



City of Dundee District Council Order Confirmation Act 1990

CHAPTER xxviii

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City of Dundee District Council Order
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SCHEDULE

City of Dundee District Council

Provisional Order to re-enact with amendments certain local statutory provisions in force within the City of Dundee District; to confer further powers on the City of Dundee District Council; and for other purposes.

1973 c. 65.

Whereas the City of Dundee District Council (hereinafter referred to as "the Council") are vested with all the functions of a district council by virtue of section 2 of the Local Government (Scotland) Act 1973 (hereinafter referred to as "the Act of 1973") for the area of the City of Dundee District as the said area is described in column 3 of Part III of Schedule 1 to the said Act:

And whereas in pursuance of the Act of 1973 certain powers and functions which, before the coming into force of the said Act, were exercisable by and vested in the former Corporation of the City and Royal Burgh of Dundee by virtue of the Dundee Corporation Orders 1957 to 1973 are now exercisable by and vested in the Council:

And whereas the said powers and functions include certain powers and functions in relation to Belmont Estate, which is vested in and managed by the Council as trustees of a disposition executed in the year 1918 by the late Mrs. Emma Grace Caird or Marryat, and Camperdown Estate, which is vested in and managed by the Council as trustees of the Sir James Caird Land Acquisition Fund:

And whereas in pursuance of section 225 of the Act of 1973 and Orders made thereunder the provisions of the Dundee Corporation Orders 1957 to 1973 would cease to have effect at the end of 1990:

And whereas it is expedient that certain provisions of the said Orders should be re-enacted with amendments and applied to the City of Dundee District:

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

1936 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 said Act the Secretary of State orders as follows:—

PART I

PRELIMINARY

Short title.

1. This Order may be cited as the City of Dundee District Council Order 1990.

ELIZABETH II



1990 CHAPTER xxviii

An Act to confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936, relating to City
of Dundee District Council. [1st November 1990]

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: 1936 c. 52.

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

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

Confirmation
of Order in
Schedule.

2. This Act may be cited as the City of Dundee District Council Order
Confirmation Act 1990.

Short title.

2. In this Order the following words and expressions have the meanings hereby respectively assigned to them, that is to say: —

PART I
—cont.

- “Act of 1982” means the Local Government and Planning (Scotland) Act 1982;
- “Camperdown Estate” means that portion of the estate commonly known as “the Camperdown Estate” purchased by the former Corporation of the City and Royal Burgh of Dundee out of funds derived by them from the Sir James Caird Land Acquisition Fund;
- “Council” means the Council of the district;
- “district” means the City of Dundee district;
- “existing” means existing at the commencement of this Order;
- “general fund” means the general fund of the Council maintained by them in pursuance of the Local Government (Scotland) Act 1973;
- “Order of 1957” means the Dundee Corporation (Consolidated Powers) Order 1957;
- “the parks” means Belmont Estate and Camperdown Estate or either of the said estates as the case may be;
- “repealed Acts” means the provisions of the Acts and Orders repealed by the Order of 1957 or which were repealed by any local Act or Order applicable to the City and Royal Burgh of Dundee before the commencement of the Order of 1957;
- “Sir James Caird Land Acquisition Fund” means the fund constituted by the will dated 11th June 1919 and relative codicils of the late Mrs. Emma Grace Caird or Marryat to be known as the Sir James Caird Land Acquisition Fund the income of which was by the said will directed to be utilised in the acquisition of land in or around the City and Royal Burgh of Dundee in the interest and for the benefit of the community.

Interpretation.

1982 c. 43.

1973 c. 65.

1957 c. iv
(6 & 7 Eliz. 2).

PART II

BELMONT AND CAMPERDOWN ESTATES

3. Subject to the provisions of this Part of this Order Belmont Estate shall continue to be vested in the Council and the Council may exercise with respect to Belmont Estate the powers conferred on them by this Part of this Order.

Vesting of
Belmont Estate

4. —(1) The Council shall be empowered to take all such measures as may be necessary to enable the estate known as Belmont Estate (including the mansion house and other buildings therein held by them in connection therewith) or any part thereof to be used for the benefit of the community of the district and the areas surrounding the district in such ways as will commend themselves to the Council and they may fix such charges as may be necessary for the conduct of the said estate.

Powers as to
Belmont Estate
and mansion

(2) The Council may instead of themselves managing the said estate or any part thereof arrange for the management thereof by any suitable society or institution.

(3) All expenses of keeping the said estate in proper order and repair and altering, extending or improving the said mansion house and other buildings and of using the said estate for the benefit of the community as aforesaid and for defraying the other expenses connected therewith including the payment of interest and repayment of contributions on borrowed money in so far as the said expenses are not met by revenue derived from the said estate may be met and defrayed out of the general fund.

PART II
—cont.

Power to appropriate any part of parks.
Byelaws as to Belmont Estate.

5. The Council may from time to time with the consent of the Secretary of State appropriate for any statutory purpose any part of the parks.

Vesting of Camperdown Estate.

6. The powers of the Council to make byelaws pursuant to section 18 of the Act of 1982 shall apply and extend to Belmont Estate as if that estate were a facility mentioned in section 15 or 16 of that Act and notwithstanding that the said estate is situate outwith the district.

As to capital expenditure on Camperdown Estate.

7. Subject to the provisions of this Part of this Order Camperdown Estate shall continue to be vested in the Council and the Council may exercise with respect to Camperdown Estate the powers conferred on them by this Part of this Order.

Part of Camperdown Estate to be public park.

8. The Council may defray out of the income of the Sir James Caird Land Acquisition Fund any expenditure of a capital nature incurred by them in respect of Camperdown Estate.

As to expenditure on Camperdown Estate.

9. That part of Camperdown Estate which is known as "Camperdown Park" (being the part of Camperdown Estate edged green on the plan deposited with the town clerk of the former City and Royal Burgh of Dundee in pursuance of the repealed Acts) shall subject to the provisions of this Part of this Order be held and maintained by the Council as a public park and a place for public resort.

10. —(1) The Council shall in their published accounts under charities and trust funds keep a separate account and balance sheet in respect of Camperdown Estate so as to show the financial position of Camperdown Estate.

(2) Such accounts shall distinguish capital from revenue and as to revenue shall detail on the one side all income and on the other side all expenditure.

(3) In so far as the said expenditure is not met by income from Camperdown Estate the said expenditure may be defrayed out of the general fund.

(4) If the income received by the Council from Camperdown Estate exceeds in any year the amount of the expenditure incurred by the Council in that year in respect of Camperdown Estate there shall be contributed to the general fund in that year in respect of expenditure of Camperdown Estate defrayed out of the general fund in pursuance of this section in preceding years an amount equal to the amount by which such income exceeds such expenditure in that year so however that the aggregate of the amounts so contributed to the general fund shall not in any circumstances exceed the aggregate amount of expenditure defrayed out of the general fund in preceding years.

Powers as to parks.

11. Subject to the provisions of this Part of this Order the Council shall in addition to the powers conferred on them by sections 14 to 19 of the Act of 1982 and any other enactment have and may exercise all or any of the following powers in connection with the parks (that is to say): —

- (1) They may provide, erect, maintain, manage and carry on in the parks or authorise other persons to provide, erect, maintain and carry on therein conservatories, propagating houses, winter gardens, botanical gardens, zoological collections, aviaries, fish ponds, museums and collections of natural history or science or art and (subject to the provisions of the Wildlife and Countryside

Act 1981) for the purposes thereof acquire by purchase or otherwise, sell, transfer, lend or exchange or otherwise dispose of botanical, horticultural, zoological, ornithological, scientific and artistic specimens, objects and collections including appropriate trees, shrubs, plants and livestock.

PART II
—cont.

1981 c. 69.

- (2) They may set apart any portion of the parks for use as a caravan site in terms of section 24 of the Caravan Sites and Control of Development Act 1960.

1960 c. 62.

- (3) They may utilise or let such portions of the parks as in their opinion are not for the time being required for use and enjoyment as parks by the public for such periods and subject to such terms and conditions as they think fit and proper for the purposes of agricultural or horticultural operations or similar purposes.

- (4) They may —

- (a) from time to time cut or fell any timber on the parks;
- (b) sell, utilise or otherwise dispose of any such timber;
- (c) make such arrangements in connection therewith as they think fit;
- (d) afforest any part of the parks or replant any area therein from which timber has been cut or felled; and
- (e) establish tree nurseries in the parks.

- (5) They may if they think fit provide in connection with the parks such special facilities as they consider expedient for the promotion or furtherance of botanical, agricultural and horticultural research and experiment.

12.—(1) If the Council dispose of any part of Belmont Estate, the proceeds of any such disposal and any other receipts of a capital nature arising in connection with Belmont Estate shall be applied towards capital expenditure in connection with Belmont Estate including the improvement of Belmont Estate and until such time as the moneys are so applied the same shall be separately funded and the income derived from the investments of the fund shall be included in and form part of the ordinary income of Belmont Estate.

Disposal of
Belmont Estate
and
Camperdown
Estate.

(2) If the Council dispose of any part of Camperdown Estate, the proceeds of any such disposal and any other receipts of a capital nature arising in connection with Camperdown Estate shall be applied towards capital expenditure in connection with Camperdown Estate including the improvement of Camperdown Estate and until such time as the moneys are so applied the same shall be separately funded and the income derived from the investments of the fund shall be included in and form part of the ordinary income of Camperdown Estate.

13. In addition to the powers conferred on the Council by the preceding provisions of this Part of this Order the Council shall have in relation to the parks all the powers conferred, and duties imposed, upon them as a local authority by statute as if they held the parks in their capacity as local authority.

Local
government
powers and
duties to apply
to parks.

14. The use of any road, drive, footpath, track or walk in the parks shall not create or confer upon any person or be deemed to create or confer upon any person any servitude or right of way relative to such road, drive, footpath, track or walk.

Saving as to use
of roads, etc.,
in parks.

PART III

MISCELLANEOUS

Saving for trust
funds relating
to parks.

15. All existing trust funds held by or vested in the Council for the purpose of acquiring ground for parks or purchasing equipment in connection with parks or maintaining in good order any parks and for defraying other necessary expenses in connection therewith shall continue to be applied by the Council for such purposes.

Insurance fund.

16.—(1) The Council may if they think fit continue to maintain the insurance fund maintained by them in pursuance of the Order of 1957 (in this section called "the insurance fund") for the purpose of providing a sum of money which shall be available for making good all losses, damages, costs and expenses to which the Council may be subjected in consequence of the whole or any part of all or any of the following risks (that is to say):—

- (a) risk of fire in respect of buildings, works, premises and the contents thereof and other property whether belonging to or on loan to or under the care, custody or control of the Council; and
- (b) risks under the common law or any enactment or otherwise in respect of accidents to the officers, servants or workmen of the Council or to third parties.

(2) The provisions of this section shall not prevent the Council from insuring in one or more insurance offices of good repute against the whole or any part of the risks referred to in subsection (1) above.

(3) In each year the Council shall pay into the insurance fund either—

- (a) such a sum as shall in their opinion be equal to the aggregate amount of the premiums which would be payable if the Council fully insured in some insurance office of good repute against the several risks for which the insurance fund is intended to provide; or
- (b) if the Council partly insure in some insurance office of good repute against the whole or any part of the several risks for which the insurance fund is intended to provide such sum as will together with the premiums paid for the last-mentioned insurance be equal to the aggregate amount aforesaid.

(4) When the insurance fund amounts to £2,000,000 the Council may if they think fit discontinue the yearly payments to the fund but if the fund is at any time reduced below £2,000,000 the Council shall recommence and continue the yearly payments to that fund in accordance with subsection (3) of this section until the fund is restored to the sum of £2,000,000.

(5) The Council shall provide the yearly payments aforesaid by contributions from the general fund and any of the undertakings of the Council and the common good and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking or department of the Council which if the risks were insured against in an insurance office would be properly chargeable with the payment of the premiums of such insurance.

(6) Except so far as the insurance fund and the proceeds of sale of investments in which that fund is invested may be required to meet losses, damages, costs and expenses in consequence of risks for which the fund is intended to provide all moneys for the time being standing to the credit of the fund shall (subject to the provisions of this Order) be invested and the interest and annual proceeds arising from those investments shall be invested and accumulated until the fund amounts to the sum of £2,000,000 and when and so long as the fund amounts to or exceeds that sum the interest and annual proceeds of the investments may be carried to the credit of the general fund.

(7) (a) The insurance fund shall be applied to meet any losses, damages, costs or expenses sustained by the Council in consequence of the risks for which it is intended to provide in the order of the dates on which such losses, damages, costs or expenses become ascertained and if at any time the insurance fund shall be insufficient to make good any such losses, damages, costs or expenses the Council may meet the deficiency from the general fund or may in accordance with the Council's borrowing powers borrow at interest such sums of money as will be necessary to make up the deficiency.

(b) The amounts of the annual charges in respect of interest on and repayment of principal of any sums so borrowed and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the general fund.

(8) In this section "insurance office" means an insurance company or an underwriter being a member of an association of underwriters.

17.—(1) The Council may if they think fit with the consent of the Secretary of State set aside any part of any park belonging to them as an aerodrome or landing ground for aircraft with suitable buildings, offices, equipment and apparatus and may lease or sell any part of any such park for such purposes.

Power to
provide landing
ground for
aircraft.

(2) Nothing in this section shall be in derogation of the Civil Aviation Act 1949 or any other enactment relating to aircraft.

1949 c. 67.

(3) Nothing in this Order shall affect or derogate from any subsisting consent, licence, authority, agreement, permission, approval or other thing affecting or relating to the existing aerodrome or landing ground at Riverside Park in the district whether obtained, granted or done under section 269 of the Order of 1957 or otherwise and without prejudice to the foregoing generality nothing in this Order shall affect or derogate from the minute of agreement between the Tayside Regional Council and the Council dated 10th and 16th October, both in the year 1978 whereby it was agreed (inter alia) that upon the terms set out in the said minute of agreement the Council should allow the said Regional Council to occupy and use for the purposes of a commercial airport that part of the said Riverside Park therein described.

18. Notwithstanding anything contained in any enactment it shall not be necessary to sign minutes of meetings of committees and sub-committees of the Council which have been submitted to the Council and such minutes shall be deemed to form part of the minutes of the meeting of the Council at which they were submitted.

Authentication
of minutes of
committees of
Council.

19.—(1) the following provisions of the Order of 1957 are hereby repealed:—

Repeals.

- section 15 (Authentication of minutes of Committees of Corporation);
- section 269 (Power to provide landing ground for aircraft);
- Part XIII (Camperdown Estate);
- Part XIV (Belmont Estate); and
- section 518 (Insurance fund).

(2) The following provisions of the Order of 1957 shall cease to have effect in relation to Belmont Estate and Camperdown Estate:—

- section 263 (Powers as to parks);
- section 264 (Byelaws as to parks);
- section 265 (Powers to utilise or let portions of parks for certain purposes);
- section 267 (Power to sell timber on and afforest parks);
- section 268 (Facilities for botanical research etc.);

PART III
—cont.

- section 270 (As to temporary use of parks for other purposes);
 section 271 (As to playing of golf and other games);
 section 272 (As to danger of injury from model aeroplanes etc.);
 section 275 (As to parks outside city);
 section 276 (Saving for deeds of gift etc. relating to parks); and
 section 277 (Saving as to use of roads etc. in parks).

Cesser.
 S.I. 1989/2223
 (S. 146).

20. As from the commencement of this Order, the Local Statutory Provisions (Postponement of Repeal) (Scotland) Order 1989 shall cease to have effect in so far as it applies to the district.

Costs of Order.

21. The costs, charges and expenses of and incidental to the preparing, obtaining and confirming of this Order shall be paid by the Council out of the general fund in such manner as the Council may determine.

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