ELIZABETH II



1990 CHAPTER x

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to British Railways. [19th March 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:—

Confirmation of Order in Schedule.

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

Short title.

2. This Act may be cited as the British Railways Order Confirmation Act 1990.

SCHEDULE

BRITISH RAILWAYS

Provisional Order to empower the British Railways Board to construct a work and to purchase or use land; to confer further powers on the Board; and for other purposes.

WHEREAS—

1962 c. 46.

(1) By the Transport Act 1962 the British Railways Board (hereinafter referred to as "the Board") were established:

(2) It is the duty of the Board under the said Act of 1962 (inter alia) to provide railway services in Great Britain and, in connection with the provision of railway services, to provide such other services and facilities as appear to the Board to be expedient, and to have due regard, as respects all those railway and other services and facilities, to efficiency, economy and safety of operation:

(3) It is expedient that the Board should be empowered to construct the work authorised by this Order and to purchase or use the land referred to in this Order:

(4) It is expedient that the other powers in this Order contained should be conferred upon the Board and that the other provisions in this Order contained should be enacted:

(5) A plan and section showing the line or situation and levels of the work to be constructed under this Order, and a plan of the land authorised to be purchased or used by this Order, and a book of reference to that plan containing the names of the owners or reputed owners and of the occupiers of the said land were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the sheriff-clerk of the sheriff-court district of Glasgow and Strathkelvin, which plan, section and book of reference are respectively referred to in this Order as the deposited plan, the deposited section and the deposited book of reference:

(6) The purposes of this Order cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

1936 c. 52.

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 as the British Railways Order 1990.

Interpretation.

2.—(1) In this Order, unless the context otherwise requires, words and expressions to which meanings are assigned by the enactments incorporated herewith have in relation to the related subject-matter the same respective meanings; and—

"the Act of 1845" means the Railways Clauses Consolidation (Scotland) Act 1845; 1845 c. 33.

"the Board" means the British Railways Board;

"enactment" includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

"land" includes any interest in land and any servitude, right or privilege in, to or over land and any land covered by water;

"the limit of deviation" means the limit of deviation shown on the deposited plan;

"the regional council" means the Strathclyde Regional Council;

"roads authority" has the meaning assigned to it by section 151 of the Roads (Scotland) Act 1984; and 1984 c. 54.

"the tribunal" means the Lands Tribunal for Scotland.

(2) Except in relation to section 5 (Power to deviate) of this Order, all directions, distances and lengths stated in any description of works, powers or lands in this Order shall be construed as if the words "or thereby" were inserted after each such direction, distance and length.

(3) Any reference in this Order to Work No. 1 shall be construed as a reference to the work of that number authorised by this Order.

Incorporation of enactments.

3.—(1) The following enactments, so far as the same are applicable for the purposes of and are not inconsistent with, or varied by, the provisions of this Order, are incorporated with this Order, and this Order shall be deemed to be the special Act for the purposes of the said incorporated enactments:—

(*a*) the Lands Clauses Acts, except sections 120 to 124 and section 127 of the Lands Clauses Consolidation (Scotland) Act 1845; 1845 c. 19.

(*b*) the Act of 1845, except sections 1, 7, 8, 9, 17, 19, 20, 22 and 23 thereof; and

(*c*) in the Railways Clauses Act 1863, Part I (relating to construction of a railway) except sections 13, 14, 18 and 19 thereof. 1863 c. 92.

(2) (*a*) In the application of the enactments incorporated by subsection (1) (*b*) and (*c*) above the expression "the company" means the Board.

(*b*) Sections 18 and 21 of the Act of 1845 shall not extend to regulate the relations between the Board and any other person in respect of any matter or thing concerning which those relations are regulated in any respect—

(i) by the provisions of Part II of the Public Utilities Street Works Act 1950; or 1950 c. 39.

(ii) by the provisions of section 24 (For protection of electricity, gas and water undertakers) of this Order.

PART II

WORKS, ETC.

Works

Power to make railway at Cowlairs, Glasgow.

4. Subject to the provisions of this Order, the Board may, in the line or situation shown on the deposited plan and within the limit of deviation and according to the levels shown on the deposited section, make and maintain the following work at Cowlairs in the City of Glasgow District in the Strathclyde Region, with all necessary works and conveniences connected therewith:—

Work No. 1. A railway (500 metres in length) at the Cowlairs (Turkey Yard) Depot of the Board, commencing by a junction with the Edinburgh and Glasgow Main Line at a point 94 metres north of the bridge carrying Gourlay Street over that line and terminating by a junction with the Sighthill branch railway at a point mid-way beneath the bridge carrying Springburn Road (A.803) over that railway and the Springburn branch railway.

Power to deviate.

5. In the construction of Work No. 1 the Board may deviate from the line or situation thereof shown on the deposited plan to the extent of the limit of deviation and may deviate vertically from the levels shown on the deposited section to any extent not exceeding 3 metres upwards or downwards.

Stopping up of part of Cowlairs Road.

6.—(1) In this section "the designated road" means such part of Cowlairs Road in the City of Glasgow District as lies between the points marked "A" and "B" on the deposited plan.

(2) The Board may, for the purpose of constructing Work No. 1, stop up and discontinue the designated road but such stopping up shall not take place (except as to so much of the designated road as is bounded on both sides by lands of the Board) without the consent of the owners, lessees and occupiers of the lands abutting on both sides thereof.

(3) The Board shall, at least seven days before exercising the powers of subsection (2) above, post notices at each end of the designated road stating that they intend to stop it up and setting out the effect of subsection (5) below.

(4) After the stopping up of the designated road under subsection (2) above, all rights of way over or along the designated road shall be extinguished and the Board may, subject to the provisions of the Act of 1845 with respect to mines lying under or near the railway, as far as the designated road is bounded on both sides by lands of the Board, appropriate without making any payment therefor and use for the purposes of their undertaking the site thereof.

(5) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

General works provisions

Underpinning of buildings near works.

7. The Board at their own expense may, subject as hereinafter provided, underpin or otherwise strengthen any building within 30 metres of any part of Work No. 1 and for this purpose the following provisions shall have effect:—

(1) At least 14 days' notice shall (except in case of emergency) be given to the owner, lessee and occupier of the building intended to be so underpinned or otherwise strengthened:

(2) If any owner, lessee or occupier of any such building shall, within 10 days after the giving of such notice, give a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration:

PART II —*cont.*

(3) In any case in which any building shall have been underpinned or strengthened under the powers of this section the Board may, from time to time after the completion of such underpinning or strengthening, and during the execution of Work No. 1, or within five years after the opening for traffic of that work, enter upon and survey such building and, after complying with the foregoing provisions of this section, do such further underpinning or strengthening as they may deem necessary or expedient:

(4) The Board shall be liable to compensate the owner, lessee and occupier of every such building for any loss or damage which may result to them by reason of the exercise of the powers of this section:

(5) Nothing in this section nor any dealing with any property in pursuance of this section shall relieve the Board from liability to compensate under any enactment in respect of loss or damage arising from the execution of any works, other than works of underpinning or strengthening authorised by this section:

(6) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Land Compensation (Scotland) Act 1963. 1963 c. 51.

Use of sewers, etc., for removing water.

8.—(1) Subject to subsection (2) below, the Board may use for the discharge of any water pumped or found by them during the construction of Work No. 1 any available stream or watercourse, or any sewer or drain of the regional council, and for that purpose may lay down, take up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limit of deviation.

(2) In the exercise of the powers of this section—

(*a*) the Board shall not discharge any water into any sewer or drain vested in, or under the control of, the regional council except with the consent of that council which shall not be unreasonably withheld and subject to such terms and conditions (including the taking of steps to remove as far as may be reasonably practicable from water so discharged any gravel, soil or other solid substance or matter in suspension) as the regional council may reasonably impose; and

(*b*) the Board shall not make any opening into any such sewer or drain except in accordance with plans approved by, and under the superintendence (if given) of, the regional council and approval of those plans by the regional council shall not be unreasonably withheld.

(3) Any difference arising between the Board and the local authority under this section shall be determined by arbitration.

(4) Nothing in this section shall affect the operation of Part II of the Control of Pollution Act 1974. 1974 c. 40.

Level crossing

Camps Junction level crossing, Kirknewton.

9.—(1) In this section "Camps Junction crossing" means the level crossing in the parish of Kirknewton in the City of Edinburgh District in the Lothian Region known as Camps Junction crossing (Ordnance Survey National Grid reference point NT 118:673) whereby the railway between Midcalder Junction and Slateford station crossed the unclassified road connecting Malcolmston with Kirknewton on the level.

(2) Camps Junction crossing is hereby stopped up and discontinued and all rights of way across and on the level thereof are extinguished.

PART II —*cont.*

1839 c. 45.
1842 c. 55.

(3) The Highway (Railway Crossings) Act 1839, section 9 of the Railway Regulation Act 1842 and section 40 of the Act of 1845 shall cease to apply to Camps Junction crossing.

(4) Any person who suffers loss by the extinguishment of any private right of way over Camps Junction crossing shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

PART III

LAND

Purchase of land.

10. The Board may purchase compulsorily and use such of the land delineated on the deposited plan and described in the deposited book of reference as they require for the purposes of Work No. 1 or for any purpose connected with, or ancillary to, their undertaking.

Purchase of rights over land.

11.—(1) In this section references to the purchase by the Board of new rights are references to the purchase of rights to be created in favour of the Board.

(2) The Board may for the purposes of constructing, maintaining, altering, renewing and using Work No. 1, or for the purpose of obtaining access to Work No. 1 or for the purpose of doing any other thing necessary in connection with Work No. 1 purchase compulsorily such new rights as they require over any of the land delineated on the deposited plan and described in the deposited book of reference instead of purchasing that land under section 10 (Purchase of land) of this Order.

(3) The Lands Clauses Acts, as applied by this Order, shall have effect with the modifications necessary to make them apply to the compulsory purchase of rights under subsection (2) above as they apply to the compulsory purchase of land so that, in appropriate contexts, references in the Lands Clauses Acts to land are read as referring, or as including references, to the rights or to land over which the rights are or are to be exercisable, according to the requirements of the particular context.

Time for compulsory purchase of land and rights over land.

12. Except as may be provided under section 13 (Extension of time) of this Order, the powers of the Board for the compulsory purchase of land and new rights over land under this Order shall cease on 31st December 1994.

Extension of time.

13.—(1) (*a*) Subject to the provisions of this section, the Secretary of State may, by order under this subsection, extend the period for the exercise of powers for the compulsory purchase of land and new rights over land under this Order.

(*b*) An order under this subsection shall be subject to special parliamentary procedure.

(2) If any owner or lessee of any land subject to an order under subsection (1) above shall give notice in writing to the Board of his desire for the purchase as soon as may be by the Board of his interest in any part of the land specified in the notice, the Board shall within a period of three months after the receipt of such notice—

(*a*) enter into a contract with him for the purchase of his interest in the land or such part thereof as may be specified in his notice; or

(*b*) serve on him a notice to treat for the compulsory purchase of his interest in the land specified in his notice, or in such part thereof as may be required by the Board; or

(*c*) serve on him notice in writing of the Board's intention not to proceed with the purchase of his interest in the land specified in his notice.

British Railways Order Confirmation Act 1990

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