

**CHAPTER clxxxix.**

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to the Glasgow and South Western Railway (Darvel and Lanarkshire Railway Transfer). [15th August 1904.]

A.D. 1904.

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 Glasgow and South Western Railway (Darvel and Lanarkshire Railway Transfer) Order Confirmation Act 1904.

Short title.

A.D. 1904.

SCHEDULE.

GLASGOW AND SOUTH-WESTERN RAILWAY (DARVEL
AND LANARKSHIRE RAILWAY TRANSFER).

*Provisional Order for transferring to the Glasgow and South
Western Railway Company Railway No. 3 authorised by
the Caledonian Railway Act 1896 to extend the time for the
acquisition of lands for and the construction of the Glasgow
and Renfrew District Railway and for other purposes.*

WHEREAS by the Caledonian Railway Act 1896 (in this Order called "the Act of 1896") the Caledonian Railway Company (in this Order called "the Caledonian Company") were authorised to make and maintain (inter alia) a railway therein called "Railway No. 3" and by section 40 of the same Act it was enacted that if the Glasgow and South Western Railway Company (in this Order called "the Company") should at any time within five years from the completion and opening for goods and mineral traffic of the said Railway No. 3 apply to Parliament for an Act to authorise and require the transfer to them by the Caledonian Company of such railway on payment to the Caledonian Company of the costs mentioned in the agreement set forth in the First Schedule to that Act the Caledonian Company should not oppose such application except for the purpose of securing proper provisions for carrying into effect such transfer in accordance with that section And it was further provided that provision should be made in such Act for extending to the railway so to be transferred to the Company the several running powers and facilities by that Act conferred on and secured to the Caledonian Company over the railways of the Company between Darvel and the towns and harbours of Ayr and Troon :

And whereas the said Railway No. 3 has been opened for goods and mineral traffic and it is expedient that provision should be made as contained in this Order for the transfer of the said railway to the Company :

And whereas by the Glasgow and Renfrew District Railway Act 1897 (in this Order called "the Act of 1897") the Glasgow and Renfrew District Railway Company (in this Order called "the Renfrew Company") were incorporated and empowered to construct

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the railways therein described and by the said Act the Company and the Caledonian Company were authorised to provide the capital for the construction and completion of the said railways and the acquisition of the lands therefor : A.D. 1904.

And whereas by the Glasgow and South Western Railway Act 1900 (in this Order called "the Act of 1900") the powers conferred upon the Renfrew Company by the Act of 1897 for the compulsory purchase of certain of the said lands were extended for a period of two years from the sixth day of August one thousand nine hundred :

And whereas by the Glasgow and Renfrew District Railway (Transfer) Act 1901 (in this Order called "the Act of 1901") provision was made for the transfer of the undertaking of the Renfrew Company to the Caledonian Company and the Company jointly and the time limited by the Act of 1897 for the completion of the railways by that Act authorised was extended for a period of three years from the sixth day of August one thousand nine hundred and two :

And whereas by the Caledonian Railway Act 1902 (in this Order called "the Act of 1902") the said powers for the compulsory purchase by the Renfrew Company of certain of the said lands were further extended for a period of two years from the sixth day of August one thousand nine hundred and two :

And whereas it is expedient that the said periods for the compulsory purchase of lands for and for the completion of the railways authorised by the Act of 1897 should be further extended as provided by this Order :

And whereas it is expedient that the deposit fund referred to in the Act of 1897 so far as not already paid to the depositors should be released and that in lieu thereof the Caledonian Company and the Company should become liable to a penalty for and in respect of the completion and opening of the railways authorised by the Act of 1897 so far as not completed :

And whereas it is expedient that the Company should be empowered to raise a further sum of money for the purposes of this Order and for the general purposes of their undertaking and to apply their funds to the purposes authorised by this Order :

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament

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A.D. 1904. 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 be cited for all purposes as the Glasgow and South Western Railway (Darvel and Lanarkshire Railway Transfer) Order 1904 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 general Acts.

2. Part II. (relating to extension of time) of the Railways Clauses Act 1863 the clauses and provisions of the Companies Clauses Consolidation (Scotland) Act 1845 with respect to the following matters (that is to say) :—

The distribution of the capital of the Company into shares ;

The transfer or transmission of shares ;

The payment of subscriptions and the means of enforcing the payment of calls ;

The forfeiture of shares for non-payment of calls ;

The remedies of creditors of the Company against the shareholders ;

The borrowing of money by the Company on mortgage or bond ;

The conversion of the borrowed money into capital ;

The consolidation of the shares into stock ;

The general meetings of the Company and the exercise of the right of voting by the shareholders ;

The making of dividends ;

The giving of notices ; and

The provision to be made for affording access to the special Act by all parties interested ;

and Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by subsequent Acts are (except where expressly varied by this Order) incorporated with and form part of this Order and for the purposes of the said Acts this Order shall be deemed to be a special Act.

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

A.D. 1904.
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Interpreta-
tion.

The expression "the railway" means the Railway No. 3 authorised by the Act of 1896 and includes all lands buildings and property rights privileges and interests held used or enjoyed by or vested in the Caledonian Company and works and conveniences in connexion with or for the purposes of that railway ;

The expression "the Two Companies" means the Caledonian Company and the Company ;

The expression "the Renfrew Railways" means the railways authorised by the Act of 1897.

4. On the payment by the Company to the Caledonian Company of the costs mentioned in the agreement set forth in the First Schedule to the Act of 1896 the railway shall by virtue of this Order be transferred to and vested in the Company freed and discharged (except as expressly provided by this Order) from all powers rights title claims or interests of the Caledonian Company therein or in relation thereto and subject to the terms and conditions set forth in the Act of 1896 and in this Order with respect thereto Provided that if any difference shall arise between the Company and the Caledonian Company as to the amount of such costs or as to any lands buildings or property to be included in the transfer the matter in difference shall unless otherwise agreed be referred to and determined by an engineer to be appointed on the application of either party by the President of the Institution of Civil Engineers.

Transfer of
railway to
Company.

5. From and after the transfer of the railway to the Company the railway shall for the purposes of maximum rates and charges for merchandise traffic (including perishable merchandise by passenger train) be part of the railways of the Company as if the same had been part of the Glasgow and South Western Railway at the date of the passing of the Railway Rates and Charges No. 22 (Glasgow and South Western Railway &c.) Order Confirmation Act 1892 and shall for all other purposes be part of the undertaking of the Company as it existed at the date of the passing of the Glasgow and South Western Railway Consolidation Act 1855 Provided that nothing herein contained shall authorise the Company

Railway to
form part of
Company's
undertaking.

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A.D. 1904. — to demand and take any higher fares for passengers on the railway than those authorised by the Act of 1896.

Running powers and facilities to Caledonian Company.

6. From and after the transfer of the railway to the Company the Caledonian Company shall have and be entitled to the same running powers and facilities over and in respect of the railway as are by the Act of 1896 conferred on and secured to them over the railways of the Company between Darvel and the towns and harbours of Ayr and Troon.

Nothing in this section shall be deemed to impose upon the Postmaster-General the obligation of transmitting under the provisions of the Telegraph Act 1868 or any agreement between the Postmaster-General and the Caledonian Company made in pursuance thereof any larger number of telegraphic messages of the Caledonian Company free of charge than he would have been bound to transmit had this section not become law.

Extension of time for purchase of lands in connexion with Renfrew Railways.

7. The powers granted by the Act of 1897 for the compulsory purchase of lands for the purposes of that Act as extended by the Act of 1900 and the Act of 1902 are hereby further extended and shall continue in force and may be exercised by the Renfrew Company for the further period of two years from the sixth day of August one thousand nine hundred and four and on the expiration of that period those powers shall cease but nothing in this Order shall relieve the Renfrew Company from the obligations or restrictions imposed by section 30 (Restrictions on displacing persons of labouring class) of the Act of 1897 :

Provided that the extension of time hereby granted shall not apply to the lands numbered on the deposited plans referred to in the Act of 1897 3 4 4A 10 13 16 17 22 23 24 25 26 27 34 and 35 in the parish of Govan in the county of Lanark and 107 109 110 112 113 114 115 and 116 in the parish of Renfrew in the county of Renfrew.

For protection of Postmaster General.

8. If any work authorised by the Act of 1897 or this Act involves the removal or alteration of any post office letter-box the Company shall not remove or alter such box but shall give notice to the Postmaster-General of the removal or alteration required and the Postmaster-General shall remove or alter the box and the Company shall pay to the Postmaster-General all expenses incurred by him in relation to such removal or alteration.

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9.—(1) The Renfrew Company under the powers granted by the Act of 1897 for the compulsory purchase of lands as extended by this Order shall not without the consent of the trustees of the Clyde Navigation (in this section called “the trustees”) acquire any land belonging to or held in trust for the trustees to the east of a line drawn parallel to and distant one hundred and twenty feet eastwards from the western side of the Marlinford Road and to the north of a line drawn parallel to and distant one hundred and twenty feet northwards from the existing northern boundary of the Renfrew Company’s property. Provided always that the trustees shall provide such additional portions of their land as may be required for accommodation works (if any) for the trustees’ remaining lands on such terms as may be agreed upon or failing agreement as may be fixed by arbitration in terms of the Lands Clauses Acts.

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For protec-
tion of trus-
tees of Clyde
Navigation.

(2) On the confirmation by Parliament of the heads of agreement entered into between the provost magistrates and councillors of Renfrew (in this section called “the town council”) and the trustees dated the 22nd and 28th March 1904 the extension of time by this Order granted shall not without the consent of the trustees entitle the Renfrew Company to acquire any portion of the area of land extending to 110 acres or thereby described in the heads of agreement entered into between the town council Alexander Archibald Speirs of Elderslie and the trustees dated the 22nd 24th and 28th March 1904.

10. In the event of the Provisional Order promoted in the session of 1904 by the corporation of the city of Glasgow (in this section called “the corporation”) intituled “Draft Provisional Order to authorise the corporation of the city of Glasgow to construct deviations of authorised sewers to abandon certain authorised sewers and the authorised deviation of the Renfrew Road to acquire land for sewage purposes to confirm agreements and for other purposes” not being made and confirmed the extension of time by this Order granted shall not without the consent of the corporation entitle the Renfrew Company to acquire any portion of the lands numbered 6 7 8 9 10 13 16 and 17 in the parish of Govan on the deposited plans referred to in the Act of 1897 which may belong to the corporation or in or through which the corporation may have acquired or have arranged to acquire rights of wayleave for Sewer No. 1 authorised by the

For protec-
tion of cor-
poration of
Glasgow.

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A.D. 1904. Glasgow Corporation (Sewage &c.) Act 1898 (in this section called "the Act of 1898") Provided that the Renfrew Company shall within such extended time be entitled to acquire easements for the purpose of crossing the said sewer at the points at which the said sewer may be flattened in terms of section 14 subsections (11) and (12) of the Act of 1898 and that on such terms as may be agreed on or failing agreement as may be fixed by an arbiter to be appointed by the Board of Trade on the application of either party Provided also that nothing herein contained shall prejudice affect or restrict the rights and powers of the corporation or of the Renfrew Company under the Act of 1898.

Period for
completion
of Renfrew
Railways.

11. The time limited by the Act of 1897 as extended by the Act of 1901 for the completion of the Renfrew Railways is hereby further extended for a period of three years from the sixth day of August one thousand nine hundred and five If the Renfrew Railways are not completed within the said period of three years then on the expiration of that period the powers for making and completing the same or otherwise in relation thereto shall cease except as to so much thereof as shall then be completed.

Imposing
penalty un-
less Renfrew
Railways
opened.

12. If the Renfrew Company fail within the period limited by this Order to complete the Renfrew Railways so far as not already completed the Two Companies shall be liable to a penalty of fifty pounds a day for every day after the expiration of the period so limited until the Renfrew Railways are completed and opened for the public conveyance of passengers or public traffic (as the case may be) or until the sum received in respect of such penalty amounts to five per centum on the estimated cost of the uncompleted railway or railways and the said penalty may be applied for by any landowner or other person claiming to be compensated or interested in accordance with the provisions of the next following section of this Order and in the same manner as the penalty provided in the third section of the Railway and Canal Traffic Act 1854 and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in that section to an account opened or to be opened in the name of the King's and Lord Treasurer's Remembrancer on behalf of the Court of Exchequer in Scotland in the bank and to the credit specified in such warrant or order and shall not be paid thereout except as herein-after provided but no penalty shall accrue in respect of any time during which it shall appear

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by a certificate to be obtained from the Board of Trade that the Renfrew Company were prevented from completing or opening the railways by unforeseen accident or circumstances beyond their control Provided that the want of sufficient funds shall not be held to be a circumstance beyond their control.

A.D. 1904.

13. Every sum of money so recovered by way of penalty as aforesaid shall be applicable and after due notice in the Edinburgh Gazette shall be applied towards compensating any landowners or other persons whose property has been interfered with or otherwise rendered less valuable by the commencement construction or abandonment of the railway or railways in respect of which the penalty has been incurred or any portion thereof or who have been subjected to injury or loss in consequence of the compulsory powers of taking property conferred upon the Renfrew Company by the Act of 1897 and for which injury or loss no compensation or inadequate compensation has been paid and shall be distributed in satisfaction of such compensation as aforesaid in such manner and in such proportions as to the Court of Exchequer in Scotland may seem fit And if no such compensation is payable or if a portion of the sum or sums of money so recovered by way of penalty as aforesaid has been found sufficient to satisfy all just claims in respect of such compensation then the said sum or sums of money recovered by way of penalty or such portion thereof as may not be required as aforesaid shall if a judicial factor has been appointed or the Renfrew Company is insolvent or the railway or railways in respect of which the penalty has been incurred or any part thereof have been abandoned be paid or transferred to such judicial factor or be applied in the discretion of the court as part of the assets of the Renfrew Company for the benefit of the creditors thereof and subject to such application shall be repaid or retransferred to the Two Companies.

Application
of penalty
towards com-
pensation of
parties
injured.

14. In consideration of the liability of the Two Companies to the penalty by this Order provided in respect of the Renfrew Railways sections 34 and 35 of the Act of 1897 are hereby repealed and the Court of Exchequer in Scotland may and shall at any time after the passing of the Act confirming this Order but without requiring the production of a certificate of the passing of such Act on the application of the depositors referred to in the said sections respectively or of the majority of them or of the survivors or survivor of them order that the deposit fund therein

Release of
Renfrew
deposit.

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A.D. 1904. — mentioned and any interest accrued thereon so far as not previously paid to such depositors shall be repaid to the persons or person so applying or to the survivors or survivor of them or to such person or persons as they may appoint in that behalf and upon such order being made the balance of the said deposit fund and interest shall be repaid accordingly.

Power to
Company to
raise addi-
tional capital.

15.—(1) The Company may raise for the purposes of this Order by the creation and issue of new shares or stock such additional capital as they think fit not exceeding in the whole the sum of one hundred and thirty-five thousand pounds and they may create and issue such new shares or stock either wholly or partially as ordinary or wholly or partially as preference shares or stock as they may think fit.

(2) The provisions contained in section 37 of the Glasgow and South Western Railway Act 1898 as to the issue of ordinary shares or stock as preferred and deferred shares or stock shall extend and apply to any ordinary shares or stock issued under this Order.

(3) Preference shares or stock issued by the Company under this Order shall be entitled to the preferential dividend or interest assigned thereto only out of the profits of each year ending on the thirty-first day of January.

(4) Preference stock created under the powers of this section shall if so declared by the resolution creating the same form part of and rank *pari passu* with any preference stock created or to be created under the powers of section 27 (Power to create preference stocks of one class) of the Act of 1900.

Shares not
to be issued
until one-
fifth paid.

16. The Company shall not issue any share under the authority of this Order of less nominal value than ten pounds nor shall any share vest in the person accepting the same unless and until a sum not being less than one-fifth of the amount of such share shall have been paid in respect thereof.

Dividends on
new shares
or stock.

17. Every person who becomes entitled to new shares or stock shall in respect of the same be a holder of shares or stock in the Company and shall be entitled to a dividend with the other holders of shares or stock of the same class or description proportioned to the whole amount from time to time called up and paid on such new shares or to the whole amount of such stock as the case may be.

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18. Each holder of new shares or stock in the capital by this Order authorised to be raised shall be entitled to the same number of votes in respect thereof which the possession of an equal nominal amount of the existing capital stock of the Company of the same class or description would have conferred upon him Provided always that except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any new shares or stock to which a preferential dividend shall be assigned.

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 Votes in respect of new shares or stock.

19. Subject to the provisions of any Act or Order already passed or confirmed by which the Company are authorised to raise capital by new shares or stock and to the provisions of this Order the Company may if they think fit raise by the creation and issue of new shares or stock of one and the same class all or any part of the aggregate capital which they are by such other Act or Order and this Order respectively authorised to raise by the creation and issue of new shares or stock.

Power to Company to raise capital authorised by any other Act or Order and this Order by new shares or stock of one class.

20. The Company may in respect of the additional capital of one hundred and thirty-five thousand pounds which they are by this Order authorised to raise borrow on mortgage of their undertaking any moneys not exceeding in the whole forty-five thousand pounds but no part thereof shall be borrowed until shares for so much of the said additional capital as is to be raised by means of shares are issued and accepted and one-half of such capital is paid up and the Company have proved to the sheriff who is to certify under the forty-second section of the Companies Clauses Consolidation (Scotland) Act 1845 before he so certifies that shares for the whole of such capital have been issued and accepted and that one-half of such capital has been paid up and that not less than one-fifth part of the amount of each separate share in such capital has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one-half of so much of the said additional capital as is to be raised by means of stock is fully paid up and the Company have proved to such sheriff as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted bonâ fide and are held by the persons to whom the same were issued or their executors administrators successors or assigns and also so far as the said additional capital is raised by shares that such persons or their executors administrators successors or assigns are legally liable for the same and upon

Power to Company to borrow.

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A.D. 1904. — production to such sheriff of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

Repealing provisions of former Acts and Orders with respect to appointment of a judicial factor.

21. Every provision in any Act or Order passed or confirmed before the present session of Parliament whereby the Company is authorised to raise by borrowing money for the purposes of their undertaking with respect to the appointment of a judicial factor for enforcing payment by the Company of arrears of principal money or principal money and interest shall be and the same is hereby repealed but without prejudice to any appointment which may have been made or to the continuance of any proceedings which may have been commenced under any such provision prior to the commencement of this Order.

For appointment of a judicial factor.

22. The mortgagees of the Company may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a judicial factor. In order to authorise the appointment of a judicial factor in respect of arrears of principal the amount owing to the mortgagees by whom the application for a judicial factor is made shall not be less than ten thousand pounds in the whole.

Former mortgages to have priority.

23. All mortgages and bonds granted by the Company in pursuance of the powers of any Act of Parliament or Order before the commencement of this Order and which shall be subsisting at the time of the commencement thereof shall during the continuance of such mortgages and bonds as regards the undertaking comprised in and assigned by such mortgages and bonds respectively and subject to the provisions of the Acts or Orders under which such mortgages and bonds were respectively granted have priority over any mortgages to be granted by virtue of this Order but nothing in this section contained shall affect any priority of the interest of any debenture stock at any time created by the Company.

Power to Company to create debenture stock.

24. The Company may create and issue debenture stock subject to the provisions of Part III. of the Companies Clauses Act 1863 but notwithstanding anything therein contained the interest of all debenture stock at any time after the commencement of this Order created and issued by the Company shall rank *pari passu* with the interest of all mortgages at any time after the commencement of

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this Order granted by the Company and shall have priority over all principal moneys secured by such mortgages. A.D. 1904.

25. All moneys raised by the Company under the provisions of this Order whether by shares stock debenture stock or borrowing shall be applied only to the purposes of this Order and to the general purposes of the undertaking of the Company and to defray expenses incurred or to be incurred by them in the execution of works the acquisition of lands the improvement of stations sidings and works the erection of dwelling houses and other buildings for workmen and employees and the improvement and provision of working apparatus machinery plant and stock being in each case purposes to which capital is properly applicable. Application of moneys by Company.

26. 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.

27. No interest or dividend shall be paid out of any share or loan capital which the Company are by this Order or any other Order or any Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Order shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation (Scotland) Act 1845. Interest not to be paid on calls paid up.

28. The Company shall not out of any money by this Order authorised to be raised pay or deposit any sum which by any Standing Order of either House of Parliament or any General Order made in pursuance of the Private Legislation Procedure (Scotland) Act 1899 now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act or Order authorising the Company to construct any other railway or to execute any other work or undertaking. Deposits for future Bills or Orders not to be paid out of capital.

29. Nothing contained in the section of this Order the marginal note whereof is "Extension of time for purchase of lands in connexion with the Renfrew Railways" shall authorise the Renfrew Company to take or use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel Saving rights of Crown.

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A.D. 1904. — creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to the King's Most Excellent Majesty in right of His Crown and under the management of the Commissioners of Woods or of the Board of Trade respectively without the consent in writing of the Commissioners of Woods or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose (which consent such Commissioners and such Board are hereby respectively authorised to give) neither shall anything in this Order contained extend to take away prejudice diminish or alter any of the estates rights privileges powers or authorities vested in or enjoyed or exercisable by the King's Majesty.

Provision as
to general
Railway
Acts.

30. Nothing in this Order contained shall exempt the Company or their railway 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 by this Order.

Expenses of
Order.

31. 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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