



Edinburgh Merchant Company Order Confirmation 1996

1996 CHAPTER xi

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Edinburgh Merchant Company. [18th December 1996]

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:

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 Confirmation of Order in Schedule.

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

2 Short title.

This Act may be cited as the Edinburgh Merchant Company Order Confirmation Act 1996.

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SCHEDULE

EDINBURGH MERCHANT COMPANY

Provisional Order to continue in being the Company of Merchants of the City of Edinburgh and to consolidate with amendments the Acts relating to the Company and to the widows' fund and endowments trust of the Company; to reconstitute and confer powers on the Master's court of the Company and to vest in the Master's court the Alexander Darling Silk Mercer's fund and to make provision as to the management and administration thereof; to make provision for the dissolution of the widows' fund; to make provision as to the vesting in the said endowments trust of the Russell and Foster Endowment and to confer powers on the endowments trust; and for other purposes.

WHEREAS—

- (1) The Company of Merchants of the City of Edinburgh (hereinafter referred to as “the Company”) was incorporated by royal charter in 1681, ratified by an Act of the Parliament of Scotland in 1693 and further provision was made as to the regulation of the affairs of the Company by a royal charter granted in 1777:
- (2) By the Edinburgh Merchant Company Act 1898 (hereinafter referred to as “the Act of 1898”) the Company was reincorporated and the powers of the Company were amended and enlarged and further provision was made for the regulation, management and administration of its affairs and of the widows' fund established by the Company (hereinafter referred to as “the widows' fund”) and of certain charitable endowments administered by the Company:
- (3) By the Edinburgh Merchant Company Endowments Orders 1909 and 1952 further provision was made as to the charitable endowments administered by the Company:
- (4) By the Edinburgh Merchant Company Widows' Fund (Amendment) Order 1947 the provisions of the Act of 1898 relative to the said widows' fund were amended:
- (5) By the Edinburgh Merchant Company Order Confirmation Act 1960 (hereinafter referred to as “the Act of 1960”) the Company was reincorporated as a body corporate under the same name and provisions of the Act of 1898; the said Orders of 1909, 1947 and 1952 were consolidated with certain amendments, modifications and additions; further provisions were made with respect to the constituting of the Master, treasurer and assistants of the Company as the Master's court of the Company and as to the functions of the said Master's court and with respect to the regulation, management and administration of the affairs of the Company and of the widows' fund and charitable endowments and provision was made whereby the benefits of the widows' fund were extended to new classes of beneficiaries including the orphans of contributors to the widows' fund:
- (6) The Alexander Darling Silk Mercer's Fund was vested by the Act of 1960 in the Master's court of the Company and powers contained in the Act of 1960 were conferred on the said Master's court:
- (7) The Merchant Company Charities Board, as incorporated by the said Order of 1909, was reincorporated by the Act of 1960 as a corporate body under the name of “The Merchant Company Endowments Trust” (hereinafter referred to as “the endowments trust”):
- (8) The property known as the Sir William Fraser Homes was by the Act of 1960 transferred to and vested in the endowments trust and is held and administered by

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the endowments trust as part of the endowments trust fund vested in the endowments trust:

- (9) By his will and relative codicil the late Henry Walker Russell bequeathed property to be held and administered by the Merchant Company Charities Board as a separate fund to be known as “The Russell and Foster Endowment” for the purpose of paying annuities or pensions in accordance with the provisions of his said will:
- (10) By the Act of 1960 “The Russell and Foster Endowment” was transferred to the endowments trust:
- (11) It is expedient that the Company continue in being as a body corporate under the same name; that the provisions of the Act of 1960 be re-enacted with certain amendments, modifications and additions; that further provisions with respect to the categories of membership and the regulation, management and administration of the affairs of the Company should be enacted; that provision should be made to close the widows' fund and to dissolve the widows' fund:
- (12) It is expedient to permit a variation of the terms of the Fraser Trust, the endowment trust and the Russell and Foster Endowment by means of a Petition to the Court of Session in Edinburgh:
- (13) It is expedient that the other provisions of this Order shall be enacted:
- (14) 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 of 1936, the Secretary of State orders as follows:—

PART I

PRELIMINARY

Short title

- 1 This Order may be cited as the Edinburgh Merchant Company Order 1996.

Interpretation

- 2 In this Order, except where the context otherwise requires—
 - “Act of 1960” means the Edinburgh Merchant Company Order Confirmation Act 1960;
 - “actuary” means the person holding the appointment of actuary of the Company for the time being;
 - “annual meeting” means the stated general meeting of the Company to be held annually on the second Thursday of November or such other date as the Company may prescribe pursuant to section 22 (Stated general meetings of Company) of this Order;
 - “annual meeting of the contributors” means the stated general meeting of the contributors to be held annually on the first Tuesday of October or such other date as the contributors may prescribe pursuant to section 43 (Stated general meetings of contributors) of this Order;

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“assistant” means a person elected as an assistant pursuant to section 10 (Election of Master, treasurer and assistants) of this Order and for the time being holding the office of assistant and “senior assistant” means the assistant whose name stands highest in the list of assistants;

“commencement of this Order” means the date of the passing of the Act confirming this Order;

“Company” means the Company of Merchants of the City of Edinburgh;

“contributors” means the contributors to the widows' fund;

“Darling fund” means the fund constituted by the Darling trust disposition and settlement;

“Darling trust disposition and settlement” means the trust disposition and settlement of Alexander Darling LL.D. dated 31st August 1934, together with codicils dated 3rd June and 9th September 1936;

“Darling trustees” means the trustees for the time being of the Darling trust disposition and settlement;

“education board” means the Merchant Company Education Board constituted by the Edinburgh Merchant Company Educational Endowments Scheme 1960;

“endowments trust” means the Merchant Company Endowments Trust;

“endowments trust fund” means the fund vested in the endowments trust;

“existing” means existing immediately before the commencement of this Order;

“existing charters” means the royal charter of 1681 incorporating the Company and ratified by an Act of the Parliament of Scotland in 1693 and the royal charter of 1777;

“general fund” means the accumulated funds of the Company for the time being;

“joint committee” means the Merchant Company Joint Committee;

“Master’s court” means the Master’s court constituted by this Order;

“Master” means the Master of the Company for the time being;

“members” means the members of the Company for the time being and includes honorary members;

“old Master” means the person who last retired from the office of Master;

“registered auditor” means any person authorised by Part II of the Companies Act 1989 (which deals with the eligibility of persons for appointment as company auditors) to act as a company auditor;

“repealed Acts” means the Acts repealed by this Order;

“rules” means rules made by the Company or the contributors pursuant to the provisions of this Order;

“secretary” means the secretary of the Company for the time being;

“treasurer” means the treasurer of the Company for the time being;

“trustees” means the trustees of the widows' fund for the time being and “senior elected trustee” means the trustee whose name stands highest in the list of trustees elected in pursuance of section 53 (Constitution of trustees of widows' fund) of this Order;

“widow” includes widower;

“widows' fund” means the fund referred to in section 41 (Maintenance of widows' fund) of this Order.

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Confirmation of existing charters and repeal of Acts

- 3 (1) The existing charters, as amended by the provisions of this Order, are hereby ratified and confirmed.
- (2) The following Acts are hereby repealed:—
- (a) the Edinburgh Merchant Company Order Confirmation Act 1960; and
 - (b) the Edinburgh Merchant Company Order Confirmation Act 1976.

PART II

PROVISIONS AS TO MERCHANT COMPANY

A. Powers of Company

Powers of Company

- 4 The members shall continue in being under the name of “The Company of Merchants of the City of Edinburgh”, as a body corporate with perpetual succession and a common seal; and with power to purchase, acquire, hold, sell, lease and dispose of lands and other property heritable, moveable, real and personal, and to sue and be sued, and with all other rights, powers and privileges of a body corporate.

B. Election of members of Company

Qualifications for membership of Company

- 5 (1) Subject to the provisions of this Order, the persons eligible for election as members are the following:—
- (a) merchants, bankers or traders who carry on or who have carried on business on their own account;
 - (b) persons who, as principals or agents, individually or in partnership with others, carry on or have carried on business on their own account in any department or description of commerce, trade, manufacture or handicraft, or as architects, engineers or surveyors;
 - (c) managing directors, managers and principal officers of banks (including managers of branch banks), insurance or other companies having their head office in the United Kingdom;
 - (d) such additional classes of persons as the Company may from time to time approve:

Provided that a person shall not be elected as a member of the Company (other than an honorary member) unless he is a guild brother of the City of Edinburgh and either—

- (i) carries on or has carried on business on his own account or exercises or has exercised his office, within the City of Edinburgh or within 20 miles from Her Majesty’s General Register House, Edinburgh or such other distance therefrom as the Company may from time to time determine; or