



CHAPTER x.

An Act to Confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936 relating to
Port Glasgow Gas and Burgh. [15th June 1945.]

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

26 Geo. 5. &
1 Edw. 8.
c. 52.

Be it therefore enacted by the King's most Excellent Majesty
by and with the advice and consent of the Lords Spiritual and
Temporal and Commons in this present Parliament assembled
and by the authority of the same as follows :—

1. The Provisional Order contained in the schedule hereunto
annexed is hereby confirmed.

Confirmation
of Order in
schedule.

2. This Act may be cited as the Port Glasgow Gas and Burgh
Order Confirmation Act 1945.

Short title.

SCHEDULE.

PORT GLASGOW GAS AND BURGH

Provisional Order to confer on the provost magistrates and councillors of the burgh of Port Glasgow further powers in connection with their gas undertaking and for the good government of the burgh and for other purposes.

28 & 29 Vict.
c. ccliv.

WHEREAS the provost magistrates and councillors of the burgh of Port Glasgow (hereinafter referred to as "the Town Council") are the local authority of the said burgh and by virtue of the Port Glasgow Police Act 1865 and the Port Glasgow Gas and Burgh Extension Order 1915 the Town Council are the owners of gasworks in the said burgh:

And whereas the Town Council are authorised to supply gas within the burgh of Port Glasgow and districts and places adjacent to the said burgh:

And whereas it is expedient that the further powers in reference to the gas undertaking of the Town Council and for the good government of the burgh in this Order contained should be conferred on the Town Council:

26 Geo. 5.
& 1 Edw. 8.
c. 52.

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

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

PART I.

PRELIMINARY.

Short title.

1. This Order may be cited for all purposes as the Port Glasgow Gas and Burgh Order 1945 and may together with the Port Glasgow Police Act 1865 the Port Glasgow Gas and Burgh Extension Order 1915 and the Port Glasgow Gas (Charges) Order 1929 be cited as the Port Glasgow Gas Orders 1865 to 1945.

Commencement of Order.

2. This Order shall commence and have effect on and from the date of the passing of the Act confirming the same which date is hereinafter referred to as "the commencement of this Order."

Division of Order into Parts.

3. This Order is divided into Parts as follows:—
Part I—Preliminary.
Part II—Gas.
Part III—Burgh provisions.

4. In this Order unless there be something in the subject or Interpretation. context inconsistent with or repugnant to such construction—

(a) The several words and expressions to which meanings are assigned in the Act of 1865 and the Order of 1915 (as the said Act and Order are hereinafter defined) and in any Acts incorporated therewith shall have the meanings assigned to them in those Acts and Order; and

(b) The following words and expressions shall have the meanings assigned to them in this section (that is to say):—

“Burgh” means the burgh of Port Glasgow;

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

“Act of 1865” means the Port Glasgow Police Act 1865;

“Order of 1915” means the Port Glasgow Gas and Burgh Extension Order 1915;

“Sheriff” means the sheriff of Renfrew and Bute and includes the sheriff substitutes or any one of them within the county of Renfrew;

“Gas undertaking” and “gas works” mean respectively the gas undertaking and the gas works of the Town Council and include the gas works and works connected therewith and any improvements and enlargements thereof which the Town Council may construct and all lands properties works buildings machinery plant apparatus appliances servitudes rights powers and privileges for the time being belonging to or held used or enjoyed by the Town Council for or in connection with gas works or the manufacture storage or distribution and supply of gas and residual products;

“Daily penalty” means a penalty for every day on which any offence is continued after conviction therefor.

PART II.

GAS.

5. The following Acts so far as the same respectively are Incorporation applicable for the purposes and are not inconsistent with or varied of Acts. by the provisions of the Port Glasgow Gas Orders 1865 to 1945 are hereby incorporated with and form part of this Order:—

The Gasworks Clauses Act 1847;

10 & 11 Vict. c. 15.

The Gasworks Clauses Act 1871.

34 & 35 Vict. c. 41.

This Order shall be deemed a special Act within the meaning of the provisions of the said Acts incorporated herewith.

6. The Town Council may in connection with and for the purposes of the gas undertaking provide fit up and maintain showrooms and offices and exhibit specimen installations machinery fittings and other apparatus appliances articles and things used in connection with the manufacture and consumption of gas or resulting from the manufacture of gas and give demonstrations of the uses to which

As to
showrooms
&c.

gas or gas residuals can be put and may appoint and pay persons for the purposes aforesaid and may by public advertisement or otherwise publish and make known any matters connected with or affecting the sale of gas or gas residuals and may subscribe or contribute to the funds of any body or company who do all or any of these things whether in connection specifically with the gas undertaking or otherwise and may do all such other acts as they may deem expedient to assist develop or promote the use of gas or gas residuals.

Power to
supply gas
fittings &c.

7.—(1) The Town Council may purchase supply sell loan or let for hire or fix repair or remove but shall not manufacture gas meters and fittings engines stoves ranges pipes and other fittings or appliances for lighting motive power heating ventilating cooking or any other purposes for which gas or gas residuals (but restricted as regards gas residuals to fittings or appliances or other things generally in use in connection with a gas undertaking) can or may be used and may provide all materials and work necessary or proper in that behalf and with respect thereto may demand and take such remuneration or rents and charges and make such terms and conditions as may be agreed upon and may enter into agreements with others to do all or any of the things referred to in this subsection upon such terms and subject to such conditions as the Town Council may think fit.

(2) Any fittings or appliances loaned or let for hire under the provisions of this section shall not be subject to pinding or distress or to the landlord's remedy for rent or be liable to be taken in execution under process of any court or proceeding in bankruptcy against the person in whose possession the same may be and notwithstanding that such fittings may be fixed or fastened to any part of the premises in which they may be situated or to the soil under any such premises they shall at all times continue to be the property of and recoverable by the Town Council Provided that such fittings or appliances are marked or impressed with a sufficient mark or brand indicating the Town Council as the actual owners thereof.

(3) Section 36 (Power to deal in gas fittings &c.) of the Order of 1915 is hereby repealed.

Service pipes
in tenements.

8.—(1) The Town Council may for the purpose of supplying gas to the occupier of any part of any building occupied in flats or separate dwellings or other premises entering by a common stair or other access and belonging to two or more owners fit up lay and maintain service pipes in such common stair or other access with branch pipes to connect with each separate flat dwelling or premises without the consent of any owner or occupier other than the owner or occupier of the flat dwelling or premises to which the branch pipe is to be connected doing as little damage as may be and making good any damage done Provided that any difference between any owner or occupier on the one hand and the Town Council on the other hand with regard to such damage shall failing agreement be determined by an arbiter to be agreed upon between the parties or failing agreement to be nominated by the sheriff on the application of either party.

(2) The provisions of this section shall apply whether such separate flat dwelling or premises has immediate access to such common stair or not.

9.—(1) The Town Council may with the consent of the owner of any building lay any pipe branch pipe or other necessary apparatus from any main or branch pipe into through or against any such building for the purpose of supplying gas to the occupier of such building and may with the like consent provide and set up any apparatus necessary for securing to such building a proper and complete supply of gas and for measuring and ascertaining the extent of the supply and may from time to time with the like consent repair replace alter discontinue or remove any such pipe branch pipe or apparatus.

Power to lay
pipes against
buildings.

(2) Section 31 (Gas pipes may be put on buildings) of the Act of 1865 is hereby repealed.

10. Except so far as is otherwise provided by statute the gas mains and pipes of the Town Council laid within any streets shall not (except in cases of emergency) be uncovered or interfered with until after the service of written notice on the Town Council at least forty-eight hours before such operations are commenced.

Notice to
Town Council
before
interfering
with mains.

11. The Town Council may in addition to their recourse against the actual consumer charge and recover from the tenant of any house who sublets his house furnished for any period not exceeding two months the amount of rates and charges for gas used and consumed and any other sums due to the Town Council in connection with the gas supply by such sub-tenant during such sub-tenancy but the Town Council shall not have any such recourse against the tenant where before the commencement of the sub-tenancy he has given notice to the Town Council of the date of the commencement of the sub-tenancy and the duration thereof.

Tenants'
liability for
sub-tenants'
gas supply.

12.—(1) Unless at the date of the demand for any such new or increased supply of gas as is hereinafter referred to the capacity of the distribution works of the Town Council is in the opinion of an arbiter appointed as hereinafter in this section provided insufficient to meet (with a reasonable margin) the requirements (as existing immediately before that date) of the consumers in the portion of the limits of supply of the Town Council for which such works have been provided (so far as such requirements could reasonably have been foreseen) the Town Council notwithstanding anything contained in any other enactment shall not be obliged to give for any purpose other than lighting or domestic use—

Relief from
obligation
to supply.

(a) a new supply of gas for the premises of any person demanding such supply at any time after the commencement of this Order; or

(b) an increased supply of gas (other than an increased supply necessitated by any reduction of the declared calorific value of the gas);

where the giving of such new or increased supply would render necessary the laying of a new main or the making (as an alternative to the laying of a new main) of any enlargement or alteration of or addition to the distribution works of the Town Council:

Provided that the foregoing provisions of this section shall not apply in any case in which the person demanding the new or increased

supply (in this section referred to as "the applicant") shall enter into a written contract with the Town Council—

- (i) to receive and pay for a supply of gas of such minimum quantity and for such minimum period as the Town Council may reasonably require; or
- (ii) to make such payment or payments to the Town Council (in addition to any payments to be made from time to time for gas supplied to the applicant) as the Town Council may reasonably require;

(according as the Town Council may in their discretion determine) in consideration of or by way of contribution towards the expenses to be incurred by the Town Council in laying such new main or making such enlargement alteration or addition as aforesaid and shall give such security for the payment of all moneys which may become due under the contract as the Town Council may reasonably demand.

(2) If any question arises under the provisions of this section between the Town Council and the applicant as to sufficiency of the distribution works of the Town Council or as to whether such new or increased supply would necessitate the laying of a new main or the making of any such enlargement alteration or addition as aforesaid or as to the reasonableness of the minimum quantity or period or of the payments (in addition to payments for gas supplied) required by the Town Council or as to the nature or amount of the security demanded by the Town Council such question shall be referred to and determined by an arbiter to be appointed (failing agreement between the Town Council and the applicant) by the Minister of Fuel and Power on the application of either party after notice in writing to the other of them and the decision of such arbiter shall be final and binding.

(3) In determining any such question as aforesaid the arbiter shall have regard to the following among other considerations (that is to say) :—

- (a) the total annual quantity of gas required by the applicant the maximum quantity required per hour and the hours of the day during which the Town Council may be called upon to supply gas to the applicant;
- (b) the capital expenditure which the Town Council would have to incur in the laying of a new main or the making of any enlargement or alteration of or addition to their distribution works as aforesaid in connection with the giving of such new or increased supply; and
- (c) how far such capital expenditure may become unproductive to the Town Council in the event of the cesser of the new or increased supply.

(4) Subject as aforesaid the provisions of the Arbitration (Scotland) Act 1894 shall apply to any arbitration under this section.

13. The Town Council may levy and recover such charges as they think fit for taking at the request of and for the convenience of any consumer at a time other than that of the periodical meter readings the reading of any gas meter fixed in any premises or the emptying of any coin box attached to such meter. Provided that such charges shall not exceed the sum of one shilling for each reading

57 & 58
Vict. c. 13.

Charges for
special
readings of
gas meters.

or emptying And provided further that a charge for emptying such coin box shall not be leviable in any case when the coin box is full and the consumer is unable on that account to obtain a supply of gas.

14. The Town Council shall not be bound to give or continue a supply of gas to any person unless such person in addition to any other statutory requirement provides if required sufficient security for the sums of money which may become due to the Town Council for such supply and the Town Council may require that such security shall be provided by way of cash deposit in accordance with the following provisions (that is to say) :—

(1) (a) The deposit to be provided for a supply of gas to any premises shall not exceed fifty per centum of the annual charge for the amount of gas estimated by the engineer of the gas undertaking as likely to be consumed in the premises.

(b) Any dispute between the Town Council and any person as to the amount of such deposit may be determined on the application of either party by the sheriff who may also determine by which of the parties the expenses of the proceedings before him shall be paid and his decision shall be final and binding on all parties :

(2) The Town Council may return any deposit to the person making the same or his legal representatives at any time they think fit :

(3) After the expiry of five years from the date of the deposit the person who has made the deposit or his legal representatives may apply to the Town Council for the return of the same and if the charges for gas which have become due to the Town Council within that time have been paid regularly the Town Council shall return the amount deposited without prejudice to their right under this section again to require a deposit to be made :

(4) The Town Council shall pay interest on every sum of ten shillings so deposited at the rate of three pounds per centum per annum for every complete six months during which such deposit remains in their hands :

(5) Where a deposit in respect of a supply of gas (whether made before or after the commencement of this Order) remains in the hands of the Town Council after the person who made the deposit has ceased to take such a supply and such person or his legal representatives cannot be found after diligent inquiry the Town Council may appropriate the amount of such deposit to the purposes of the gas undertaking Provided that in the event of such deposit being thereafter claimed by any person the Town Council may on being satisfied of his legal title pay over such deposit to such person without interest thereon or may require the claim to be established :

(6) The provisions of the Gasworks Clauses Act 1871 where inconsistent with the provisions of this section shall not apply.

Amendment of
sections 29 and
68 of Order
of 1915.

15. Notwithstanding anything contained in sections 29 (Council to fix price of gas) and 68 (Application of revenue of gas undertaking) of the Order of 1915 the said section 68 shall as from the end of the Town Council's financial year 1941-42 be and be deemed to have been amended by adding at the end of the said section the words following (that is to say) "or in aid of the occupier's portion of the consolidated rate of the burgh" and the said sections 29 and 68 of the Order of 1915 shall be read and construed accordingly :

Provided that this section shall only operate to enable the Town Council to apply the revenues of the gas undertaking in aid of the occupier's portion of the consolidated rate to the extent to which at any time the amounts applied and to be applied do not exceed the cumulo of the sums at any time imposed assessed levied and collected by way of the gas contingent guarantee rate authorised by sections 73 (Gas guarantee rate may be imposed) and 74 (Assessment and levy of rate) of the Order of 1915.

Fund for
meters and
other fittings.

16.—(1) As from the beginning of the Town Council's financial year 1942-43 the Town Council shall have and be deemed to have had power to establish a fund which shall be used by the Town Council for the purchase of meters stoves and other gas fittings to be sold supplied loaned or let on hire and there shall be and be deemed to have been transferred to the said fund from the sinking fund in respect of the gas undertaking during the said financial year the sum of three thousand pounds.

(2) There shall be set apart in each year and transferred to the said fund from and out of the rates rents charges and other revenues of the gas undertaking sums equal to six pounds per centum on the total amount expended on meters and ten pounds per centum on the total amount expended on stoves and other gas fittings sold supplied loaned or let for hire up to and including the preceding financial year but only in respect of meters and stoves and other gas fittings the cost of which has not been paid off.

(3) Subsection (5) of section 68 of the Order of 1915 is hereby repealed.

Recovery and
application of
penalties under
this Part of
Order.

17. All penalties fines and forfeitures imposed for offences against this Part of this Order or any Act relating to gas incorporated herewith may be recovered either according to the ordinary procedure before any court of summary jurisdiction or by application to the sheriff (which application shall be determined by the sheriff in a summary manner) and shall (except penalties fines and forfeitures imposed on or recovered from the Town Council) be paid to the Town Council and be by them carried to the revenue account of the gas undertaking Provided that costs or expenses except such as are recoverable along with the penalty shall not be recovered as penalties but may be recovered as civil debts and all expenses of prosecutions and convictions in so far as not paid by or recovered from the person contravening the provisions of this Part of this Order shall be paid by the Town Council and form a proper charge against the revenue account of the gas undertaking.

PART III.

BURGH PROVISIONS.

18. In the application in the Burgh of the Public Health (Scotland) Act 1897 the definition of the expression "common lodging-house" in section 3 of that Act shall notwithstanding anything contained in section 89 of that Act be read and have effect as if the words "one shilling" were substituted for the word "fourpence" occurring in that definition. Provided that the sum of one shilling hereby substituted may on the application of the Town Council and notwithstanding anything contained in the Public Health (Scotland) Act 1897 be altered or varied by the Secretary of State but so as not to exceed one shilling and sixpence.

Amending
Public Health
(Scotland)
Act 1897 as to
common
lodging-houses.
60 & 61 Vict.
c. 38.

19.—(1) Where any tree hedge or shrub overhangs any street footway or footpath so as to obstruct or interfere with the light from any public lamp or to endanger or obstruct the passage of vehicles or foot passengers or to obstruct the view of drivers of vehicles the Town Council may serve a notice on the owner of the tree hedge or shrub or on the occupier of the premises on which such tree hedge or shrub is growing requiring him within fourteen days to lop or cut the tree hedge or shrub so as to prevent such obstruction or interference or danger and in default of compliance the Town Council may themselves carry out the requisition of their notice doing no unnecessary damage and may recover the cost as a debt from the owner or occupier upon whom the notice was served.

Lopping of
over-hanging
trees
hedges and
shrubs.

(2) Any person aggrieved by any notice of the Town Council under this section may appeal to the sheriff within the aforesaid period of fourteen days provided he gives written notice of such appeal and of the grounds thereof to the clerk to the Town Council and the sheriff shall have power to make such order as he may think fit.

20. Any person who in connection with the loading or unloading of goods or articles of any description causes or permits straw paper packing material or debris from any crate or package to be thrown or laid on any street and does not immediately remove the same or in any way litters any street shall be guilty of an offence and shall be liable to a penalty not exceeding forty shillings.

Loading or
unloading of
goods on
street.

21. In the application in the burgh of the House Letting and Rating (Scotland) Act 1911 the expression "small dwelling-house" shall for the purposes of section 7 of that Act and notwithstanding anything contained in section 1 of that Act mean a dwelling-house in the burgh entered in the valuation roll at a yearly rent or value of twenty-six pounds five shillings or under but shall not include any dwelling-house occupied by the owner thereof or in which the owner resides or any dwelling-house used as an inn or hotel or any dwelling-house let along with land for agricultural pastoral or horticultural purposes or any dwelling-house let in conjunction with a shop workshop stable or byre.

Amendment of
House Letting
and Rating
(Scotland)
Act 1911.

Control of
vacant
building areas
and derelict
buildings.

22.—(1) For the protection of the amenity of the burgh and for preventing the disfigurement of the streets by the unsightly condition of adjacent lands and buildings the Town Council may make byelaws for regulating the manner in which vacant building sites fronting or abutting on streets and unoccupied or ruinous buildings in streets shall be kept. Provided that byelaws made under the authority of this section shall not prevent or interfere with the erection of hoardings for advertisements on any vacant building site or building or the exhibition on such site or building of any advertisement as defined by the Advertisements Regulation Acts 1907 and 1925.

(2) Byelaws made under the authority of this section shall not apply to any such site or to any building in a street unless at least one-half of the frontage of one side of the street is built upon.

(3) Byelaws made under the powers of this section shall not take effect unless and until they have been confirmed by the Secretary of State who may allow modify or disallow the same as he may think fit.

(4) The owner or the occupier of a building site or building who fails to comply with the byelaws made under the authority of this section shall be guilty of an offence and shall be liable to a penalty not exceeding five pounds for each site or building in respect of which he fails to comply and to a daily penalty not exceeding forty shillings.

(5) Not less than one month before application is made by the Town Council to the Secretary of State for confirmation of a byelaw under this section notice of the intended application shall be published in one or more newspapers circulating in the burgh and for a period of not less than one month before making such application a copy of the proposed byelaws shall be kept at the office of the clerk to the Town Council and shall be available for inspection during office hours without charge and the said clerk shall furnish a copy of the proposed byelaws to any ratepayer on application.

(6) Any person who objects to any proposed byelaw or any proposed alteration of a byelaw may during the last-mentioned period of one month send notice in writing of his objection to the Secretary of State and a copy of such objection shall at the same time be sent to the clerk to the Town Council and the Secretary of State shall consider the objection and any answers by the Town Council thereto before confirming the byelaw.

Nuisance
by dogs.

23. Any person in charge of a dog in any street and having the dog on a lead who allows or permits such dog to deposit its excrement upon a footway shall be guilty of an offence and for every such offence shall be liable to a penalty not exceeding forty shillings.

Recovery of
penalties.

24. Any penalty under this Part of this Order or under any byelaws or regulations made under this Part of this Order unless otherwise specially provided for may be recovered in manner provided by the Summary Jurisdiction (Scotland) Acts.

25. Nothing in this Order shall diminish or affect the rights powers and privileges of the Strathclyde Electricity Supply Company Limited and the Clyde Valley Electrical Power Company.

For protection of
Strathclyde
Electricity Supply
Company Limited
and Clyde
Valley Electrical
Power Company.

26. The costs charges and expenses of and incident to the preparing for applying for obtaining and confirming this Order and otherwise in relation thereto shall be paid by the Town Council out of the revenues of the gas undertaking.

Costs of Order.

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