CHAPTER xvii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to the London Midland and Scottish Railway. [16th June 1926.]

A.D. 1926.

WHEREAS His Majesty's Secretary for Scotland has made the Provisional Order set forth in the schedule hereunto annexed under the provisions of the Private Legislation Procedure (Scotland) Act 1899 and it is requisite that the said Order should be confirmed by Parliament:

62 & 63 Vict. c. 47.

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:—

Confirmation of Order in schedule.

1. The Provisional Order contained in the schedule hereunto annexed shall be and the same is hereby confirmed.

Short title.

2. This Act may be cited as the London Midland and Scottish Railway Order Confirmation Act 1926.

A.D. 1926.

SCHEDULE.

LONDON MIDLAND AND SCOTTISH RAILWAY.

Provisional Order to confer further powers upon the London Midland and Scottish Railway Company.

WHEREAS it is expedient that the London Midland and Scottish Railway Company (in this Order referred to as "the Company") should be empowered for the purposes of their undertaking to acquire the lands in this Order mentioned:

And whereas it is expedient that the Company should be empowered to hold and use for the purposes of their undertaking the several lands described in this Order which have already been acquired by them:

And whereas it is expedient that the periods now limited for the compulsory purchase of certain lands and for the completion of certain railways and works should be extended as provided by this Order:

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

And whereas plans of the lands by this Order authorised to be acquired and a book of reference 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 clerks of the several counties within which those lands are situate which plans and book of reference are in this Order respectively referred to as the deposited plans and book of reference:

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

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary for Scotland orders as follows :—

Short title.

1. This Order may for all purposes be cited as the London Midland and Scottish Railway Order 1926.

Incorporation of Acts.

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 except where expressly varied by or inconsistent with this Order incorporated with and form part of this Order.

Power to acquire additional lands.

3. Subject to the provisions of this Order the Company may enter upon take use and appropriate for any purposes connected with or ancillary to their undertaking the lands hereinafter described or referred to delineated on the deposited plans and described in the deposited book of reference relating thereto (that is to say) :—

In the county of Lanark—

(1) Lands in the parish of Bothwell—

(*a*) On the east side of and adjoining the Wishaw Deviation Branch Railway between points respectively about 614 yards north and 4 yards south of the north abutment of the railway viaduct over South Calder Water :

(*b*) On the west side of and adjoining the said railway between points respectively about 309 yards north and 4 yards south of the north abutment of the said viaduct.

(2) Lands in the parish of Cambusnethan and burgh of Motherwell and Wishaw on the south-west side of and adjoining the Wishaw Deviation Branch Railway at Wishaw South Junction between a point about 94 yards south-east of Caledonian Road and the road leading from East Thornlie Street to Thornlie Colliery.

A.D. 1926.

In the county of Sutherland—

Lands in the parish of Rogart on the north side of and adjoining the main line from Inverness to Wick between the occupation level crossing about three-quarters of a mile east of Rogart Station and a point about 239 yards east of the said level crossing.

Errors and omissions in plans and book of reference.

4. If there be any omission misstatement or erroneous description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or specified in the deposited book of reference the Company after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff of the county in which the said lands are situate for the correction thereof and if it appear to the sheriff that the omission misstatement or erroneous description arose from mistake he shall certify the same accordingly and he shall in his certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described and the decision of the sheriff in such matter shall be final The certificate of the sheriff shall be deposited in the office of the sheriff clerk of the said county and a duplicate thereof shall also be deposited with the town clerk of the burgh or as the case may be the clerk of the parish council of the parish in which the lands affected thereby are situate and such certificate and duplicate respectively shall be kept by such sheriff clerk and town clerk or clerk of the parish council along with the other documents to which it relates and thereupon the deposited plans and book of reference shall be deemed to be corrected in accordance with the certificate and the Company may enter upon purchase take hold and use any lands in accordance with such certificate.

Period for compulsory purchase of lands.

5. The powers for the compulsory purchase of lands under this Order shall cease on the First day of October One thousand nine hundred and twenty-nine.

Persons under disability may grant servitudes &c.

6. Persons empowered by the Lands Clauses Acts to sell and convey or discharge lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Company any servitude right or privilege (not being a servitude right or privilege of

water in which persons other than the grantors have an interest) required for the purposes of this Order in over or affecting any such lands and the provisions of the said Acts with respect to lands and feu duties or ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid.

As to private rights of way over lands taken compulsorily.

7. All private rights of way or servitudes in over or across any lands which shall under the powers of this Order be acquired compulsorily shall as from the date of such acquisition be extinguished Provided that the Company shall make full compensation to all parties interested in respect of any such rights or servitudes and such compensation shall be settled in manner provided by the Lands Clauses Acts with respect to the purchase and taking of lands otherwise than by agreement.

Owners may be required to sell parts only of certain properties.

8. And whereas in the exercise by the Company of the powers of this Order it may happen that portions only of certain properties shown or partly shown on the deposited plans will be sufficient for the purposes of the Company and that such portions or some other portions less than the whole can be severed from the remainder of the said properties without material detriment thereto Therefore the following provisions shall have effect :—

(1) The owner of and persons interested in any of the properties whereof the whole or part is described in the Schedule to this Order and whereof a portion only is required for the purposes of the Company or each or any of them are in this section included in the term "the owner" and the said properties are in this section referred to as "the scheduled properties";

(2) If for twenty-one days after the service of notice to treat in respect of a specified portion of any of the scheduled properties the owner shall fail to notify in writing to the Company that he alleges that such portion cannot be severed from the remainder of the property without material detriment thereto he may be required to sell and convey to the Company such portion only without the Company being obliged or compellable to purchase the whole

A.D. 1926.

the Company paying for the portion so taken and making compensation for any damage sustained by the owner by severance or otherwise;

(3) If within such twenty-one days the owner shall by notice in writing to the Company allege that such portion cannot be so severed the tribunal to whom the question is referred shall in addition to the other questions required to be determined by it determine whether the portion of the scheduled property specified in the notice to treat can be severed from the remainder without material detriment thereto and if not whether any and what other portion less than the whole (but not exceeding the portion over which the Company have compulsory powers of purchase) can be so severed;

(4) If the tribunal determine that the portion of the scheduled property specified in the notice to treat or any such other portion as aforesaid can be severed from the remainder without material detriment thereto the owner may be required to sell and convey to the Company the portion which the tribunal shall have determined to be so severable without the Company being obliged or compellable to purchase the whole the Company paying such sum for the portion taken by them including compensation for any damage sustained by the owner by severance or otherwise as shall be awarded by the tribunal;

(5) If the tribunal determine that the portion of the scheduled property specified in the notice to treat can notwithstanding the allegation of the owner be severed from the remainder without material detriment thereto the tribunal may in its absolute discretion determine and order that the costs charges and expenses incurred by the owner incident to the determination of any matters under this section shall be borne and paid by the owner;

(6) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder

without material detriment thereto (and whether or not they shall determine that any other portion can be so severed) the Company may withdraw their notice to treat and thereupon they shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice;

(7) If the tribunal determine that the portion of the scheduled property specified in the notice to treat cannot be severed from the remainder without material detriment thereto but that any such other portion as aforesaid can be so severed the Company in case they shall not withdraw the notice to treat shall pay to the owner all costs charges and expenses reasonably and properly incurred by him in consequence of such notice or such portion thereof as the tribunal shall having regard to the circumstances of the case and their final determination think fit.

The provisions of this section shall be in force notwithstanding anything in the Lands Clauses Consolidation (Scotland) Act 1845 contained and nothing contained in or done under this section shall be held as determining or as being or implying an admission that any of the scheduled properties or any part thereof is or is not or but for this section would or would not be subject to the provisions of section 90 of the Lands Clauses Consolidation (Scotland) Act 1845.

The provisions of this section shall be stated in every notice given thereunder to sell and convey any premises.

Single arbiter.

9. In all cases of disputed purchase money or compensation arising under this Order in respect of land to be taken compulsorily or otherwise which fall to be determined under the provisions of the Lands Clauses Acts it shall unless the Company and the other party or parties to the dispute concur in the appointment of a single arbiter in terms of such Acts be in the power of the Company or such other party or parties to apply to the Secretary for Scotland to appoint a single arbiter to determine the purchase money or compensation to be paid and it shall not be competent thereafter to have the same determined by arbiters oversmen sheriff

A.D. 1926.

or jury acting under the last-mentioned Acts. The said arbiter upon appointment shall be deemed to be a sole arbiter within the meaning of the Lands Clauses Acts and the provisions of those Acts with regard to arbitration shall apply accordingly and the arbiter shall notwithstanding anything contained in the said Acts determine the amount of expenses in the arbitration and such determination shall be final The remuneration of the said arbiter shall failing agreement be fixed by the Secretary for Scotland.

Costs of arbitration in certain cases.

10. The tribunal to whom any question of disputed purchase money or compensation under this Order is referred shall if so required by the Company award and declare whether a statement in writing of the amount of compensation claimed has been delivered to the Company by the claimant giving sufficient particulars and in sufficient time to enable the Company to make a proper offer and if the tribunal shall be of opinion that no such statement giving sufficient particulars and in sufficient time shall have been delivered and that the Company has been prejudiced thereby the tribunal shall have power to decide whether the claimant's costs or any part thereof shall be borne by the claimant :

Provided that it shall be lawful for the Lord Ordinary on the Bills or the sheriff of the county in which the lands are situate in respect of which the claim has risen to permit any claimant after seven days' notice to the Company to amend the statement in writing of the claim delivered by him to the Company in case of discovery of any error or mistake therein or for any other reasonable cause such error mistake or cause to be established to the satisfaction of the judge or sheriff after hearing the Company if they object to the amendment and such amendment shall be subject to such terms enabling the Company to investigate the amended claim and to make an offer de novo and as to postponing the hearing of the claim and as to costs of the inquiry and otherwise as to such judge or sheriff may seem just and proper under all the circumstances of the case :

Provided also that this section shall be applicable only in cases where the notice to treat under the Lands Clauses Consolidation (Scotland) Act 1845 either contained or was endorsed with a notice of the effect of this section.

Compensation in case of recently altered buildings.

11. In settling any question of disputed purchase money or compensation for lands acquired by the Company under the powers of this Order the tribunal settling the same shall not award any sum of money for or in respect of any improvement or alteration made or any building erected after the first day of November one thousand nine hundred and twenty-five if in the opinion of the tribunal the improvement alteration or building in respect of which the claim is made was made or erected with a view to obtaining or increasing compensation nor in the case of any estate or interest in the lands created after the said date which in the opinion of the tribunal was created with a view to obtaining or increasing compensation shall any sum of money be awarded so as to increase the total amount of compensation which would otherwise have been required to be paid in respect of the acquisition by the Company of such lands.

Company may hold certain lands already acquired.

12. The Company may hold use and appropriate for the purposes of their undertaking the following lands which have already been acquired by them and the expenditure of money by the Company in or about the purchase or acquisition thereof or the works executed thereon is hereby sanctioned and confirmed (that is to say) :—

In the county of Ayr—

Lands in the parish of Irvine on the west side of and adjoining the Company's Main Line from Ayr to Glasgow at Bogside Station :

In the county of Inverness—

Lands in the parish of Inverness and Bona and burgh of Inverness on the east side of Porterfield Bank Road north of and near the junction of that road with Old Edinburgh Road :

In the county of Lanark—

(1) Lands in the parish of Govan and city of Glasgow—

(*a*) On the west side of Melfort Avenue Dumbreck between Dalkeith Avenue and Nithsdale Road ;

(*b*) On the west side of Queen's Gate Dowanhill Street Dowanhill between Albion Street and Victoria Crescent Road :

A.D. 1926.

(2) Lands in the parish and city of Glasgow on the south-west side of Easterhill Street Tollcross between that street and Tollcross Station:

In the county of Perth—

Lands in the parish of Blackford at and near Gleneagles Station—

(*a*) On the west side of and adjoining the Crieff Branch Railway between that railway and the road leading to Barns Farm from the public road from Blackford to Auchterarder;

(*b*) Between the Company's Main Line from Glasgow to Perth the Crieff Branch Railway and the southern boundary of Gleneagles Hotel Sewage Purification Works;

(*c*) On the west side of and adjoining the Crieff Branch Railway between that railway and the village of Muirtown and the Lands of Middle Greenwells:

In the county of Renfrew—

Lands in the parish of Eastwood on the north side of and adjoining Alder Road Mansewood between Nevis Road and Tinto Road.

Extension of time for compulsory purchase of certain lands.

13. The periods now limited by the London Midland and Scottish Railway Order 1924 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 twenty-nine 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):—

(*a*) Lands in the parishes of Govan and Renfrew described in the Second Schedule to the Glasgow and South Western Railway Order 1906 authorised to be acquired by the Glasgow and Renfrew District Railway Act 1897;

(*b*) Lands in the parish of Stevenston and the burgh of Saltcoats authorised to be acquired by section 4 of the Glasgow and South Western

Railway Order 1918 and lands authorised to be acquired by section 9 of that Order and therein numbered and described (1) in the parish of Stevenston and partly in the burgh of Saltcoats (4) in the parish of Irvine and in the parish of Dundonald in the royal burgh of Irvine (other than the lands numbered 45 in the last-mentioned parish and burgh on the plans deposited in relation to the said Order of 1918) (6) in the parish of Monkton and Prestwick and partly in the burgh of Prestwick and (7) in the last-mentioned parish and burgh;

(*c*) Lands authorised to be acquired by section 6 of the Caledonian Railway Order 1907 and therein numbered and described (2) in the parish of Bothwell (3) in the parishes of Crawford and Wandell and Lamington (9) in the parish of Currie (11) in the parishes of Stirling and St. Ninians and partly in the royal burgh of Stirling and (13) in the parish of Comrie;

(*d*) 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 of Rutherglen (4) in the parish of Rutherglen (6) in the parish of Old Monkland and burgh of Coatbridge and (7) in the parish of Hamilton;

(*e*) 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;

(*f*) Lands authorised to be acquired by section 6 of the Caledonian Railway Order 1922 and therein numbered and described (1) in the parish of Dalziel (2) and (5) in the parish of Cambusnethan (3) and (4) in the parish of Cambusnethan and partly in the burgh of Motherwell and Wishaw (6) in the parish of Bothwell (8) in the parish of Cambuslang and (9) in the parish of Blantyre;

A.D. 1926.

(*g*) Lands authorised to be acquired by section 4 of the London Midland and Scottish Railway Order 1924 and therein numbered and described (2) in the parish of Galston (3) in the parish of Glenbervie and (4) in the parish of Bothwell:

Provided that as regards the said lands (*a*) the powers of the Company shall only be exercised subject to the provisions of section 24 (For protection of Trustees of Clyde Navigation) of the Glasgow and South Western Railway Order 1911 and subject also to the powers conferred on the Trustees of the Clyde Navigation by the Clyde Navigation Act 1911 and the Clyde Navigation Order 1914:

Provided also that nothing in this Order shall in any way prejudice or affect the provisions of or be deemed to extend the periods specified in section 18 (For protection of Town Council of Saltcoats) of the Glasgow and South Western Railway Order 1918.

Extension of time for completion of certain railways.

14. The periods now limited by the Glasgow and South Western Railway Order 1918 for the completion of—

(*a*) Railway No. 5 authorised by the Glasgow and Renfrew District Railway Act 1897; and

(*b*) Railways Nos. 1 and 2 authorised by the Glasgow and South Western Railway Order 1911;

are hereby extended until the first day of October one thousand nine hundred and thirty-one and the Glasgow and South Western Railway (Darvel and Lanarkshire Railway Transfer) Order 1904 and the said Order of 1911 shall be read and construed as if the period limited by this section for the completion of the railways respectively had been the respective periods limited by the said Orders of 1904 and 1911 for the completion thereof.

Extension of time for completion of certain works under Caledonian Railway Act 1900.

15. The period within which the Company are required by section 26 (For the protection of the Corporation of Glasgow) of the Caledonian Railway Act 1900 to carry out the street improvements and works referred to in that section as now extended by the Caledonian Railway Order 1922 is hereby further extended until the first day of October one thousand nine hundred and thirty-one.

Application of funds.

16. 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.

Provision as to general Railway Acts.

17. Nothing in this Order contained shall exempt the Company from the provisions of any general Act relating to railways or the better or 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.

Crown rights.

18. Except as hereinafter expressly provided nothing in this Order shall affect prejudicially any estate right power privilege or exemption of the Crown and in particular nothing herein contained shall authorise the Company to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land heritages subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands or of the Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Crown minerals.

19. Notwithstanding the provisions contained in the section of this Order of which the marginal note is "Crown rights" or in the Glasgow and Renfrew District Railway Act 1897 or the Glasgow and South Western Railway Orders 1906 1911 and 1918 or in any public statute His Majesty and His lessees for their respective interests may work any minerals belonging to His Majesty in right of His Crown under or adjacent to lands and works of the Company authorised to be taken or constructed by this Order or by the Glasgow and Renfrew District Railway Act 1897 or by the Glasgow and South Western Railway Orders 1906 1911 or 1918 but in the event of any such right being at any time intended to be exercised sections 70 to 78 (both

A.D. 1926. inclusive) of the Railways Clauses Consolidation (Scotland) Act 1845 as amended by the Mines (Working Facilities and Support) Act 1923 and the First Second and Third Schedules to such last-mentioned Act shall apply as if the same were in relation to such minerals incorporated in this Order and as if the Commissioners of Crown Lands were the mine owners or royalty owners as the case may be and so that any compensation payable by the Company to or for the benefit of His Majesty as the mine owner or royalty owner or payable to the Company by His Majesty as such owner shall be payable to or by the Commissioners of Crown Lands as the case may be.

Costs of Order.

20. 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.

The SCHEDULE referred to in the foregoing Order.

PROPERTIES WHEREOF PORTIONS ONLY MAY BE TAKEN COMPULSORILY.

Area.	No. on deposited Plans.	Description of Property in Book of Reference.
Parish of Bothwell	1	Railway embankments telegraph posts and wires signals wires and fittings posts sidings points and levers buffer stops huts shrubs.
	4	Pasture land.
	5	Pasture land plantation marsh.

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