



**CHAPTER xxii.**

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to the Glasgow and South Western Railway. A.D. 1912.

[25th June 1912.]

**W**HEREAS 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:—

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

2. This Act may be cited as the Glasgow and South Western Railway Order Confirmation Act 1912. Short title.

A.D. 1912.

SCHEDULE.

GLASGOW AND SOUTH WESTERN RAILWAY.

*Provisional Order to empower the Glasgow and South Western Railway Company to divert a road at Ayr and to acquire lands and for other purposes.*

WHEREAS it is expedient that the Glasgow and South Western Railway Company (in this Order called "the Company") should be empowered to divert the road in the royal burgh of Ayr hereinafter mentioned and for that and other purposes of their undertaking to acquire the lands hereinafter respectively described or referred to:

And whereas plans and sections showing the lines and levels of the said diversion of road and plans showing the lands required or which may be taken for the purposes or under the powers of this Order and also books of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands have been deposited with the principal sheriff clerk of the county of Ayr which plans sections and books of reference are hereinafter respectively referred to as "the deposited plans sections and books of reference":

And whereas it is expedient that the Company should be empowered to apply their funds to the purposes authorised by this Order and that further powers should be conferred upon the Company as hereinafter contained:

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:—

1. This Order may be cited for all purposes as the Glasgow and South Western Railway Order 1912 and shall come into operation at the date of the passing of the Act

Short title  
and com-  
mencement.

confirming the same which date is in this Order referred to as "the commencement of this Order." A.D. 1912.

2. The Lands Clauses Acts and the provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the construction of the railway and the works connected therewith are (except where expressly varied by or inconsistent with the provisions of this Order) incorporated with and form part of this Order and for the purposes of such incorporation this Order shall be deemed to be a special Act and the term "the railway" shall be construed to mean the diversion of road by this Order authorised. Incorporation of Acts.

3. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there be something in the subject or context repugnant to such construction. Interpretation.

4. Subject to the provisions of this Order the Company may in the royal burgh of Ayr in the lines and according to the levels shown on the deposited plans and sections divert Oswald's Road between a point in the centre of the road leading from Oswald's Road to Falkland Road one hundred yards or thereabouts west of the south-west corner of Falkland House and a point in the centre of Woodfield Road where that road crosses Oswald's Road seven yards or thereabouts west of the east side of Oswald's Road and may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited books of reference as may be required for that purpose. Power to divert road at Ayr.

5. The diversion of Oswald's Road by this Order authorised shall be formed in like manner and so as to be as nearly as may be of the same character and description as the portion of the said road by this Order authorised to be diverted. As to formation of diversion of Oswald's Road.

6. When and so soon as the diversion of Oswald's Road by this Order authorised is completed in accordance with the provisions of the last preceding section of this Order and opened the Company may stop up the portion of Oswald's Road by this Order authorised to be diverted and thereupon all rights of way over the said portion of road (other than the existing right of access across the said road to and from the property known as Wylie's Chemical Works) shall be extinguished and the site and soil of the said portion of road shall vest in the Company for the purposes of their undertaking. Stopping up rights of way.

A.D. 1912.

Existing  
rights &c. to  
attach to di-  
verted road.

7. When and so soon as the diversion of Oswald's Road by this Order authorised is made and completed as hereinbefore provided notwithstanding anything contained in this Order all rights (other than the before-mentioned existing right of access) now vested in any persons or bodies in respect of the whole or any part of the portion of Oswald's Road by this Order authorised to be diverted shall according to their respective rights and interests and in lieu thereof and in full satisfaction therefor by force of this Order vest in such persons or bodies in respect of the whole or the corresponding part as the case may be of the said diversion and all powers duties claims obligations notices and demands which attach or relate to or may be exerciseable or enforceable in respect of the whole or any part of the portion of Oswald's Road by this Order authorised to be diverted shall in lieu thereof by force of this Order attach and relate to and be exerciseable and enforceable in respect of the whole or the corresponding part of the said diversion and the said diversion shall be maintained by and at the expense of the persons or bodies liable to maintain the portion of Oswald's Road by this Order authorised to be diverted.

Agreements  
with corpo-  
ration of  
Ayr.

8. The Company and the provost magistrates and councillors of the royal burgh of Ayr may enter into and carry into effect agreements with reference to all or any of the purposes of this Order.

Power to  
Company to  
acquire lands  
for general  
purposes.

9. Subject to the provisions of this Order the Company may enter upon take use and appropriate for the purpose of extending their station siding and other accommodation and for any other purposes connected with their undertaking all or any of the lands following in the county of Ayr delineated on the deposited plans and described in the deposited books of reference relating thereto and may hold and use any of the said lands already acquired by them for the said purposes (that is to say):—

Certain lands in the royal burgh of Ayr being the site of so much of Oswald's Road as lies to the south of Woodfield Road together with a strip of land forty feet wide adjoining the said portion of Oswald's Road on the east side thereof:

Certain lands in the parish of Dundonald on both sides of and adjoining the Company's main line at Gailes Station.

10. The powers of the Company for the compulsory purchase of lands for the purposes of this Order shall cease after the expiration of eighteen months from the commencement of this Order.

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Period for compulsory purchase of lands.

11. If the diversion of Oswald's Road by this Order authorised is not completed within a period of eighteen months from the commencement of this Order then on the expiration of that period the powers by this Order granted for making and completing the same or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Period for completion of work.

12. 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 rentcharges or feu duties 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 respectively.

Power to owners to grant servitudes &c.

13. And whereas in the diversion of Oswald's Road by this Order authorised or otherwise 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:—

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

(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 hereinafter included in the term "the owner" and the said properties are hereinafter 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

A.D. 1912.

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 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 jury arbiters or other authority to whom the question of disputed compensation shall be submitted (hereinafter referred to as "the tribunal") 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 : A.D. 1912.

(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.

14. The Company may apply to or towards the purposes of this Order to which capital is properly applicable any sums of money which they have already raised or are authorised to raise by any of their Acts or Orders and which are not required for the purposes to which they are by those Acts or Orders made specially applicable. Power to Company to apply authorised capital to purposes of Order.

[Ch. xxii.] *Glasgow and South Western* [2 & 3 GEO. 5.]  
*Railway Order Confirmation Act, 1912.*

A.D. 1912.

Provision as  
to general  
Railway  
Acts.

15. Nothing herein 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 commencement of this Order.

Expenses of  
Order.

16. 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 Company.

The SCHEDULE referred to in the foregoing Order.

DESCRIBING PROPERTIES OF WHICH PARTS ONLY ARE REQUIRED  
TO BE TAKEN BY THE COMPANY.

Nos. on deposited Plans.	Parish or other Area.	Description of Property.
1	Parish and royal burgh of Ayr.	Roads (Falkland Road and Oswald's Road) railways sidings points connexions and crossings burn and culvert gas water and sewer pipes garden ground advertising hoarding telegraph and telephone posts and wires.
2	Parish and royal burgh of Ayr.	Garden ground trees and approach road.
3	Parish and royal burgh of Ayr.	Yard concrete work sheds outhouses garden ground and advertising hoarding.
13	Parish and royal burgh of Ayr.	Vacant ground and cart track.

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