently accessible from the said works. Accommodation for workmen &c.

In the event of any dispute arising between the Town Council and the local authority as to the amount or nature or situation of the housing accommodation and sanitary

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A.D. 1922. — requirements to be provided or as to the sufficiency of the provision for the treatment of cases of sickness (other than infectious disease) and accident or as to the time within which such accommodation shall be provided and such provision made or as to the carrying out by the Town Council of any requirement of the local authority under this section either party may appeal to the Scottish Board of Health (in this section called "the Board") and their decision shall be final and binding on both parties :

Provided that if it appear to the Board at any time that sufficient provision for the aforesaid purposes is not made they shall have power to require the Town Council to make provision or additional provision therefor to the satisfaction of the Board.

In the event of the Town Council or the local authority failing to comply with any order or requirement of the Board under this section they shall be liable to a penalty not exceeding twenty pounds and to a further penalty not exceeding five pounds for every day during which such failure continues and such penalties shall be recoverable with expenses at the instance of the Lord Advocate on behalf of the Board in any competent court.

For the purposes of this section the Board shall have the same powers of holding inquiries and of requiring reports to be made by local authorities and their officials as they have under the Public Health (Scotland) Act 1897 for the purposes of that Act and the provisions of the said Act relating to such inquiries and reports shall apply accordingly.

Dwelling-
houses for
persons em-
ployed by
Town
Council.

29. The Town Council may purchase or take on lease dwelling-houses for persons employed by them for the purposes of the water undertaking and may erect maintain and let dwelling-houses with all necessary conveniences and appurtenances for such persons upon any lands for the time being belonging to the Town Council for the purposes of the said undertaking and (subject to the terms of the lease) upon any lands for the time being leased to the Town Council for the purposes of the said undertaking.

Town
Council
may supply
water for

30. The Town Council may furnish to any person within the limits of compulsory supply a supply of water for other than domestic purposes to shops offices and

warehouses and for steam engines or railway purposes or for warming or ventilating any premises other than dwelling-houses or for working any machine or apparatus or for cattle or for horses or for washing carriages or motor cars or for gardens fountains or ornamental purposes or for any trade manufacture business or occupation or for hotels taverns or for any other purpose not domestic and either in bulk or otherwise such respective supplies being so furnished at such rates and upon such terms and conditions as shall be fixed from time to time by the Town Council and in the event of disagreement either as to the ability of the Town Council to give the supply or as to the rate terms or conditions on or in respect of which the supply is to be given the same shall be fixed by the sheriff upon summary application made in the sheriff court at Ayr by either of the parties and the decision of the sheriff shall be final. Provided always that so far as possible the rate for such supply of water shall be uniform to all persons in the same circumstances and requiring the same extent of supply and the charges for such supply shall be recoverable in the same manner as any other water assessment rates or charges may be recovered by the Town Council under the authority of this Order. Provided further that when water is so supplied the Town Council shall not charge the water assessment and also charge for water supplied to the same premises by meter but the Town Council shall have the option either to charge the water assessment in respect of the premises for which such supply is given or to charge for the same by meter or they may charge in addition to the water assessment such special rates as may be fixed as aforesaid for water supplied otherwise than by meter for the purposes or any of them in this section mentioned. Provided also that the supply of water under this section shall not prejudicially affect or restrict the supply of water from time to time required for domestic use within the limits of compulsory supply.

A.D. 1922
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 other than domestic purposes.

31. The water to be supplied from any main or pipe of the Town Council whether existing or authorised to be constructed or reconstructed by this Order need not be constantly laid on under pressure during the execution of necessary repairs renewals or alterations nor be supplied in any case at a level above or at a greater height than can be supplied or afforded by gravitation from the

Pressure.

A.D. 1922. existing service reservoirs or tanks of the Town Council or from the waterworks by this Order authorised from which the supply is given.

Suspension
of constant
supply.

32. Notwithstanding anything to the contrary contained in the Waterworks Clauses Acts 1847 and 1863 and this Order the Town Council until the expiration of seven years from the commencement of this Order or until the substantial completion of the reservoir (Work No. 7) by this Order authorised whichever shall first happen shall not be bound to give or maintain a constant supply.

Supply of
water by
Town
Council
along line
of pipes.

33. The Town Council may from and after the completion of the waterworks by this Order authorised supply by agreement water from any of the lines of pipes by this Order authorised or from any of the works of the Town Council to any owners or occupiers of lands or heritages beyond the limits of compulsory supply and lying adjacent or near to any such lines of pipes or works and also to any local authority in or through or near to whose district the lines of pipes or waterworks of the Town Council may pass or be constructed and the Town Council may contract with all or any of such persons or authority for such supply at such rates upon such terms and conditions and for such period or periods of time as they may agree Provided always that any supply of water under the provisions of this section shall not prejudicially affect or restrict the supply of water from time to time required for any purpose within the limits of compulsory supply Provided further that any supply of water by the Town Council under this section shall not be given except with the consent of any local authority company or person supplying water under Parliamentary authority within the district to be supplied and of the local authority of that district.

Town Coun-
cil not bound
to supply
several
houses by
one pipe.

34. The Town Council shall not be bound to supply more than one house by means of the same communication pipe and they may if they think fit require that a separate pipe be laid from the main pipe into each house supplied by them with water.

Notice of
discontinu-
ance.

35. A notice to the Town Council from a consumer for the discontinuance of a supply of water shall not be of any effect unless it be in writing signed by or on behalf of the consumer and be left at or sent by post to the

office of the Town Council or be given by the consumer personally at the office of the Town Council. A.D. 1922.

36.—(1) The Town Council may make byelaws for the purpose of preventing the waste undue consumption misuse or contamination of water and may by such byelaws prescribe the size nature materials workmanship and strength and the mode of arrangement connection disconnection alteration and repair of pipes meters cocks ferrules valves soil-pans water-closets baths cisterns and other apparatus (in this section referred to as “water fittings”) to be used and forbid any arrangements and the use of any water fittings which may allow or tend to waste undue consumption misuse erroneous measurement or contamination.

Byelaws for preventing waste &c. of water.

(2) Such byelaws shall apply only in the case of premises to which the Town Council are bound to afford and do in fact afford or are prepared on demand to afford a constant supply and the provisions with respect to byelaws contained in sections 183 to 188 of the Public Health (Scotland) Act 1897 shall apply to all byelaws so made.

(3) In case of failure of any person to observe such byelaws as are for the time being in force the Town Council may if they think fit after twenty-four hours’ notice in writing enter and by and under the direction of their duly authorised officer repair replace or alter any water fittings belonging to or used by such person and not being in accordance with the requirements of such byelaws and the expense of every such repair replacement or alteration shall be recoverable by the Town Council as the water rates in respect of the premises are recoverable.

37. The Town Council shall not be bound to supply with water otherwise than by meter any building used by an occupier as a dwelling-house whereof any part is used by the same occupier for any trade or manufacturing purpose for which water is required.

Supply to houses partly used for trade &c.

38. The Town Council may sell meters and any fittings connected therewith upon and subject to such terms (pecuniary or otherwise) and conditions as they think fit.

Power to sell or let meters.

A.D. 1922.

The provisions of section 14 of the Waterworks Clauses Act 1863 shall extend to authorise the Town Council to let for hire any water fittings to any person supplied by them with water.

Notice to
Town
Council of
connecting
or discon-
necting
meters.

39. Before any person connects or disconnects any meter by means of which any of the water of the Town Council is intended to be or has been registered he shall give not less than twenty-four hours' notice in writing to the Town Council of his intention to do so and all alterations or repairs and the connecting and disconnecting of meters shall be done at his cost and under due superintendence of any officer of or person authorised by the Town Council and any person offending against this enactment shall for every such offence be liable to a penalty not exceeding forty shillings.

Injuring
meters &c.

40. Every person who wilfully fraudulently or by culpable negligence injures or suffers to be injured any pipe meter or other instrument for measuring water or any fittings belonging to the Town Council or who fraudulently alters the index to any meter or other instrument for measuring water or prevents any meter or other instrument for measuring water from duly registering the quantity of water supplied or fraudulently abstracts consumes or uses water of the Town Council shall (without prejudice to any other right or remedy for the protection of the Town Council) be liable to a fine not exceeding five pounds and the Town Council may in addition thereto recover the amount of any damage by them sustained And in any case in which any person has wilfully fraudulently or by culpable negligence injured or suffered to be injured any pipe meter instrument or fittings belonging to the Town Council or has fraudulently altered the index to any meter or other instrument for measuring water or prevented the same from duly registering the quantity of water supplied or has fraudulently abstracted consumed or used water of the Town Council the Town Council may also enter upon the premises occupied by the offender and repair such injury and do all such works matters and things as may be necessary for ensuring the proper registering by such meter of the quantity of water supplied by means thereof and the expense of such repair and of all such works matters and things shall be repaid to the Town Council by the person so offending.

and may be recovered by them as water rates and assessments are recoverable. The existence of artificial means for causing such injury alteration or prevention or for abstracting consuming or using water of the Town Council when such pipe meter instrument or fittings is or are under the custody or control of the consumer shall be *prima facie* evidence that such injury alteration prevention abstraction consumption or use as the case may be has been fraudulently knowingly and wilfully caused by the consumer using such pipe meter instrument or fittings.

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41. If any of the apparatus shall be out of order the owner or occupier of the house or premises in or to which such apparatus is placed or attached shall be bound to repair and make good the same and if such owner or occupier fail to make the requisite repairs within twenty-four hours after notice in writing so to do by the Town Council or by any officer of the Town Council the Town Council or any person authorised by them may enter upon such premises and repair renew and make watertight all such apparatus and the Town Council shall be entitled to recover from the owner or occupier so failing the cost of such repair or renewal together with any penalty which may have been incurred for wilful waste of water or for suffering such apparatus to be out of repair in the manner provided in the Acts herewith incorporated for the recovery of penalties or by action in any court of competent jurisdiction and for the purposes of this section the word "apparatus" means and includes pipe cistern bath water-closet ball-cock stop-cock valve and other articles used in the supply or storing of water in houses manufactories or premises or in connection therewith. Provided that in the event of the expense of such repair or renewal being paid by the occupier of any such house or premises he shall be entitled to recover such expense from the owner thereof or to deduct the same from his rent unless otherwise provided for by the terms of the tenancy.

Town Council may repair apparatus on failure by owner or occupier.

42. Every person who fraudulently takes or uses water belonging to the Town Council for any purpose other than domestic or drinking purposes shall for every such offence be liable to a penalty not exceeding ten pounds and to a daily penalty of five pounds for each day any such offence continues after conviction.

Penalty for taking water except for domestic use.

A.D. 1922.

Application
of penalties.

43. All penalties exigible under the provisions of this Order and of the Acts wholly or partially incorporated herewith (excepting any penalties which may be imposed upon the Town Council) shall be paid over to the Town Council instead of being applied in the manner provided in the last-mentioned Acts or the Acts therein referred to.

Prosecution
of offenders.

44. All offenders against any of the provisions of this Order or of any of the Acts incorporated with the same respectively or against any of the byelaws of the Town Council may be prosecuted and all penalties in respect of offences against any of such provisions or byelaws may be recovered summarily by the Town Council under the Summary Jurisdiction (Scotland) Act 1908.

Power to
supply
fittings.

45.—(1) The Town Council may if requested by any person supplied or about to be supplied by them with water furnish to him and repair or alter but shall not manufacture any such pipes valves cocks cisterns baths meters soil-pans water-closets and other fittings as are required or permitted by their regulations and may provide all materials and work necessary or proper in that behalf and the reasonable charges of the Town Council in providing such materials and executing such work shall be paid by the person requiring the same.

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

Provided as follows:—

- (a) The Town Council shall so adjust the charges to be made by them for any such fittings or for the fixing repairing or removal thereof as to meet any expenditure by them under the powers of this section in connection therewith (including interest upon any moneys borrowed for those purposes and all sums

applied to sinking fund for repayment of moneys so borrowed); A.D. 1922.

- (b) Every sum charged by the Town Council in respect of provision of such fittings or repairing fixing or removal thereof shall be clearly stated in every demand note delivered by the Town Council to the consumer;
- (c) The total sums expended and received by the Town Council in connection with the purposes in this section mentioned in each year (including interest and sinking fund) shall be separately shown in the published accounts of the water undertaking for such year.

46. The Town Council may on the application of the owner or occupier of any premises within the limits of compulsory supply abutting on or being erected in any street laid out but not dedicated to the public use supply such premises with water and may lay down take up alter relay or renew in across or along such street such pipes and apparatus as may be requisite or proper for furnishing such supply and for that purpose the Waterworks Clauses Acts 1847 and 1863 shall apply as if section 29 of the Waterworks Clauses Act 1847 had been excepted from the incorporation of that Act in this Order. Power to lay pipes in private streets.

47. For the purpose of complying with any obligation under this Order to maintain any pipe or apparatus the person liable to maintain the same shall have the like power to open the ground as is conferred upon him by sections 48 to 52 of the Waterworks Clauses Act 1847 in relation to the laying of communication pipes. As to breaking up ground for maintaining communication pipes.

48. The Town Council may enter into and carry into effect agreements with any local authority company or persons for the supply of water beyond the limits of compulsory supply to any such authority company or persons respectively in bulk for any purpose and for such remuneration and on such terms and conditions and for such period as may be agreed upon : Power to Town Council to supply water to local authorities and others.

Provided that such supply shall not be given except with the consent of any local authority company or person supplying water under parliamentary authority within the district to be supplied and of the local authority of that district nor if and so long as such supply

A.D. 1922. — would interfere with the supply of water for domestic purposes within the limits of compulsory supply.

Cleansing
sewers &c.

49. The Town Council may if they see fit furnish a supply of water for the purposes of watering or cleansing streets or of flushing or cleansing sewers and drains or for public baths or washhouses or for public fountains or wells either gratuitously or at such charge or reduced charge and upon such terms and conditions as they shall think proper.

Owners to
provide and
maintain
service
pipes.

50. For the purpose of providing for the better distribution of the water supply among the inhabitants within the limits of compulsory supply the Town Council may require the owner of any dwelling-house or tenement of dwelling-houses not properly supplied with water in any street within the limits of compulsory supply in which the pipes of the Town Council are laid to take a supply of water for such house or tenement by connecting a service pipe with the main pipe of the Town Council in any such street (such connection to be made by the Town Council or some person to be employed by them at the expense of the owner) and to provide lay and maintain in good and sufficient repair such service pipes stand pipes or taps cisterns and other means and apparatus and in such positions as may be necessary for that purpose and in the event of refusal or delay on the part of such owner to comply with such requisition it shall be lawful for the Town Council to enter such house or tenement and premises connected therewith and to provide lay and maintain such service pipes stand pipes or taps cisterns and other means and apparatus in such positions as aforesaid and to recover the expense thereof from such owner in the same manner as the water assessment rates or charges are recoverable by the Town Council under this Order and the Waterworks Clauses Acts 1847 and 1863 Provided always that in the case of houses not exceeding four pounds of yearly rent or value such owner shall not be required to introduce water into each house but only such means of supply for each tenement of houses as the Town Council may deem necessary Provided also that in case of any question or difference between the Town Council and any owner to whom this section applies with respect to the necessity for such supply or as to any other matter arising under this section the same shall be determined by the sheriff on summary application made in

the sheriff court at Ayr by either of the parties and the decision of the sheriff shall be final. A.D. 1922.

51. It shall not be lawful for the owner or occupier of any house or premises supplied with water by the Town Council without their written consent to affix or permit or suffer to be affixed any tube or hose to any of the mains or pipes of the Town Council or to any service pipe or apparatus of such owner or occupier for the purpose of washing horses carriages or other vehicles houses or buildings or for watering gardens or washing pavements or roads or for any other purpose and any person who contravenes this enactment shall be guilty of an offence and shall for every such offence forfeit and pay to the Town Council a penalty not exceeding forty shillings.

Tube or hose not to be affixed to mains or pipes without consent of Town Council.

52. The Town Council may agree with any person for supplying him with water by measure and may require any person supplied with water for other than domestic purposes to take and pay for his supply by measure. In both cases a meter for ascertaining the quantity consumed shall be provided by the Town Council at a reasonable rent to be fixed by the Town Council.

Rent for water may be ascertained by meter.

53. Notwithstanding anything contained in this Order the following provisions for the protection of the Glasgow and South Western Railway Company (in this section referred to as "the Company") shall apply and have effect except in so far as may be otherwise agreed between the Company and the Town Council (that is to say):—

For protection of Glasgow and South Western Railway Company.

- (1) The laying down making or maintaining of any aqueduct conduit mains pipes or apparatus under or in pursuance of this Order into through over or under any railways or other property of the Company and any works of maintenance repair alteration extension and renewal of such aqueduct conduit mains pipes or apparatus other than urgent repairs in case of accident (all of which works are in this section referred to as "the said waterworks") shall be done under the superintendence and to the reasonable satisfaction of the engineer of the Company and according to plans sections and specifications to be submitted to and reasonably approved by him before any such works are commenced or in the event of any dispute or difference between such engineer

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and the engineer of the Town Council then in such manner as shall be settled by arbitration as hereinafter provided. Provided that if the said engineer shall fail to superintend at the time specified in a notice to be given by the Town Council to the Company of their intention to commence the said waterworks (such time being except in cases of emergency not less than twenty-eight days from the giving of the notice) such works may be executed without his superintendence and that unless the engineer of the Company shall give notice of his disapproval of such plans sections or specifications and of his grounds thereof within twenty-eight days after they shall have been submitted he shall be deemed to have approved thereof :

- (2) The said waterworks shall be executed by and in all things at the expense of the Town Council and in such manner as not to cause any injury to the railways or other property of the Company or interruption to the passage or conduct of the traffic over such railways or the traffic to any station and if any such injury or interruption shall arise the Town Council shall make compensation to the Company in respect of any loss or damage resulting to them therefrom :
- (3) The Town Council shall bear and on demand pay to the Company the reasonable expenses of employment by them of a sufficient number of inspectors watchmen and flagmen to be appointed by the Company for watching their railway or other property and works with reference to and during the execution of the said waterworks :
- (4) When the Town Council for the purposes of the said waterworks open or break up any road or pavement of any street or other works belonging to or repairable by the Company they shall with all convenient speed complete the work for which the same shall be broken up and reinstate and make good to the reasonable satisfaction of the Company the road or works so opened or broken up and shall to the like satisfaction keep any road or pavement so broken up in good

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repair for three months after reinstatement and making good and for such further time if any not being more than twelve months in the whole as the consolidation of the soil so broken up shall continue :

- (5) If the Town Council make delay in completing such work or reinstating and making good such road or works so opened or broken up or neglect to keep the road or pavement in repair as aforesaid the Company may cause the work so delayed or omitted to be executed and the reasonable expense of executing the same shall be repaid to them by the Town Council :
- (6) The Town Council shall at all times maintain the said waterworks in substantial repair and good order to the reasonable satisfaction of the said engineer and if and whenever the Town Council fail so to do the Company may make and do in and upon as well the lands of the Town Council as their own lands all such works repairs and things as they may reasonably think requisite and the reasonable amount of such expenditure shall be repaid to the Company by the Town Council :
- (7) If at any time hereafter the Company require to make any alterations of or to widen their railway or to increase their railway accommodation at any place where the said waterworks cross the railway and property of the Company the Town Council shall at their own cost make such alterations of the said waterworks within the boundaries of the Company's property as existing at the commencement of this Order as may be reasonably required by the Company to enable them to carry out such alteration or widening of the railway or to provide such increased accommodation and the provisions of this section shall so far as applicable extend and apply to the execution and carrying out by the Town Council of any such alterations of the said waterworks :
- (8) Notwithstanding anything in this Order contained the Town Council shall be responsible for and make good to the Company all costs losses damages or expenses which may be

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occasioned to them or to any of their railways works or property or to the traffic thereon or otherwise by reason or in consequence of the execution or failure of the said waterworks or any or either of them or by any act or omission of the Town Council or any persons in their employment or their contractors agents or others and the Town Council shall effectually indemnify and hold harmless the Company from all claims and demands upon or against them by reason or in consequence of such execution or failure and of such act or omission :

- (9) The Town Council shall provide reasonable access both for vehicular and pedestrian traffic to any passenger or goods station or depôt of the Company at all times during which any street road or highway is temporarily stopped up under the powers of this Order :
- (10) If and when in the reasonable opinion of the engineer of the Company any damage to any railway culvert drain or property of the Company is caused or reasonably apprehended as the result of water being discharged into any available drain stream or watercourse in accordance with the provisions of the section of this Order of which the marginal note is " Power to discharge water temporarily into streams " the Town Council shall at their own cost make good all such damage (if any) and enlarge or otherwise alter such culvert or drain to such extent and in such manner as may be reasonably necessary :
- (11) If any difference shall arise under this section between the Town Council and the Company or their respective engineers the same shall be referred to and be determined by an engineer to be appointed failing agreement by the sheriff on the application of the Town Council or the Company.

Power to
borrow.

54. The Town Council may subject to the provisions of this Order in the manner and under the powers and provisions of the Burgh Police Acts from time to time borrow the sums following :—

- (1) For the purchase of lands and servitudes the sum of two thousand pounds :

- (2) For the purposes of the Works Nos. 7 and 8 by this Order authorised the sum of twelve thousand four hundred pounds : A.D. 1922.
- (3) For the purposes of the Works Nos. 1 2 3 4 5 6 9 and 10 by this Order authorised the sum of sixteen thousand six hundred pounds :
- (4) For the purposes of subsidiary works the sum of one thousand pounds :
- (5) For the payment of the costs charges and expenses of and incidental to obtaining and confirming this Order the sum requisite for that purpose :
- (6) For the purposes of the water undertaking with the consent of the Secretary for Scotland but not otherwise such further moneys as the Town Council may require and the Secretary for Scotland shall have and may exercise in relation to such consent as aforesaid all the powers of section 93. of the Local Government (Scotland) Act 1889 :

And the Town Council may make and grant mortgages or other securities of the water assessment and rates rents charges and other revenues of the water undertaking in the manner authorised by the Burgh Police Acts in security of the money so borrowed and interest thereon and any sums so to be borrowed may be borrowed on terms of the repayment thereof by annuity instalment or otherwise.

55. The Town Council shall pay off all moneys to be borrowed by them under this Order for the purposes of the water undertaking within the respective periods following (hereinafter referred to as "the prescribed period") (that is to say) :—

Periods for repayment of borrowed money.

As to moneys borrowed for the purpose (1) mentioned in the immediately preceding section of this Order within sixty years from the date or dates of borrowing the same :

As to moneys borrowed for the purpose (2) mentioned in that section within sixty years from the date or dates of borrowing the same :

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As to moneys borrowed for the purpose (3) mentioned in that section within forty-five years from the date or dates of borrowing the same :

As to moneys borrowed for the purpose (4) mentioned in that section within thirty years from the date or dates of borrowing the same :

As to money borrowed for the purpose (5) mentioned in that section within five years from the commencement of this Order :

As to moneys borrowed with the approval of the Secretary for Scotland for the purpose (6) mentioned in that section within such period and by such method as the Secretary for Scotland may notwithstanding anything in the Burgh Police Acts contained prescribe.

Mode of
repayment
of borrowed
money.

56. The Town Council shall pay off all moneys borrowed by them (other than money borrowed for current expenses) under this Order either by means of a sinking fund formed under the provisions of this Order or by equal yearly or half yearly instalments of principal or of principal and interest combined or partly by one of those methods and partly by another or others of them.

Sinking
fund.

57.—(1) If the Town Council determine to repay by means of a sinking fund any moneys borrowed by virtue of this Order such sinking fund shall be formed or maintained either—

(a) By payment to the fund throughout the prescribed period of such equal annual sums as will together amount to the moneys for the repayment of which the sinking fund is formed A sinking fund so formed is hereinafter called a non-accumulating sinking fund; or

(b) By payment to the fund throughout the prescribed period of such equal annual sums as with accumulations at a rate not exceeding four per centum per annum or such other rate as the Secretary for Scotland may from time to time allow will be sufficient to pay off within the prescribed period the moneys for the repayment of which such sinking fund is formed A sinking fund so formed is hereinafter called an accumulating sinking fund.

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(2) Every sum paid to a sinking fund and in the case of an accumulating sinking fund the interest on the investments of the sinking fund shall unless applied in repayment of the loan in respect of which the sinking fund is formed be immediately invested in securities in which trustees are by law for the time being authorised to invest or in mortgages bonds debentures debenture stock stock or other securities (not being annuity certificates or securities payable to bearer) duly issued by any local authority other than the Town Council or be deposited in bank the Town Council being at liberty from time to time to vary and transpose such investments.

(3) In the case of a non-accumulating sinking fund the interest on the investments of the fund may be applied by the Town Council towards the equal annual payments to the fund.

(4) The Town Council may at any time apply the whole or any part of any sinking fund in or towards the discharge of the money for the repayment of which the fund is formed Provided that in the case of an accumulating sinking fund the Town Council shall pay into the fund each year and accumulate during the residue of the prescribed period a sum equal to the interest which would have been produced by such sinking fund so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5)—(a) If and so often as the income of an accumulating sinking fund is not equal to the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any deficiency shall be made good by the Town Council.

(b) If and so often as the income of an accumulating sinking fund is in excess of the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the annual payments to the fund are based any such excess may be applied towards such annual payments.

(6) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under this Order shall be paid by the Town Council in addition to the payments provided for by this Order.

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(7) If it appears to the Secretary for Scotland or to the Town Council at any time that the amount in the sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the Town Council to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose.

(8) If the Town Council desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(9) If the amount in any sinking fund with the future payments thereto in accordance with the provisions of this Order together with the accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Town Council be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the Town Council may with the consent of the Secretary for Scotland reduce the payments to be made to the sinking fund either temporarily or permanently to such amounts as will be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed.

(10) If the amount in any sinking fund at any time together with the probable accumulations thereon (in the case of an accumulating sinking fund) will in the opinion of the Town Council be sufficient to repay the loan in respect of which it is formed within the prescribed period the Town Council may with the consent of the Secretary for Scotland discontinue the annual payments to such sinking fund.

(11) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose as the Town Council may determine.

(12) The period at which the payments into the sinking fund shall commence shall be seven years after the commencement of this Order or within one year after the substantial completion of the works authorised by

this Order and the introduction of the water supply from the said works whichever shall be the earlier. A.D. 1922.

58.—(1) The Town Council shall have power—

Power to
re-borrow.

- (a) To borrow for the purpose of paying off any moneys previously borrowed under this Order which are intended to be forthwith repaid; or
- (b) To borrow in order to replace moneys which during the previous twelve months have been temporarily applied from other funds of the Town Council in repaying moneys previously borrowed under this Order and which at the time of such repayment it was intended to replace by borrowed moneys.

(2) Any moneys borrowed under this section shall for the purposes of repayment be deemed to form part of the original loan and shall be repaid within that portion of the prescribed period which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section.

(3) The Town Council shall not have power to borrow for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys.

(4) The Town Council shall not have power to borrow in order to replace any moneys previously borrowed which have been repaid—

- (a) By instalments or annual payments; or
- (b) By means of a sinking fund; or
- (c) Out of moneys derived from the sale of land; or
- (d) Out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

59. In the application to the burgh of section 49 (Power to borrow temporarily) of the Burgh Police (Scotland) Act 1903 the expression “any public general Act” shall be deemed to include this Order. Borrowing power for current expenses.

60. The provisions of the Burgh Police Acts with respect to water supply shall subject to the provisions of this Order and so far as not inconsistent there- Application of Burgh Police Acts.

A.D. 1922. — with apply to the supply of water within the burgh by the Town Council from their existing waterworks and from the works by this Order authorised.

Reserve
fund.

61. The Town Council may provide out of the yearly water assessment and rates rents charges and other revenues of the water undertaking a reserve fund by setting aside such a sum annually as they may from time to time think fit and investing the same and the resulting income thereof upon such securities as the Town Council may by law for the time being invest their funds and accumulating the same at compound interest which reserve fund shall not at any time exceed in the whole the sum of seven thousand pounds and shall be applicable as and when the Town Council may determine from time to time for the renewal of the works plant and apparatus or any extraordinary claim or demand at any time arising against the Town Council in respect of the water undertaking.

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

62. The treasurer of the Town Council shall within six months after the expiration of each year during which any sum is required to be paid as an instalment or to be set apart for a sinking fund under this Order 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 paid or set apart in respect of that year and the description of the securities upon which the same has been invested and also showing the purposes to which any portion of such sinking fund and the interest or income thereof have been applied during the same period and the total amount remaining invested at the end of the year and in the event of any default in making such return such treasurer so making default shall be liable to a penalty not exceeding twenty pounds which shall be recoverable by the Secretary for Scotland as a debt to the Crown is recoverable. If it appear to the Secretary for Scotland by any such return or otherwise that the Town Council have failed to pay any instalment or to set apart any sum required by this Order to be set apart for the sinking fund or to make any increased payment thereto by this Order required or to have applied any portion of the moneys set apart for that fund or any interest or income 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 shall be set apart and invested as part of the sinking fund and such order shall be enforceable by decree of either division of the Inner House of the Court of Session in Scotland pronounced in a summary application presented for that purpose. A.D. 1922.

63. All sums borrowed by the Town Council on mortgage or cash account or otherwise (except any sums borrowed for current expenses) shall be applied only to purposes to which capital is properly applicable. Application of moneys borrowed.

64. No person lending money to the Town Council shall be bound to inquire as to the observance by the Town Council of any provision of the Burgh Police Acts or this Order or be bound to see to any application or be answerable for any loss or non-application of such money or any part thereof. Protection of lender from inquiry.

65. Nothing in this Order shall prejudice or affect the priority or other rights or remedies under any mortgages or securities or obligations granted by the Town Council before the commencement of this Order and then subsisting. Reservation of prior mortgages.

66. The mortgagees of the Town Council under this Order may enforce payment of arrears of interest or principal 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. For appointment of judicial factor.

67. Subject to the provisions of this Order the existing waterworks of the Town Council and the works to be constructed under the authority of this Order shall for all purposes whatsoever be and be deemed to be part of the water undertaking. Existing waterworks and new works to form one undertaking.

68. The costs charges and expenses incurred in preparing for and obtaining and confirming this Order and incidental thereto shall be paid by the Town Council out of any moneys in their hands or out of any moneys borrowed by them under this Order for that purpose. Costs of Order.

[Ch. xlvii.] *Girvan Water Order* [12 & 13 GEO. 5.]
Confirmation Act, 1922.

A.D. 1922. The SCHEDULE referred to in the foregoing Order.

PROPERTIES OF WHICH PORTIONS ONLY MAY BE TAKEN.

Parish.	Nos. on deposited Plans.
Girvan - - - - -	26 26A 27 27A 27B 27C and 27D.

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