

[17 & 18 GEO. 5.] *Mexborough and Swinton* [Ch. liii.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.



CHAPTER liii.

An Act to confirm a Provisional Order made by the Minister of Transport under the Mexborough and Swinton Tramways Act 1926 relating to Mexborough and Swinton Tramways Company's trolley vehicles. [29th July 1927] A.D. 1927.

WHEREAS under the authority of section six of the Mexborough and Swinton Tramways Act 1926 the Minister of Transport has made the Provisional Order set out in the schedule to this Act annexed :

16 & 17
Geo. 5.
c. lxxvi.

And whereas a Provisional Order made by the Minister of Transport under the authority of the said section is not of any validity or force whatever until the confirmation thereof by Act of Parliament :

And whereas it is expedient that the Provisional Order made by the Minister of Transport under the authority of the said section and set out in the schedule to this Act annexed be confirmed by Act of Parliament :

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. This Act may be cited as the Mexborough and Swinton Tramways Company (Trolley Vehicles) Order Confirmation Act 1927. Short title.

[Price 6d. Net.]

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[Ch. liii.] *Mexborough and Swinton* [17 & 18 GEO. 5.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

A.D. 1927.

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Confirma-
tion of
Order in
schedule.

2. The Order as amended and set out in the schedule to this Act annexed shall be and the same is hereby confirmed and all the provisions thereof in manner and form as they are set out in the said schedule shall from and after the passing of this Act have full force and validity and the date of the same shall be the date of the passing of this Act.

SCHEDULE.

A.D. 1927.

MEXBOROUGH AND SWINTON TRAMWAYS
COMPANY (TROLLEY VEHICLES).

Order authorising the Mexborough and Swinton Tramways Company to use trolley vehicles on routes in the urban districts of Mexborough Swinton Rawmarsh Greasbrough Bolton-upon-Deerne and Conisbrough and the parish of Adwick-upon-Deerne in the rural district of Doncaster all in the West Riding of the County of York.

1. This Order may be cited as the Mexborough and Swinton Tramways Company (Trolley Vehicles) Order 1927. Short title.

2. In this Order the following expressions have unless the subject or context otherwise requires the meanings hereinafter assigned to them (namely) :— Interpretation.

“The Company” means the Mexborough and Swinton Tramways Company;

“Trolley vehicle” and “road authority” have the meaning assigned to them by section 3 (Interpretation) of the Act of 1913;

“Trolley vehicle routes” means the routes upon which the Company are by this Order authorised to work and use trolley vehicles;

“The Act of 1913” means the Mexborough and Swinton Tramways (Railless Traction) Act 1913;

“The Act of 1926” means the Mexborough and Swinton Tramways Act 1926.

3.—(1) Subject to the provisions of this Order and of the Act of 1926 the Company may provide maintain equip and use trolley vehicles on the following trolley vehicle routes all in the West Riding of the county of York in addition to any other routes upon which they are already authorised to provide maintain equip and use trolley vehicles (that is to say) :— Power to use trolley vehicles.

Route No. 1 5 miles 2 furlongs in length wholly in the urban districts of Mexborough Swinton Rawmarsh and Greasbrough commencing in the urban district of Mexborough at the commencement of trolley vehicle

[Ch. liii.] *Mexborough and Swinton* [17 & 18 GEO. 5.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

A.D. 1927.

route No. 1 authorised by the Act of 1926 at the junction of High Street with Main Street and Swinton Road (otherwise Creswell Street) passing along Creswell Street and Swinton Road into the urban district of Swinton thence along Rown's Lane Bridge Street Station Street Church Street Rockingham Road Warren Vale Road into the urban district of Rawmarsh continuing along Warren Vale Road and Dale Road Stocks Lane High Street Rawmarsh Hill Broad Street Rotherham Road into the urban district of Greasbrough continuing along Rotherham Road over the bridge over the London and North Eastern Railway to the boundary of the county borough of Rotherham on the bridge over the Sheffield and South Yorkshire Navigation;

Route No. 2 1 furlong and 3·6 chains in length wholly in the urban district of Rawmarsh commencing in Dale Road at the point where Kilnhurst Road joins Dale Road proceeding in a westerly direction along Kilnhurst Road to the Queen's Hotel;

Route No. 4 2 miles 7 furlongs and 4·4 chains in length commencing in the said parish of Adwick-upon-Dearne at the termination of Route No. 5 authorised by the Act of 1913 proceeding along Bolton Road Hound Hill Lane into the urban district of Bolton-upon-Dearne continuing along Hound Hill Lane Mexborough Road Angel Street Station Road Furlong Road Goldthorpe Green Goldthorpe Road High Street and Barnsley Road to its junction with Highgate Lane;

Route No. 5 7 furlongs and 1·2 chains in length wholly in the urban district of Conisbrough commencing in Doncaster Road at a point on Route No. 4 authorised by the Act of 1913 at the junction of Station Road with Doncaster Road proceeding along Doncaster Road and Low Road to the junction of New Hill and Brook Square;

Route No. 6 4 furlongs in length (a terminal route) wholly in the urban district of Conisbrough commencing at a point on Route No. 2 authorised by the Act of 1926 where Welfare Avenue joins Old Road proceeding along Welfare Avenue Denaby Avenue The Crescent and Cadeby Avenue to Welfare Avenue.

(2) Provided that the Company shall not work trolley vehicles on Route No. 4 in Angel Street or Station Road between the junction of Church Street with Angel Street and the junction of Furlong Road with Station Road until the carriageway has been widened throughout to a width of not less than twenty feet.

[17 & 18 GEO. 5.] *Mexborough and Swinton*. [Ch. liii.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

(3) Provided that the Company shall not use trolley vehicles along any street or road along which the light railways authorised by the Dearne District Light Railways Orders 1915 to 1924 are constructed except with the consent in writing of the owners of such light railways which consent may be given upon such terms and subject to such conditions as to the division and apportionment of the revenue arising from such running as may be agreed upon between the Company and the owners.

A.D. 1927.

(4) Notwithstanding anything contained in any Act of Parliament lease agreement or other instrument it shall not be necessary for the Company to provide a service of tramcars upon the route of any tramway or part thereof along which a service of trolley vehicles is provided by the Company under the provisions of this Order so long as such service of trolley vehicles continues to be so provided.

4.—(1) The Company may at any time after any trolley vehicle route authorised by this Order has been opened for public traffic give notice or notices to the local and road authorities concerned that they intend to abandon so much of any tramway belonging to the Company or any part thereof as has been constructed along such trolley vehicle route or any part thereof at the expiration of one month from the date of such notice.

Power to
abandon
tramways.

(2) At any time within six months from the expiration of any such notice the Company notwithstanding anything contained in any Act or Order or in any agreement relating directly or indirectly to the Company or their undertaking may—

- (a) discontinue the working of the said tramway or any part thereof referred to in such notice; and
- (b) take up and remove the same and all rails paving setts posts wires standards brackets cables works and apparatus and equipment forming part thereof or provided or used in connection therewith; and
- (c) appropriate use sell or otherwise dispose of such rails paving setts posts wires standards brackets cables works apparatus and equipment;

or may exercise any of those powers :

Provided that on the taking up by the Company of any rails paving setts posts standards cables works apparatus or equipment the Company shall with all convenient speed fill in the ground and make good the surface and to the reasonable satisfaction of the road authority restore the portion of the road or footpath in which any part of the said tramway taken up was laid to as good a condition as that in which it was before such part of the said tramway was laid thereon and clear away all surplus paving metalling or other material or rubbish occasioned by such work and they shall in the meantime cause the place where the road or footpath is

[Ch. liii.] *Mexborough and Swinton* [17 & 18 GEO. 5.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

A.D. 1927. opened or broken up to be fenced and watched and to be properly lighted at night :
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Provided also that if the Company fail to comply with their obligations under the preceding proviso within one month after such taking up as aforesaid the road authority may at any time after the expiration of that period if they think fit themselves open and break up the road or footpath and do the works necessary for the repair and maintenance or restoration of the road or footpath to the extent in this subsection above mentioned and the reasonable expense incurred by the road authority in so doing shall be repaid to them by the Company.

(3) At the expiration of the said period of six months all the powers obligations and liabilities of the Company in relation to the tramway or any part thereof described in any notice under subsection (1) of this section existing under or by virtue of any Act Order lease agreement or other instrument whatsoever shall (subject to the provisions of this Order) cease and determine and any rails paving setts posts wires standards brackets cables works apparatus or equipment of the Company relating to the tramway or parts of the tramway described in such notice not so taken up and removed within the said period of six months shall on the expiration of the said period vest in the road authority for the road or footpath in or upon which the same shall remain Provided that where any such power obligation or liability relates partly to any abandoned tramway or part thereof and partly to any tramway or part thereof not abandoned as aforesaid such power obligation or liability shall cease and determine as respects the abandoned tramway or part only and for that purpose such apportionment of any financial obligation or liability and of any other obligation or liability capable of apportionment shall be made as may be agreed upon between the Company and the party entitled to enforce such obligation or liability or as failing such agreement shall be determined by the Minister of Transport as hereinafter provided :

Provided also that this subsection shall not apply to the agreement made between the Company and the mayor aldermen and burgesses of the county borough of Rotherham which is set forth in the Second Schedule to the Rotherham Corporation Act 1918 and that in the event of a trolley vehicle route authorised by this Order being opened for public traffic along the route of any part of the tramways therein referred to that agreement shall have effect as if such trolley vehicle route were referred to in the agreement as part of the Company's tramway undertaking :

Provided further that if the Company at any time before the expiration of the said period of six months discontinue the working of the said tramway or any part thereof and take up and remove such tramway or any part thereof and the rails

[17 & 18 GEO. 5.] *Mexborough and Swinton* [Ch. liii.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

paving setts posts standards cables works apparatus and equipment forming part thereof laid or placed in any road or footpath in which such tramway or part is situate the Company shall as from the date of such taking up and removal cease (subject to the provisions of this Order) to be under any obligation to maintain or keep in good condition or repair any part of such road or footpath.

A.D. 1927.

(4) If any difference arises under this section between the Company and any local authority or road authority that difference shall (except as otherwise provided) be referred to and determined by the Minister of Transport whose decision thereon shall be final.

(5) Nothing in this section shall affect the liability of the Company under the lease dated the twentieth day of March one thousand nine hundred and seven and made between the Rawmarsh Council of the one part and the Company of the other part to pay to the Rawmarsh Council the rents reserved by paragraph 1 of the said lease during the remainder of the period in the said paragraph mentioned.

5. For the protection of the county council of the West Riding of Yorkshire (in this section called the "county council") and of the Swinton Urban District Council (in this Order called "the Swinton Council") and of the Rawmarsh Urban District Council (in this Order called "the Rawmarsh Council") and of the Greasbrough Urban District Council (in this Order called "the Greasbrough Council") the following provisions shall have effect (unless otherwise agreed in writing) if and when the Company discontinue the working of any tramway situate in a road vested in the county council or in the Swinton Council or in the Rawmarsh Council or in the Greasbrough Council or any portion or portions of any such tramway (that is to say):—

For protection of West Riding County Council and Swinton Rawmarsh and Greasbrough Urban District Councils.

- (1) In this section the expression "tramway track" means in relation to any tramway or portion of a tramway so much of the road whereon the tramway or portion of a tramway is laid as lies between the rails thereof and (where double lines are laid) the portion of the road between each tramway or portion of a tramway and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of the tramway or portion of a tramway and the expression "the road authority" means the county council in respect of any road vested in the county council the Swinton Council in respect of any road vested in the Swinton Council the Rawmarsh Council in respect of any road vested in the Rawmarsh Council and the Greasbrough Council in respect of any road vested in the Greasbrough Council:

[Ch. liii.] *Mexborough and Swinton* [17 & 18 GEO. 5.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

A.D. 1927.

- (2) (a) The Company shall within one month after the discontinuance of the working of any such tramway or portion of a tramway pay to the road authority and the road authority shall accept a sum (to be ascertained as hereinafter mentioned) representing the estimated cost which would be incurred by the Company in discharging their liability under this Order or otherwise respecting the restoration of the road or roads in which such tramway or portion of a tramway was laid after removing therefrom the rails paving setts posts wires standards brackets cables works apparatus and equipment forming part of or provided or used in connection with the tramway or portion of a tramway discontinued. On payment of the said sum all liability of the Company with respect to the restoration of such road or roads shall cease and determine;
- (b) The amount payable as aforesaid shall be a sum calculated at the rate of six shillings per square yard of the tramway track of the tramway or portion of a tramway discontinued with an addition at the rate of five pounds per centum of the said sum for establishment expenses;
- (c) After the payment of the said sum the road authority shall be responsible for and assume full liability for the maintenance and repair of the portions of such roads for the maintenance and repair of which the Company were liable before the discontinuance of such tramway or portion of a tramway :
- (3) Notwithstanding anything to the contrary in this Order contained the Company may and shall proceed at their own expense to remove the said rails paving setts posts wires standards brackets cables works apparatus and equipment (except the concrete foundation of the tramway and such posts wires standards brackets cables works apparatus and equipment at the sides of the road as may be necessary or convenient for the working of trolley vehicles by the Company) upon receiving from the surveyor of the road authority at least one month's notice in writing requiring them to do so in such sections and in such amounts as may be required from time to time by the said surveyor for the proper and reasonable conduct of the work of reconstruction of the surface. The Company shall proceed with the works as speedily as possible but shall not commence any such work before receiving the notice above mentioned. The rails tie bars setts and other apparatus removed as aforesaid shall remain the property of the Company :

[17 & 18 GEO. 5.] *Mexborough and Swinton* [Ch. liii.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

A.D. 1927

- (4) The road authority shall and will at their own expense immediately after or at their option contemporaneously with the removal of the said rails paving setts posts wires standards brackets cables works apparatus and equipment from each section of the tramway track proceed to reconstruct in accordance with modern methods the portions of the roads forming such tramway track and shall carry out such reconstruction so as not unreasonably or unnecessarily to interfere with the maintenance by the Company of a trolley vehicle service along such roads :
- (5) In the event of the Company failing to commence the said work of removal in accordance with subsection (3) of this section or to proceed with and complete such work with reasonable expedition the road authority shall have the right themselves to carry out the work and the reasonable cost incurred by them in so doing shall be repaid to them by the Company :
- (6) The provisoes to subsection (2) of the section of this Order of which the marginal note is " Power to abandon tramways " shall not apply to any roads vested in the road authority.

If any difference shall arise under this section between the Company and the road authority the same shall be referred to and determined by an arbitrator to be agreed upon between them or (in default of such agreement) appointed on the application of either party by the Minister of Transport.

6. Subsections (4) (5) (7) (8) and (11) of section 31 (For protection of Mexborough and Swinton Urban District Councils and Doncaster Rural District Council) of the Act of 1913 shall apply and have effect for the protection of the Swinton Rawmarsh and Greasbrough Councils in regard to the trolley vehicle routes authorised by this Order in the districts of those councils.

For further protection of Swinton Rawmarsh and Greasbrough Councils.

7. The following provisions for the protection of the London Midland and Scottish Railway Company and the London and North Eastern Railway Company (each of which companies is hereinafter referred to as " the railway company ") shall unless otherwise agreed between the Company and the railway company apply and have effect in relation to the exercise by the Company of the powers of this Order so far as they relate to trolley vehicles (that is to say) :—

For protection of London Midland and Scottish Railway Company and London and North Eastern Railway Company.

- (1) In this section the word " apparatus " means standards brackets conductors mains cables wires posts poles and

[Ch. liii.] *Mexborough and Swinton* [17 & 18 GEO. 5.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

A.D. 1927.

any other apparatus and equipment for the purpose of working trolley vehicles under or in pursuance of this Order :

- (2) The apparatus where the same shall be erected or placed upon across under or over any bridge or the approaches thereto or other work belonging to or maintainable by the railway company or will otherwise affect the same shall be erected or placed and maintained so as not to affect injuriously the structure of any such bridge or approaches and according to plans and particulars to be previously submitted to and reasonably approved by the railway company. Provided that if the railway company do not within twenty-eight days after such submission signify their disapproval of such plans and particulars they shall be deemed to have approved thereof. All such apparatus shall be erected or placed under the superintendence (if the same be given) and to the reasonable satisfaction of the railway company. The Company shall so construct maintain and use the apparatus as not to affect injuriously any such bridge approaches or other work and in the event of any injury being occasioned to such bridge approaches or work by the construction maintenance user or removal of the apparatus upon across under or over the same the railway company may make good the injury and may recover from the Company the reasonable expenses of so doing :
- (3) The Company shall on demand pay to the railway company the reasonable expense (if any) of watching the railway and property of the railway company which shall be necessary during and in consequence of the execution or repair by the Company under or in pursuance of this Order of any apparatus affecting any bridge or other work belonging to or maintainable by the railway company for preventing all interference obstruction danger and accident from any of the operations or from the acts or defaults of the Company or their contractors or any person in the employ of either of them :
- (4) The Company shall not in any manner in the execution maintenance user or repair of any of the apparatus obstruct or interfere with the free uninterrupted and safe user of any railway or siding belonging to or maintainable by the railway company or any traffic thereon :

[17 & 18 GEO. 5.] *Mexborough and Swinton* [Ch. liii.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

- (5) The Company shall be responsible for and make good to the railway company all losses damages and expenses which may be occasioned to the railway company or any of their works or property or to any works or property which they may be liable to maintain or to the traffic on their railways or to any company or person using the same by or by reason of the execution or failure of any of the apparatus or by or by reason of any act default or omission of the Company or of any person in their employ or of any contractors in connection with the apparatus or any part thereof and the Company shall effectually indemnify and hold harmless the railway company from all claims and demands upon or against them by reason of such execution or failure or of any such act default or omission: A.D. 1927.
- (6) If the railway company in the exercise of their existing powers shall hereafter require to widen lengthen strengthen reconstruct alter or repair any of their bridges approaches or other works under or upon which the apparatus is laid or to widen or alter any railway thereunder or thereover the Company shall afford to the railway company all reasonable and proper facilities for the purpose and if it shall be necessary for such purpose that the apparatus be taken up diverted or removed and if the railway company accordingly give to the Company twenty-eight days' notice in writing (or in case of emergency such notice as may be reasonably practicable) requiring such taking up diversion or removal then the working or user of such part of the apparatus shall be stopped or delayed or such part of the apparatus shall be taken up diverted or removed as stated in such notice at the reasonable expense of the Company and under their superintendence (if they shall give such superintendence) but no such working or user shall be stopped or delayed for a longer period than may be absolutely necessary for effecting such purpose as aforesaid and such part of the apparatus shall be restored with all practicable dispatch and the railway company shall not be liable to pay compensation in respect of such stoppage delay or taking up diversion or removal:
- (7) The Company shall from time to time pay to the railway company any additional expense which the railway company may reasonably incur in effecting such widening lengthening strengthening reconstructing altering or repairing as is mentioned in the last preceding

[Ch. liii.] *Mexborough and Swinton* [17 & 18 GEO. 5.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

A.D. 1927.

subsection or in the maintenance of any bridge approach or other work of the railway company by reason of the existence or user of the works or apparatus :

- (8) If and when the railway company shall require to reconstruct widen lengthen alter repair or paint any bridge under which any electric wire of the Company has been placed under or in pursuance of this Order and if it shall be reasonably necessary for them so to do the Company shall in order to ensure the safety of the workmen employed in such reconstruction widening lengthening alteration repairing or painting cut off the electric current from the trolley wires under such bridge at such time as shall be agreed between the Company and the engineer of the railway company or failing agreement as shall be determined by arbitration under this section unless the Company shall have previously adopted some other means of protection to workmen which shall have been approved by the said engineer :
- (9) If having regard to the proposed position of any apparatus of the Company authorised by or in pursuance of this Order when considered in relation to the position of the works of the railway company at any point where any apparatus will be constructed over or under the railway or other works of the railway company it becomes necessary in order to avoid danger from the breaking or falling of wires that the electric telegraphic telephonic or signal wires or apparatus of the railway company shall be altered the railway company may execute any works reasonably necessary for such alteration and the reasonable expense of so doing shall be repaid to the railway company by the Company Provided that notice of their intention to execute such works shall be given by the railway company to the Company :
- (10) The Company shall not for the purposes of this Order make attachments to any bridge or other property of the railway company without the consent in writing of the engineer of the railway company which shall not be withheld unreasonably such attachments if allowed to be temporarily removed at any time when required by the said engineer in connection with the maintenance and reconstruction or alteration of any such bridge :
- (11) The proviso to section 25 (Shelters or waiting rooms) of the Act of 1913 shall apply to any shelter or waiting room erected on any trolley vehicle route authorised by this Order as though the railway company had been

[17 & 18 GEO. 5.] *Mexborough and Swinton* [Ch. liii.]
Tramways Company (Trolley Vehicles) Order
Confirmation Act, 1927.

named in the said proviso and no such shelter or waiting room shall be erected or maintained on any bridge carrying any street or road over any railway of the railway company without the consent of the railway company :

A.D. 1927.

(12) Before applying to the Minister of Transport for his approval of the weight of any trolley vehicle to be used upon any road which crosses a bridge belonging to and repairable by the railway company the Company shall give to the railway company notice of the weight of the trolley vehicles proposed to be used by them and the Minister of Transport shall consider and determine after such inquiry as he may think fit any objections which may be submitted by the railway company to him on the ground that the strength of such bridge is insufficient to carry trolley vehicles of such weight. Provided that notice of such objections shall be forwarded by the railway company to the Company at the same time as the same are submitted to the Minister of Transport :

(13) If any difference shall arise between the Company and the railway company or their respective engineers with reference to the matters aforesaid such difference shall be referred to arbitration the arbitrator being appointed on the application of either party after notice in writing to the other by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 shall apply to any such arbitration.

8. The Company may apply towards any of the purposes of this Order any moneys which they are already authorised to raise and which may not be required by them for the purposes for which the same were authorised to be raised. Company may apply their funds.

9. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Order or otherwise in relation thereto shall be paid by the Company. Costs of Order.

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