

[4 & 5 GEO. 5.] *North British Railway (Invergarry [Ch. cxcii.] and Fort Augustus Railway Vesting) Order Confirmation Act, 1914.*



CHAPTER cxcii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to North British Railway (Invergarry and Fort Augustus Railway Vesting). A.D. 1914.
[28th August 1914.]

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:--

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 North British Railway (Invergarry and Fort Augustus Railway Vesting) Order Confirmation Act 1914. Short title.

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SCHEDULE.

NORTH BRITISH RAILWAY (INVERGARRY AND
FORT AUGUSTUS RAILWAY VESTING).

Provisional Order to provide for the vesting of the undertaking of the Invergarry and Fort Augustus Railway Company in the North British Railway Company and for other purposes.

WHEREAS by the Invergarry and Fort Augustus Railway Act 1896 the Invergarry and Fort Augustus Railway Company (in this Order referred to as "the Invergarry Company") were incorporated and by virtue of that Act and the Invergarry and Fort Augustus Railway Act 1897 are the owners of a railway extending from Spean Bridge where the said railway forms a junction with the West Highland Railway of the North British Railway Company (in this Order referred to as "the Company") to Fort Augustus and the southern end of Loch Ness and are also the owners of a pier in the said loch and of certain other properties:

And whereas by an agreement scheduled to and confirmed by the Highland and Invergarry and Fort Augustus Railway Companies Act 1903 provision was made for the working and maintenance of the railway of the Invergarry Company by the Highland Railway Company but the said agreement was terminated in virtue of the terms thereof as at the thirtieth day of April one thousand nine hundred and seven:

And whereas by an agreement scheduled to and confirmed by the North British Railway Order 1908 provision was made for the working and maintenance of the railway of the Invergarry Company by the Company and the said railway was worked and maintained by the Company in terms of the said agreement until the thirty-first day of October one thousand nine hundred and eleven at which date the said agreement was terminated and the railway closed to traffic:

And whereas the Invergarry Company owe large sums in respect of arrears of interest on their debenture stock and are unable to pay such arrears or the principal sums secured by

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such stock and are also unable to provide the necessary funds for the maintenance and working by themselves of their railway and experience has shown that the said railway cannot be worked at a profit: A.D. 1914.

And whereas in order to secure the reopening of the railway it is necessary that the undertaking of the Invergarry Company should be transferred to and vested in a company in a sound financial position :

And whereas an agreement has been entered into between the Company and the Invergarry Company for the temporary working by the Company of the undertaking of the Invergarry Company and for the sale to and purchase by the Company of that undertaking :

And whereas the authorised share capital of the Invergarry Company consists of two hundred and fifty-eight thousand pounds of ordinary stock of which capital two hundred and forty thousand pounds has been issued and paid up and the Invergarry Company have created and issued debenture stock to the amount of eighty thousand pounds bearing interest at four per centum per annum :

And whereas the holders of the debenture stock of the Invergarry Company have consented in writing to the provisions of this Order :

And whereas it is expedient that the county council of the county of Inverness (in this Order referred to as "the county council") and the second and fourth district committees of the county council (in this Order referred to as "the district committees") should be empowered to subscribe towards the acquisition by the Company of the undertaking of the Invergarry Company and to raise moneys required for that purpose as by this Order provided :

And whereas it is expedient that the Company should be empowered to apply their funds to the purposes of this Order and that the other powers contained in this Order should be conferred :

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 :

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

Short title and commencement.

1. This Order may be cited for all purposes as the North British Railway (Invergarry and Fort Augustus Railway Vesting) Order 1914 and shall come into operation at the date of the passing of the Act confirming the same which date is in this Order referred to as “the commencement of this Order.”

Incorporation of Part of general Act.

2. The provisions of Part V. (relating to amalgamation) of the Railways Clauses Act 1863 are except where expressly varied by this Order incorporated with and form part of this Order.

Interpretation.

3. Unless there be something in the subject or context repugnant to such construction the expression “the date of vesting” shall mean the first day of September one thousand nine hundred and fourteen.

Vesting in Company of undertaking of Invergarry Company.

4. As from the date of vesting the undertaking of the Invergarry Company (which expression when used in this Order shall be deemed to include all the railways pier roads works lands hotel and houses buildings plant rolling stock machinery stores property and effects powers rights and privileges of or belonging to or enjoyed by the Invergarry Company) shall by virtue of this Order be transferred to and vested in the Company.

As from the date of vesting the Invergarry Company shall be dissolved except for the purpose of winding up their affairs as provided by this Order and of otherwise carrying into effect the provisions of this Order and all the unexercised powers of the Invergarry Company of raising capital by the creation and issue of shares and of raising money by mortgages and debenture stock are hereby extinguished.

The vesting shall be deemed to be an amalgamation of the undertaking of the Invergarry Company with the undertaking of the Company within the meaning of Part V. (relating to amalgamation) of the Railways Clauses Act 1863 and the provisions of the said Part V. shall extend and apply thereto accordingly subject as between the Company on the one hand and the Invergarry Company on the other hand to the provisions herein contained.

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5. The consideration for the transfer shall be the payment to the Invergarry Company of the sum of twenty-seven thousand five hundred pounds which shall be applied by them—

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—
Consideration for transfer and application thereof.

Firstly In payment of the costs and expenses of and incidental to the winding up of the Invergarry Company;

Secondly In payment to the unsecured creditors of the Invergarry Company of the moneys owing to them by the Invergarry Company;

Thirdly In payment to the holders of debenture stock of the Invergarry Company of the arrears of interest thereon; and

Fourthly In payment to the holders of debenture stock of the Invergarry Company of the principal sums secured thereby so far as the balance of the said sum may be sufficient for the purpose.

6. The said consideration or price of twenty-seven thousand five hundred pounds shall be paid within one month after the commencement of this Order or upon the first day of September one thousand nine hundred and fourteen whichever of these dates is the later in manner following (that is to say):—

Payment of price of transfer.

(A) The Company shall pay to the Invergarry Company the sum of twenty-two thousand five hundred pounds; and

(B) The sum of five thousand pounds shall be paid to the Invergarry Company by the county council of the county of Inverness.

7. As on and from the date of vesting the Company shall subject to the provisions of this Order hold the undertaking of the Invergarry Company freed and discharged from all debts liabilities obligations and engagements of the Invergarry Company and from all claims or demands whatsoever on the part of any of the creditors of the Invergarry Company or of any other person or persons in respect of any debt or liability of the Invergarry Company or of the holders of any of the debenture stock of or shares in the Invergarry Company and thereupon the Invergarry Company shall subject to the provisions of this Order be wound up in the same manner and with the same incidents as if that company were a company registered under the Companies (Consolidation) Act 1908 and had on the date of vesting duly passed a special resolution requiring such company

Invergarry Company to be wound up.

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A.D. 1914. — to be wound up voluntarily and for the purposes of such winding up the said company shall from and after the date of vesting be deemed to be registered in Scotland under the said Act and for the purposes of calling and holding meetings and passing resolutions and other matters incident to such winding up resolutions of meetings of the Invergarry Company convened and held in pursuance of and in accordance with the provisions contained in the Acts of Parliament of the Invergarry Company and the Acts incorporated therewith may and shall take effect as resolutions of a company duly registered.

Company not to be liable to claims against Invergarry Company.

8. Notwithstanding anything contained in section 55 of the Railways Clauses Act 1863 but subject to the provisions of this Order from and after the date of vesting the Company shall not nor shall their undertaking (including therein the undertaking of the Invergarry Company) be or continue in any way subject or liable to any claims or demands whatsoever on the part of any creditor of the Invergarry Company or of any other person or persons in respect of any debts contracts or liabilities of the Invergarry Company or of any of the proprietors of any shares in that company.

Shareholders of Invergarry Company not to be shareholders of Company.

9. Notwithstanding the vesting of the undertaking of the Invergarry Company and notwithstanding anything contained in section 55 of the Railways Clauses Act 1863 the shareholders of the Invergarry Company shall not be shareholders of the Company or have any right or claim whatsoever upon or against the Company or the undertaking of the Invergarry Company.

As to officers of Invergarry Company.

10. Notwithstanding the vesting of the undertaking of the Invergarry Company the secretary and other officers (if any) of that company shall not be or become officers of the Company but the Invergarry Company shall discharge all obligations which may be due to such secretary and officers respectively or any of them.

Repeal of former enactments.

11. As from the date of vesting so much of the Highland and Invergarry and Fort Augustus Railway Companies Act 1903 as relates to the Invergarry Company and section 23 of the North British Railway Order 1908 and the agreement set forth in the First Schedule to that Order are hereby repealed.

Company may abandon portions of works.

12. The Company may if they think fit close abandon and discontinue the pier and works situate in the bed of Loch

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Ness and so much of the railway and other works of the Invergarry Company authorised by the Invergarry and Fort Augustus Railway Act 1896 as lies to the north of a point forty yards or thereabouts south of the south abutment of the swing bridge carrying the said railway over the Caledonian Canal at Fort Augustus and may retain hold use and appropriate the site and soil thereof for the general purposes of the Company or may lease feu or sell and dispose of the same on such terms and in such manner as they think fit. A.D. 1914.

13. For the protection of the Right Honourable Simon Joseph Baron Lovat of Lovat his successors and assigns (in this section together referred to as "the owner") the following provisions shall unless otherwise agreed between the owner and the Company apply and have effect (that is to say):— For protection of Lord Lovat.

(1) Notwithstanding anything contained in this Order from and after the date of vesting the disposition granted by the owner in favour of the Invergarry Company dated ninth and thirteenth and recorded in the Division of the General Register of Sasines applicable to the county of Inverness twenty-eighth all days of May one thousand nine hundred and one together with the plan annexed and signed as relative thereto showing the accommodation works and the feu disposition granted by the owner to the Invergarry Company dated ninth and thirteenth and recorded in said register twenty-eighth all days of May one thousand nine hundred and one shall be read and have effect as if the Company had been referred to therein in lieu of the Invergarry Company Provided always that the Company shall not be liable in respect of any liability of the Invergarry Company under the said disposition or feu disposition incurred prior to the date of vesting:

(2) In the event of the Company in the exercise of the powers of the section of this Order whereof the marginal note is "Company may abandon portions of works" desiring to lease feu sell or dispose of any lands which were originally severed from lands of the owner they shall first offer to sell the same to the owner and in the event of any such offer

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being made the provisions of sections 122 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845 shall apply and have effect as if the Company were the promoters of the undertaking therein referred to.

For protection of Fort Augustus Hotel Company Limited.

14. Notwithstanding anything contained in this Order from and after the date of vesting the lease between the Invergarry Company and the Fort Augustus Hotel Company Limited of the Lovat Arms Hotel Fort Augustus dated eighth February and fifth March one thousand nine hundred and two shall be read and have effect as if the Company had been referred to therein in lieu of the Invergarry Company Provided always that the Company shall not be liable in respect of any liability of the Invergarry Company under the said lease incurred prior to the date of vesting.

For protection of owners of estate of Corriegour.

15. Notwithstanding anything contained in this Order from and after the date of vesting the agreement between the late Lewis Miller of Corriegour and the Invergarry Company dated the fifteenth nineteenth and twenty-third days of April one thousand nine hundred and two shall be read and have effect as if the Company had been referred to therein in lieu of the Invergarry Company Provided always that the Company shall not be liable in respect of any liability of the Invergarry Company under the said agreement arising prior to the date of vesting except that the Company shall be bound to fulfil the whole obligations of the Invergarry Company under the second article of the said agreement which have not already been implemented.

For protection of owners of Glengarry estate.

16. Notwithstanding anything contained in this Order from and after the date of vesting the disposition by the trustees of the deceased Edward Ellice of Glengarry and Glenquoich in favour of the Invergarry Company dated twenty-fourth and twenty-ninth September and tenth and twenty-sixth October and recorded in the Division of the General Register of Sasines applicable to the county of Inverness fourteenth December all in the year eighteen hundred and ninety-eight shall be read and have effect as if the Company had been referred to therein in lieu of the Invergarry Company Provided always that the Company shall not be liable in respect of any liability of the Invergarry Company under the said disposition incurred prior to the date of vesting.

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17. For the protection of the commissioners of the Caledonian Canal (in this section referred to as "the commissioners" and "the canal" respectively) the following provisions shall unless otherwise agreed between the commissioners and the Company apply and have effect (that is to say):—

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For protec-
tion of Cale-
donian Canal
Commis-
sioners.

(1) Subject to the provisions of this section but notwithstanding any other provisions of this Order from and after the date of vesting all agreements between the commissioners and the Invergarry Company shall be read and have effect as if the Company had been referred to therein in lieu of the Invergarry Company and all statutory obligations upon the Invergarry Company with reference to the canal shall from the said date be transferred to and be upon the Company. Provided always that the Company shall not be liable in respect of any liability of the Invergarry Company statutory or contractual incurred prior to the date of vesting:

(2) In the event of the Company exercising the power by this Order conferred upon them to abandon the portion of the railway of the Invergarry Company by this Order authorised to be abandoned the Company shall remove so much of the swing bridge over the canal as is situate above quay level and such removal shall be carried out and completed to the reasonable satisfaction of the manager of the canal and the Company shall pay to the commissioners the sum of one thousand pounds:

(3) In the event foresaid from and after the completion of such removal and the payment of the said sum the liability of the Company in respect of the payment of thirty pounds per annum in consideration of the assent of the commissioners to the said bridge and its continuance and payable in virtue of subsection (5) of section 31 of the Invergarry and Fort Augustus Railway Act 1896 or otherwise shall cease and determine and from and after such completion and payment of the said sum of one thousand pounds section 31 of the said Act of 1896 is hereby repealed:

(4) If any difference shall arise under this section between the Company and the commissioners such difference

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shall unless otherwise agreed be determined by an engineer to be appointed on the application of either party by the President of the Institution of Civil Engineers.

Saving for existing Acts.

18. Nothing contained in the sections of this Order whereof the marginal notes respectively are "Invergarry Company to be wound up" and "Company not to be liable to claims against Invergarry Company" shall for the purposes of section 39 of the Railways Clauses Act 1863 be deemed to vary or repeal any of the provisions of the Invergarry and Fort Augustus Railway Act 1896 or the Acts incorporated therewith.

Saving for Postmaster-General.

19. Nothing in this Order shall affect the rights of His Majesty's Postmaster-General under the Telegraph Act 1878 to place and maintain telegraphic lines in under upon along over or across the railways and works comprised in the undertaking of the Invergarry Company and from time to time to alter such telegraphic lines and to enter upon the land and works comprised in such undertaking for the purposes in the Telegraph Act 1878 specified and the Postmaster-General shall after the confirmation of this Order be at liberty to exercise all the rights aforesaid notwithstanding that the undertaking of the Invergarry Company is transferred to or vested in the Company as freely and fully in all respects as he was entitled to do before the confirmation of this Order.

Invergarry Railway to be light railway.

20. The Company may work and maintain the railway of the Invergarry Company by this Order vested in them as a light railway but shall not be limited as to the speed of trains or weight of rolling stock except so far as the Board of Trade may require and the enactments set out in the Second Schedule to the Light Railways Act 1896 (except section 19 of the Regulation of Railways Act 1868 section 5 of the Regulation of Railways Act 1871 and paragraph (c) of section 1 and sections 2 3 4 5 6 and 7 of the Regulation of Railways Act 1889) shall cease to apply to the said railway.

Assessment of railway to local rates.

21.—(1) From and after the date of vesting the railway and pier by this Order vested in the Company together with all stations yards works and lands connected therewith and forming part of the undertaking of the Invergarry Company (in this section referred to as "the Invergarry Railway") shall not be assessed to any local rates at a higher value than that at which the land occupied by or in connection with the Invergarry Railway

would have been assessed if it had remained in the condition in which it was immediately before it was acquired for the purposes of the Invergarry Railway. A.D. 1914.

(2) It shall be the duty of the assessor of railways and canals as regards any parish in which any part of the Invergarry Railway is situated to enter on his valuation roll either the annual value of the Invergarry Railway within such parish ascertained in terms of the Valuation of Lands (Scotland) Acts or the annual value at which the said land occupied by or for the purposes of the Invergarry Railway would have been assessed if it had remained in the condition in which it was immediately before it was acquired for the purposes of the Invergarry Railway whichever is less.

(3) The Invergarry Railway shall not be valued by the said assessor as part of the general undertaking of the Company but shall be valued as a separate undertaking.

22. The county council and the second and fourth district committees of the county council are hereby authorised to contribute any sums not exceeding five thousand pounds towards the purchase of the undertaking of the Invergarry Company. Contributions by county council and district committees.

23.—(1) The county council may subject to the provisions of section 67 of the Local Government (Scotland) Act 1889 borrow such sums as may be required for the purpose of the contribution by this Order authorised on the security of rates to be imposed in the same manner as and along with but as separate rates from the rate for maintenance of roads leviable by the county council under the Roads and Bridges (Scotland) Act 1878 and the county council may assign such rates as security for the money to be so borrowed. Provided that notwithstanding anything in the said section 67 contained any money so borrowed shall be repaid within such period not exceeding thirty years as the county council with the consent of the standing joint committee may determine. Power to county council to borrow for purposes of contribution.

(2) For the purpose of raising the sums required for the payment of interest on and the repayment of money borrowed for the purpose of the contribution by this Order authorised the county council shall make and levy a rate in manner aforesaid upon all lands and heritages within the county of Inverness of such amount in the pound as will suffice for the payment of five-tenths of such sums and upon all lands and heritages within the second district of the said county of such amount in

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As to payment of expenses of borrowing by county council.

24. The county council may pay any expenses incurred by them or by the district committees in or about borrowing money for the purposes of this Order or the imposition or collection of the rates to be imposed by them under the powers of this Order out of the said rates and may levy the amounts required accordingly.

Audit of accounts of county council.

25. The accounts of any payment or receipts in respect of any contribution by the county council or district committees under this Order and of any money borrowed for the purpose thereof by the county council or district committees shall be accounts of the county council and shall be audited as such.

Company may apply corporate funds.

26. The Company may from time to time apply for or towards all or any of 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.

Provision as to general Railway Acts.

27. 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 commencement of 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.

Costs of Order.

28. 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.

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