



CHAPTER xliii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Acts 1899 and 1933 relating to the London Midland and Scottish Railway. A.D. 1935.

[10th July 1935.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by one of His Majesty's Principal Secretaries of State under the provisions of the Private Legislation Procedure (Scotland) Acts 1899 and 1933 as read with the Secretaries of State Act 1926 and it is requisite that the said Order should be confirmed by Parliament :

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.

2. This Act may be cited as the London Midland and Scottish Railway Order Confirmation Act 1935.

A.D. 1935.

SCHEDULE.

LONDON MIDLAND AND SCOTTISH RAILWAY.

Provisional Order to extend the time for the completion of certain authorised railways and works and for the purchase of lands by the London Midland and Scottish Railway Company and to make provision as to canal charges and for other purposes.

WHEREAS it is expedient that the time now limited for the completion of certain railways and works and the compulsory purchase of certain lands by the London Midland and Scottish Railway Company (in this Order referred to as "the Company") should be extended :

And whereas the maximum tolls and charges on the canal belonging to the Company in Scotland are prescribed in an order of the Board of Trade made under the Railway and Canal Traffic Act 1888 and confirmed by the Canal Tolls and Charges No. 9 (Canals of the Caledonian and North British Railway Companies) Order Confirmation Act 1894 :

And whereas by direction of the Minister of Transport given in pursuance of the powers in that behalf contained in the Ministry of Transport Act 1919 the tolls and charges in operation on the thirty-first day of July nineteen hundred and twenty were authorised to be increased by one hundred per centum and the tolls and charges as so increased have been continued in force under the provisions of the Canals (Continuance of Charging Powers) Acts 1922 and 1924 and various Expiring Laws Continuance Acts until the thirty-first day of December nineteen hundred and thirty-five and it is expedient that permanent provision should be made for regulating such tolls and charges in accordance with the provisions of this Order :

And whereas it is expedient that the level crossing of the Dundee and Arbroath Joint Railway of the Company and the London and North Eastern Railway Company known as Dundee East No. 2 level crossing in the city and royal burgh of Dundee should be stopped up :

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And whereas it is expedient that subsection (15) of section 8 of the Caledonian Railway (General Powers) Act 1899 (which relates to the paving of Gordon Street and Hope Street Glasgow) should be repealed : A.D. 1935.
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And whereas it is expedient that the other powers contained in this Order should be conferred upon the Company :

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Acts 1899 and 1933 :

Now therefore in pursuance of the powers contained in the last-mentioned Acts as read with the Secretaries of State Act 1926 the Secretary of State orders as follows :—

1. This Order may be cited for all purposes as the Short title.
London Midland and Scottish Railway Order 1935.

2. The Lands Clauses Acts and Part II (relating to extension of time) of the Railways Clauses Act 1863 as amended by any subsequent Act are incorporated with and form part of this Order. Incorporation of Acts.

3. The period now limited by the *London Midland and Scottish Railway Order 1932* for the completion of Railways Nos. 1 2 and 3 authorised by section 4 of the *Highland Railway (Additional Powers) Act 1897* is hereby further extended until the first day of October one thousand nine hundred and thirty-eight and on the expiration of that period those powers shall cease except for so much of those railways as shall then have been completed. Extending period for completion of railways authorised by Highland Railway (Additional Powers) Act 1897.

4. The periods now limited by the *London Midland and Scottish Railway Order 1932* for the compulsory purchase of the lands in this section referred to are hereby extended until the first day of October one thousand nine hundred and thirty-eight but on that date the powers for such compulsory purchase shall cease except so far as such powers shall then have been exercised (that is to say) :— Extending periods for compulsory purchase of certain lands.

- (a) Lands authorised to be acquired by section 5 of the *Caledonian Railway Order 1910* and therein numbered and described (1) and (2) in the parish of Govan and city and royal burgh of Glasgow (3) in the parish of Rutherglen and royal burgh

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of Rutherglen and (4) in the parish of Rutherglen;

(b) Lands authorised to be acquired by section 5 of the Caledonian Railway Order 1913 and therein numbered and described (1) in the parish of Kirkpatrick Juxta;

(c) Lands authorised to be acquired by section 4 of the London Midland and Scottish Railway Order 1924 and therein numbered and described (3) in the parish of Glenbervie.

Canal
tolls and
charges.

5.—(1) The canal to which this section applies is the Forth and Clyde Navigation (including the Monkland Canal) and is hereinafter referred to as “the canal.”

(2) In this section—

“the Order” means the Order of the Board of Trade under the Railway and Canal Traffic Act 1888 confirmed by the Canal Tolls and Charges No. 9 (Canals of the Caledonian and North British Railway Companies) Order Confirmation Act 1894;

“the Minister” means the Minister of Transport;

“authorised tolls” means the tolls and charges which the Company are for the time being authorised to levy in pursuance of this Order in respect of the canal.

(3) (a) On and after the first day of January one thousand nine hundred and thirty-six and unless and until the tolls and charges by this section authorised are revised by the Minister under this section the tolls and charges leviable by the Company in respect of the canal shall be the maximum tolls and charges and the minimum toll per boat and toll for empty boat specified in the schedule to the Order increased by an amount equal to sixty per centum of the respective amounts thereof authorised by the Order and the Order shall be read and have effect accordingly Provided that if any increased toll or charge made in pursuance of this section includes a fraction of one penny the fraction if less than one halfpenny shall not be charged or if the fraction amounts to one halfpenny but is less than one penny it shall be charged as one penny.

(b) As from the thirty-first day of December one thousand nine hundred and thirty-five the directions

of the Minister given in pursuance of section 3 of the Ministry of Transport Act 1919 with respect to the tolls and charges to be made on the canal shall cease to have effect. A.D. 1935.
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(4) If it is represented by application in writing to the Minister—

(a) by any chamber of commerce or shipping or any representative body of traders or any person who in the opinion of the Minister is a proper person for the purpose; or

(b) by the Company;

that in the circumstances then existing the authorised tolls or any of them should be revised the Minister if he thinks fit may make an order revising the authorised tolls referred to in the application or any of them and may fix the date as from which such order shall take effect and thenceforth such order shall remain in force until the same expires or is revoked or modified by a further order of the Minister made in pursuance of this section.

(5) An application made to the Minister under this section shall be accompanied by such information and particulars as the Minister may consider relevant certified in such manner as he may require and the Minister and the body or persons holding an inquiry for the purposes of this section may call for such information documents and accounts as they may consider relevant and may hear such witnesses as they shall think fit and shall have power to take evidence on oath and for that purpose may administer oaths.

(6) Where upon an application for revision of authorised tolls or an authorised toll an order has been made or the Minister has decided not to make an order no further application for a revision of the tolls or toll to which the application related shall be made within twelve months from the date of such order or decision as the case may be.

(7) Before making an order under this section the Minister shall cause an inquiry to be held with reference thereto in pursuance of Part I of the Board of Trade Arbitrations &c. Act 1874 which shall apply—

(a) as if the Minister were referred to therein in lieu of the Board of Trade;

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(b) as if the person or persons duly authorised to hold any inquiry thereunder were the rates advisory committee constituted under the Ministry of Transport Act 1919 or any sub-committee thereof to which the said advisory committee may under section 2 of the Harbours Docks and Piers (Temporary Increase of Charges) Act 1920 have delegated their powers or in the event of the said advisory committee ceasing to exist some persons with similar qualifications to be appointed for the purpose by an order of the Minister under section 2 of the said Act of 1874; and

(c) as if in section 4 of the said Act of 1874 the words “under the seal of the Minister of Transport” were substituted for the words “by writing under the hand of the President or of one of the secretaries of the Board”:

Provided that in cases where no objection has been taken to the application or where any objection which has been made has either been withdrawn or appears to the Minister to be of a trivial nature the Minister may if he thinks fit dispense with such inquiry.

Stopping up
level
crossing at
Dundee.

6.—(1) So soon as the proposed new bridge at Rood-yards over the Dundee and Arbroath Joint Railway belonging to the Company and the London and North Eastern Railway Company (hereinafter in this section called “the companies”) has been opened for traffic the companies may stop up and discontinue the level crossing at the east end of Camperdown Dock and known as Dundee East No. 2 level crossing over the said railway in the city and royal burgh of Dundee and thereupon all rights of way or servitudes in over or across the same shall be extinguished.

(2) The provisions of article 6 of the agreement dated the twentieth day of November one thousand nine hundred and six made between the trustees of the Harbour of Dundee of the first part and the Caledonian Railway Company and the North British Railway Company of the second part set forth in the Third Schedule to the Caledonian Railway Order 1907 so far as they relate to the said level crossing shall no longer apply or have effect.

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7. Subsection (15) of section 8 (For the protection of the corporation of Glasgow) of the Caledonian Railway (General Powers) Act 1899 is hereby repealed.

Repeal of section 8 (15) of the Caledonian Railway (General Powers) Act 1899.

8.—(1) The provisions of section 54 (Powers as to building on or over lands) of the London Midland and Scottish Railway Act 1924 shall extend and apply to any lands in Scotland which may be acquired or held by the Company under the powers of this Order.

Application of certain sections of London Midland and Scottish Railway Act 1924 and London Midland and Scottish Railway Order 1933.

(2) The provisions of section 7 (Power to sell &c. or hold land) of the London Midland and Scottish Railway Order 1933 shall extend and apply to any land in Scotland which may be acquired or held by the Company under the powers of this Order.

9. The Company may apply towards the purposes of this Order to which capital is properly applicable any capital or funds belonging to or authorised to be raised by them which may not be required for the purposes for which the same were authorised to be raised or directed to be applied.

Application of funds of Company.

10. Nothing in this Order contained shall exempt the Company from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies passed before or after the passing of the Act confirming this Order or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised to be taken by the Company.

Provision as to general Railway Acts.

11. All costs charges and expenses of and incident to the preparing for obtaining and confirming this Order or otherwise in relation thereto shall be paid by the Company.

Costs of Order.

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