CHAPTER ii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to the British Transport Commission.

[19th December 1957.]

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. 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 British Transport Commission Order Confirmation Act 1957. Short title.

SCHEDULE

BRITISH TRANSPORT COMMISSION

Provisional Order to empower the British Transport Commission to construct railways and to acquire lands to confer further powers on the Commission and for other purposes.

Whereas by the Transport Act 1947 the British Transport Commission (hereinafter referred to as "the Commission") were established :

And whereas it is the duty of the Commission under the Transport Act 1947 as amended by the Transport Act 1953 (inter alia) to provide railway services for Great Britain due regard being had to efficiency economy and safety of operation and to the needs of the public agriculture commerce and industry :

And whereas it is expedient that the Commission should be empowered to construct the railways authorised by this Order and to acquire the lands referred to in this Order :

And whereas it is expedient that the other powers contained in this Order should be conferred upon the Commission :

And whereas plans and sections showing the lines and levels of the railways to be constructed under the powers of this Order and plans of the lands authorised to be acquired by this Order and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the sheriff clerk of each county within which the said railways will be constructed and the said lands are situated which plans sections and book of reference are respectively referred to in this Order as the deposited plans the deposited sections and the deposited book of reference :

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 :—

Short and collective titles.

1.—(1) This Order may be cited as the British Transport Commission Order 1957.

(2) The British Transport Commission Orders 1948 to 1955 and this Order may be cited together as the British Transport Commission Orders 1948 to 1957.

Interpretation.

2.—(1) In this Order unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partly incorporated herewith have in relation to the relative subject-matter the same respective meanings and—

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

" the Commission " means the British Transport Commission ;

" enactment " includes any public general local or private Act and any order or other instrument having the force of an Act ;

" the Lands Clauses Acts " means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 as such last-mentioned Act is amended by the Acquisition of Land (Assessment of Compensation) (Scotland) Act 1931 the Town and Country Planning (Scotland) Act 1947 the Lands Tribunal Act 1949 and the Town and Country Planning (Scotland) Act 1954 ;

" the Order of 1948 " means the British Transport Commission Order 1948 ;

" the Order of 1951 " means the British Transport Commission Order 1951 ;

" the Order of 1953 " means the British Transport Commission Order 1953 ;

" the railways " means the railways and works authorised by this Order ;

" the tribunal " means the Lands Tribunal for Scotland.

(2) Any reference in this Order to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Order.

(3) All distances and lengths stated in any description of works powers or lands shall be construed as if the words " or thereby " were inserted after each such distance and length and distances between points on a railway shall be taken to be measured along the railway.

(4) Until sections 1 to 3 of the Lands Tribunal Act 1949 come into force as regards Scotland " the tribunal " shall be construed as meaning an official arbiter appointed under the Acquisition of Land (Assessment of Compensation) Act 1919 and sections 3 5 and 6 of the last-mentioned Act shall apply subject to the necessary modifications in relation to the determination of any question under this Order by an arbiter so appointed.

Incorporation of general Acts.

3. The following Acts and parts of Acts so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Order are incorporated with and form part of this Order and this Order shall be deemed to be the special Act for the purposes of the said incorporated enactments :—

The Lands Clauses Acts except sections 120 to 124 and section 127 of the Lands Clauses Consolidation (Scotland) Act 1845 ;

The Act of 1845 except sections 7 8 9 19 20 22 and 23 thereof and Part I (relating to construction of a railway) of the Railways Clauses Act 1863 ;

Provided that—

(*a*) for the purposes of this Order the expression "the company" where used in the incorporated provisions of the Act of 1845 and the said Act of 1863 means the Commission;

(*b*) the provisions of sections 18 to 21 of the Act of 1845 shall not extend to regulate the relations between the Commission 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

(ii) by the provisions of section 14 (For protection of gas water and electricity undertakers) of the Order of 1953 as incorporated with this Order.

Power to make works.

4. Subject to the provisions of this Order the Commission may in the lines or situations shown on the deposited plans and according to the levels shown on the deposited sections make and maintain the works hereinafter described with all necessary works and conveniences connected therewith:—

IN THE COUNTY OF FIFE—

Work No. 1 A railway (655 yards in length) being a deviation wholly in the parish of Markinch of the loop line connecting the Thornton Loop and the Methil Branch of the Edinburgh and Northern railway commencing by a junction with the Dunfermline Branch of the said railway 733 yards east of the bridge carrying the road from Dysart to Thornton over the said railway and terminating by a junction with the said Methil Branch railway 4 yards south-east of the bridge carrying the last-mentioned railway over the river Ore:

IN THE COUNTY OF STIRLING—

Work No. 2 A railway (1,380 yards in length) being a deviation in the burgh and parish of Falkirk and in the parish of Falkirk of the Edinburgh and Glasgow railway commencing by a junction with the said railway 11 yards east of the bridge carrying the farm road to Tamfourhill over the said railway and terminating by a junction with the said railway 413 yards east of the bridge carrying the said railway over the occupation road numbered on the deposited plans 9 in the burgh and parish of Falkirk.

Period for completion of railways.

5. If Works Nos. 1 and 2 authorised by this Order are not completed within the period expiring on the thirty-first day of December one thousand nine hundred and sixty-three then on the expiration of that period the powers granted by this Order to the Commission for making and completing the same respectively or otherwise in relation thereto shall cease except as to so much thereof as has then been completed.

Power to acquire lands.

6. Subject to the provisions of this Order the Commission may enter upon take and use such of the lands delineated on the deposited

plans and described in the deposited book of reference as they may require for the purposes of the railways or for any purpose connected with or ancillary to their undertaking.

Disregard of recent improvements and interests.

7. In determining any question of disputed compensation or purchase money in respect of land acquired under this Order the tribunal shall not take into account—

(*a*) any improvement or alteration made or building erected after the fifth day of April one thousand nine hundred and fifty-seven; or

(*b*) any interest in the land created after the said date;

which in the opinion of the tribunal was made erected or created with a view to obtaining or increasing the compensation or purchase money.

Period for compulsory purchase of lands.

8. The powers of the Commission for the compulsory purchase of the lands which they are authorised to acquire by section 6 (Power to acquire lands) of this Order shall cease on the thirty-first day of December one thousand nine hundred and sixty.

Incorporation of provisions of Orders of 1948 1951 and 1953.

9. The following provisions of the under-mentioned Orders are incorporated with and form part of this Order:—

The Order of 1948—

Section 13 (Power to acquire servitudes compulsorily in certain cases);

Section 20 (Stopping up roads and footpaths in case of diversion);

Section 21 (Provision as to repair of roads and footpaths);

Section 22 (Power to make agreements with road authorities);

Section 24 (As to minerals under and near to lands to be acquired):

The Order of 1951—

Section 9 (Extinction of private rights of way);

Section 11 (Grant of servitudes by persons under disability);

Section 12 (Power to enter for survey and valuation);

Section 13 (Power to expedite entry);

Section 14 (Correction of errors in deposited plans and book of reference):

The Order of 1953—

Section 6 (Power to deviate);

Section 14 (For protection of gas water and electricity undertakers);

Section 15 (For protection of Postmaster-General).

Stopping up Blairshinnoch Level Crossing.

10. The Commission may stop up and discontinue the level crossing known as Blairshinnoch Level Crossing in the parish of Kirkgunzeon in the county of Kirkcudbright whereby the road leading from New Galloway to the main Dalbeattie to Dumfries road is

crossed on the level by the railway between Killywhan and Kirkgunzeon and thereupon all rights of way over or across the said level crossing shall be extinguished.

Stopping up Capledrae Level Crossing.

11. The Commission may stop up and discontinue the level crossing over the Lochore Branch railway near Capledrae in the parish of Auchterderran in the county of Fife whereby the road leading from the Scotlandwell to Ballingry road to the Auchterderran to Kinglassie road is crossed on the level by the railway between Kelty and Thornton Junction and thereupon all rights of way over or across the said level crossing shall be extinguished.

As to certain level crossings.

12.—(1) As from the commencement of this Order all rights of way over or across the level crossings referred to in Parts I and II of the Schedule to this Order other than a right of way for all persons to use those level crossings on foot shall subject to the provisions of this section be extinguished and the Commission shall provide and maintain on both sides of the railway at each of the said level crossings wicket gates or stiles for the convenience of persons on foot.

(2) The provisions of the Highway (Railway Crossings) Act 1839 of section 9 of the Railway Regulation Act 1842 of section 40 of the Act of 1845 and of sections 5 6 and 7 of the Railways Clauses Act 1863 and any other provisions to the same or similar effect incorporated with or contained in any enactment relating to any of the level crossings referred to in the said schedule shall cease to apply to those level crossings.

(3) The level crossings referred to in Part II of the said schedule (including the gates thereof other than the gates provided in pursuance of subsection (1) of this section) shall be deemed for all purposes to be works provided by the Commission at the commencement of this Order pursuant to section 60 of the Act of 1845 for the accommodation of the owners and occupiers of the lands adjoining the railway at each of the said level crossings respectively (that is to say) for the purpose of making good any interruptions caused by such railway to the use of the lands through which the same has been made as if the making of such railway had been authorised by this Order.

Saving for town and country planning.

13. This Order shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning (Scotland) Act 1947 for the purposes of subsection (4) of section 11 and subsection (1) of section 112 of that Act.

Arbitration.

14. Where under this Order any difference (other than a difference to which the provisions of the Lands Clauses Acts apply) is to be referred to or settled by arbitration then unless otherwise provided such difference shall be referred to and settled by a single arbiter to be agreed between the parties or failing agreement to be appointed on the application of either party (after notice in writing to the other) by the sheriff of the county in which the works or lands to which the difference relates are situated.

Costs of Order.

15. All costs charges and expenses of and incident to the preparing for obtaining and confirming of this Order or otherwise in relation thereto shall be paid by the Commission and may in whole or in part be defrayed out of revenue.

SCHEDULE

LEVEL CROSSINGS REFERRED TO IN SECTION 12 (AS TO CERTAIN LEVEL CROSSINGS) OF THIS ORDER. Section 12.

Area	Description of level crossing
	PART I
In the county of East Lothian—In the parish of Pencaitland	The level crossing known as Penston Level Crossing whereby the road leading from the Tranent to Gifford road to the Longniddry to Pencaitland road is crossed on the level by the railway between Macmerry and Winton.
In the county of Fife—In the burgh of Leven	The level crossing known as Burnmill Level Crossing whereby the road known as Burnmill Road and leading from Glenlyon Road to the housing estate of Mountfleurie is crossed on the level by the railway between Cameron Bridge and Leven.
In the county of Kincardine—In the burgh of Laurencekirk	The level crossing known as Back Settlement Level Crossing whereby the road known as Gardenston Street and leading from the main Brechin to Stonehaven road to West Burnside is crossed on the level by the railway between Marykirk and Laurencekirk.
	PART II
In the county of Dumfries—In the parish of Annan	The level crossing known as Howgill Level Crossing whereby the road leading from the Dumfries to Carlisle road to Watchhill Road is crossed on the level by the railway between Annan and Eastriggs.
In the county of East Lothian—In the parish of Pencaitland	The level crossing known as East Mains Level Crossing whereby the road leading from the Tranent to Humbie road to the Tranent to Gifford road is crossed on the level by the railway between Ormiston and Winton.
In the county of Fife—In the parish of Tulliallan	The level crossing known as Kincardine West Level Crossing whereby the road known as Station Road and leading from Kincardine village to Ferry Pier is crossed on the level by the railway between Kincardine and Kilbagie.
In the county of Peebles—In the parish of Traquair	The level crossing known as Cardrona Level Crossing whereby the road leading from the Peebles to Galashiels road to the Peebles to Langholm road via Cardrona ford across the river Tweed is crossed on the level by the railway between Cardrona and Innerleithen.

SCH. —*cont.*

Area	Description of level crossing
In the county of Perth— In the parish of Kinclaven	The level crossing known as Kinclaven Level Crossing whereby the road leading from the Stanley to Murthly road to the Stanley to Coupar Angus road is crossed on the level by the railway between Stanley and Murthly.
In the burgh of Pitlochry	The level crossing known as Moulin Level Crossing whereby the road leading from Moulin to the Pitlochry to Killiecrankie road is crossed on the level by the railway between Pitlochry and Killiecrankie.
In the county of Wigtown—In the parish of Inch	The level crossing known as Aird Level Crossing whereby the road leading from the Stranraer to Newton Stewart road to the Stranraer to Portpatrick road is crossed on the level by the railway between Stranraer and Castle Kennedy.

Table of Statutes referred to in this Act

Short title	Session and chapter
Highway (Railway Crossings) Act 1839 ...	2 & 3 Vict. c. 45.
Railway Regulation Act 1842	5 & 6 Vict. c. 55.
Lands Clauses Consolidation (Scotland) Act 1845	8 & 9 Vict. c. 19.
Railways Clauses Consolidation (Scotland) Act 1845	8 & 9 Vict. c. 33.
Railways Clauses Act 1863	26 & 27 Vict. c. 92.
Acquisition of Land (Assessment of Compensation) Act 1919	9 & 10 Geo. 5 c. 57.
Acquisition of Land (Assessment of Compensation) (Scotland) Act 1931	21 & 22 Geo. 5 c. 11.
Private Legislation Procedure (Scotland) Act 1936	26 Geo. 5 & 1 Edw. 8 c. 52.
Transport Act 1947	10 & 11 Geo. 6 c. 49.
Town and Country Planning (Scotland) Act 1947	10 & 11 Geo. 6 c. 53.
Lands Tribunal Act 1949	12 13 & 14 Geo. 6 c. 42.
Public Utilities Street Works Act 1950 ...	14 Geo. 6 c. 39.
Transport Act 1953	1 & 2 Eliz. 2 c. 13.
Town and Country Planning (Scotland) Act 1954	2 & 3 Eliz. 2 c. 73.

PRINTED BY SIR JOHN ROUGHTON SIMPSON, C.B.
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON : PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 9*d.* net

PRINTED IN GREAT BRITAIN

(37284)