



CHAPTER xvi.

An Act to confirm a Provisional Order under the A.D. 1928.
Private Legislation Procedure (Scotland) Act
1899 relating to the London Midland and
Scottish Railway. [2nd July 1928.]

WHEREAS the Provisional Order set forth in the
schedule hereunto annexed has been made by
one of His Majesty's Principal Secretaries of State under
the provisions of the Private Legislation Procedure
(Scotland) Act 1899 as read with the Secretaries of State
Act 1926 and it is requisite that the said Order should
be confirmed by Parliament.

62 & 63 Vict.
c. 47.
16 & 17
Geo. 5. c. 18.

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.

Confirma-
tion of
Order in
schedule.

2. This Act may be cited as the London Midland and
Scottish Railway Order Confirmation Act 1928.

Short title.

A.D. 1928.

SCHEDULE.

LONDON MIDLAND AND SCOTTISH RAILWAY.

Provisional Order to authorise the London Midland and Scottish Railway Company to acquire lands to extend the time for the completion of certain authorised works and for other purposes.

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

And whereas it is expedient that the agreement set forth in the Second Schedule to this Order should be confirmed :

And whereas it is expedient that the time for the completion of the railways and works mentioned in this Order should be extended as herein provided :

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

And whereas plans of the lands which may be taken under the powers of this Order and a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the said lands were duly deposited with the sheriff clerks of the counties of Ayr Lanark and Ross and Cromarty and are hereinafter referred to as the deposited plans and book of reference :

And whereas the purposes aforesaid cannot be effected without an Order 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 as read with the Secretaries of State Act 1926 the Secretary of State orders as follows :—

Short title.

1. This Order may be cited for all purposes as the London Midland and Scottish Railway Order 1928.

2. The Lands Clauses Acts and Part II (relating to extension of time) of the Railways Clauses Act 1863 as amended by any subsequent Act are except where and as expressly varied by this Order incorporated with this Order.

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Incorporation of Acts.

3. In this Order unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings and the expression "the Company" means the London Midland and Scottish Railway Company.

Interpretation.

In the provisions of the Acts wholly or partially incorporated with this Order the following expressions have for the purposes of this Order the meanings hereinafter attributed to them (that is to say):—

The expressions "the Company" "the undertakers" and "the promoters of the undertaking" mean the Company;

The expression "the railway and works" in Part II of the Railways Clauses Act 1863 incorporated with this Order means the railways and other works the time for the completion of which is hereby extended.

4. Subject to the provisions of this Order the Company may enter upon take and use for the purposes of their undertaking the lands hereinafter described and delineated on the deposited plans and described in the deposited book of reference (that is to say):—

Power to Company to acquire certain lands.

In the county of Ayr:—

Lands in the parish of Kirkoswald on the west side of the approach road to Turnberry Station of the Company at the south of Turnberry Hotel between a point about 123 yards east of the east side of the public road from Girvan to Ayr and the said approach road to Turnberry Station.

In the county of Lanark:—

(1) Lands in the parish of Old Monkland on the south side of and adjoining the Rutherglen and Coatbridge Branch Railway of the Com-

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pany between a point about 26 yards east of the east end of Mount Vernon Station platform and the public road east of Mount Vernon Station;

- (2) Lands in the parish of Rutherglen and in the royal burgh of Rutherglen on the north side of and adjoining the main line of the Company's railway from Glasgow to Carlisle between points respectively about 126 yards east and 337 yards east of the east side of Farmeloan Road.

In the county of Ross and Cromarty:—

Lands in the parish of Edderton on the north-east side of the main line of the Company's railway from Inverness to Wick between points about 111 yards and 474 yards respectively south-east of the bridge carrying the public road over the railway at Edderton Station.

Errors and omissions in plans and book of reference may be corrected by sheriff.

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

take hold and use any lands in accordance with such certificate. A.D. 1928.

6. The powers for the compulsory purchase of lands under this Order shall cease on the first day of October one thousand nine hundred and thirty-one. Period for compulsory purchase of lands.

7. Persons empowered by the Lands Clauses Acts to sell and convey or discharge lands may if they think fit subject to the provisions of those Acts and of this Order grant to the Company any servitude right or privilege (not being a servitude right or privilege of water in which persons other than the grantors have an interest) required for the purposes of this Order in over or affecting any such lands and the provisions of the said Acts with respect to lands and feu-duties or ground annuals so far as the same are applicable in this behalf shall extend and apply to such grants and to such servitudes rights and privileges as aforesaid. Persons under disability may grant servitudes &c.

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

9. And whereas it may happen that portions only of the houses or other buildings or manufactories shown on the deposited plans may be sufficient for the purposes of this Order and that such portions may be severed from the remainder of the said properties without material detriment thereto. Therefore notwithstanding section 90 of the Lands Clauses Consolidation (Scotland) Act 1845 the owners of and other persons interested in any of the properties described in the First Schedule to this Order and whereof parts only may be required for the purposes of this Order may (if the same can in the opinion of the jury arbiters or other authority to whom the question of disputed compensation shall be submitted be severed from the remainder of the premises without material detriment thereto) be required to sell and convey to the Company the portions only of the premises so Owners may be required to sell parts only of certain properties.

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A.D. 1928. — required without the Company being obliged or compellable to purchase the whole or any greater portion thereof the Company paying for the portions taken by them and making compensation for any damage sustained by the owners thereof and other parties interested therein by severance or otherwise. Provided that if in any case in the opinion of the jury arbiters or other authority as aforesaid any such portions cannot be severed from the remainder of such property without material detriment thereto the Company may at any time within one month after the date of the final decision of such jury arbiters or other authority withdraw their notice to treat for the portions required by them and thereupon they shall pay to the owners of and other parties interested in the property in respect of any portions of which they have given notice to treat all loss and damage sustained and all costs charges and expenses (as the same shall be taxed as between solicitor and client) reasonably incurred by them in consequence of such notice. Provided also that nothing in this section contained shall be held as determining whether the properties described in the said schedule are or are not subject to the provisions of section 90 of the Lands Clauses Consolidation (Scotland) Act 1845.

Single
arbiter.

10. In all cases of disputed purchase money or compensation arising under this Order in respect of land to be taken compulsorily or otherwise which fall to be determined under the provisions of the Lands Clauses Acts it shall unless the Company and the other party or parties to the dispute concur in the appointment of a single arbiter in terms of such Acts be in the power of the Company or such other party or parties to apply to the Secretary of State to appoint a single arbiter to determine the purchase money or compensation to be paid and it shall not be competent thereafter to have the same determined by arbiters oversmen sheriff or jury acting under the last-mentioned Acts. The said arbiter upon appointment shall be deemed to be a sole arbiter within the meaning of the Lands Clauses Acts and the provisions of those Acts with regard to arbitration shall apply accordingly and the arbiter shall notwithstanding anything contained in the said Acts determine the amount of expenses in the arbitration and such determination shall be final. The remuneration of the said arbiter shall failing agreement be fixed by the Secretary of State.

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

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Costs of
arbitration
in certain
cases.

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

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

12. In settling any question of disputed purchase money or compensation for lands acquired by the Company under the powers of this Order the tribunal settling the same shall not award any sum of money for or in respect of any improvement or alteration made or any building erected after the first day of November one thousand nine hundred and twenty-seven if in the opinion of the tribunal the improvement alteration or building in respect of which the claim is made was made

Compensation in
case of
recently
altered
buildings.

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A.D. 1928. or erected with a view to obtaining or increasing compensation nor in the case of any estate or interest in the lands created after the said date which in the opinion of the tribunal was created with a view to obtaining or increasing compensation shall any sum of money be awarded so as to increase the total amount of compensation which would otherwise have been required to be paid in respect of the acquisition by the Company of such lands.

Confirmation of agreement with Marquess of Ailsa.

13. The agreement between the most Honourable the Marquess of Ailsa as heir of entail in possession of the entailed lands and estates of Cassillis and Culzean of the first part and the Company of the second part as set forth in the Second Schedule to this Order is hereby confirmed and made binding upon the said Marquess as such heir of entail as aforesaid and his successors and upon the Company and it shall be lawful for the said Marquess and his successors and for the Company to carry out the objects and purposes of the said agreement.

Extending period for completion of Railway No. 3 under Caledonian Railway Act 1899.

14. The period now limited by the London Midland and Scottish Railway Order 1924 for the completion of Railway No. 3 authorised by the Caledonian Railway (General Powers) Act 1899 is hereby further extended until the first day of October one thousand nine hundred and thirty-one and the sections of the above Act which relate to the period for the completion of the said railway and to the penalties exigible in the event of the same not being completed within the period thereby limited for the completion thereof shall be read and construed as if the period for such completion referred to in those sections did not expire until the expiration of the extended period hereby limited.

Extending period for completion of Railway (Work No. 1) under Caledonian Railway Order 1907.

15. The period now limited by the London Midland and Scottish Railway Order 1924 for the completion of the Railway (Work No. 1) authorised by the Caledonian Railway Order 1907 is hereby further extended until the first day of October one thousand nine hundred and thirty-one and the sections of the said Order of 1907 which relate to the period for the completion of the said railway and to the penalties exigible in the event of the same not being completed within the period thereby limited for the completion thereof shall be read and construed as if the period for such completion did not expire

until the expiration of the extended period hereby limited. A.D. 1928.

16. The period now limited by the London Midland and Scottish Railway Order 1924 for the completion of the bridge lengthening (Work No. 1) authorised by the Caledonian Railway Order 1910 is hereby further extended until the first day of October one thousand nine hundred and thirty-one.

Extending period for completion of bridge lengthening (Work No. 1) under Caledonian Railway Order 1910.

17. The period now limited by the London Midland and Scottish Railway Order 1924 for the completion of the bridge widening at Beattock authorised by the Caledonian Railway Order 1913 is hereby further extended until the first day of October one thousand nine hundred and thirty-one.

Extending period for completion of bridge widening under Caledonian Railway Order 1913.

18. The Company may apply towards the purposes of this Order to which capital is properly applicable any capital or funds belonging to or authorised to be raised by them which may not be required for the purposes for which the same were authorised to be raised or directed to be applied.

Application of funds of Company.

19. Nothing in this Order contained shall exempt the Company from the provisions of any general Act relating to railways or the better or more impartial audit of the accounts of railway companies passed before or after the passing of the Act confirming this Order or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised to be taken by the Company.

Provision as to general railway Acts.

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

Costs of Order.

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A.D. 1928. The SCHEDULES referred to in the foregoing Order.

THE FIRST SCHEDULE.

HOUSES BUILDINGS OR MANUFACTORIES PARTS ONLY OF
WHICH MAY BE TAKEN.

Parish.	Number on deposited Plan.
Old Monkland - - - - -	3
Rutherglen and Royal Burgh of Rutherglen - - - - -	1

THE SECOND SCHEDULE.

AGREEMENT between the MOST HONORABLE ARCHIBALD KENNEDY MARQUESS OF AILSA EARL OF CASSILLIS etcetera etcetera heir of entail infest and in possession of the entailed lands and estates of Cassillis and Culzean in the counties of Ayr and Wigtown of which the lands and others after mentioned form part (hereinafter referred to as "the First Party") of the first part and the LONDON MIDLAND AND SCOTTISH RAILWAY COMPANY incorporated by the North Western Midland and West Scottish Group Amalgamation Scheme nineteen hundred and twenty-three under and in virtue of the Railways Act nineteen hundred and twenty-one (hereinafter referred to as "the Company") of the second part.

WHEREAS by agreement dated the ninth day of July nineteen hundred and one between the said the Marquess of Ailsa of the first part and the Glasgow and South Western Railway Company (in the said agreement referred to as "the Company" and hereinafter referred to as "the South Western Company") of the second part which agreement is set forth in the Second Schedule to the Glasgow and South Western Railway Act nineteen hundred and one 1 Edward 7 ch. ccxxvi. (hereinafter referred to as "the agreement of nineteen hundred and one") and duly confirmed by that Act and made binding upon the parties thereto it is inter alia and by the seventh article thereof agreed to that the First Party should grant to the South Western Company the right and privilege in all time to come of using the links and bent hills

(lying in the parish of Kirkoswald and county of Ayr) shown coloured red upon the plan number one annexed to the agreement of nineteen hundred and one and extending to one hundred and seventy-five acres or thereby as a golf course and for the purpose of playing the game of golf thereon subject to the conditions mentioned in said article :

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—

And whereas by the Glasgow and South Western Railway Order nineteen hundred and six (the Act confirming which Order is 6 Edward 7 ch. cxxxv.) further land was acquired by the South Western Company for the formation of the said golf course :

And whereas by grant of servitude dated the sixteenth day of August nineteen hundred and eighteen and recorded in the division of the General Register of Sasines applicable to the county of Ayr on the thirty-first day of May nineteen hundred and nineteen following upon the agreement of nineteen hundred and one the First Party as heir of entail foresaid for the consideration and on the narrative therein written granted to the South Western Company the right privilege and servitude in all time to come of using the said links and bent hills extending to two hundred and forty-three acres and four hundred and sixty-six decimal or one thousandth parts of an acre or thereby imperial standard measure lying in the said parish of Kirkoswald and county of Ayr delineated and coloured red on the plan thereof annexed and signed as relative to the said grant of servitude as a golf course and for the purpose of playing the game of golf thereon and that upon the conditions set forth in article seventh of the agreement of nineteen hundred and one :

And whereas by a further agreement dated the ninth day of August and the nineteenth day of September nineteen hundred and twenty-two (hereinafter referred to as "the agreement of nineteen hundred and twenty-two") between the First Party as heir of entail foresaid of the first part and the South Western Company of the second part the First Party on the narrative therein written agreed to grant to the South Western Company the further right privilege and servitude of using an additional part of the said links and bent hills as a golf course or as part of the said existing golf course and for the purpose of playing the game of golf thereon and that under the like restrictions conditions obligations provisions declarations reservations limitations and others so far as still subsisting and applicable and the irritant and resolute clauses specified in the said grant of servitude with reference to the said golf course :

And whereas the undertaking of the said Glasgow and South Western Railway Company is now absorbed in the undertaking of the London Midland and Scottish Railway Company incorporated as aforesaid :

And whereas by section fourteen of the London Midland and Scottish Railway Order nineteen hundred and twenty-four (the Act confirming which Order is 14 and 15 George V. ch. xi.) the

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A.D. 1928. agreement of nineteen hundred and twenty-two as set forth in the Second Schedule to the said Order of nineteen hundred and twenty-four was confirmed and made binding on the First Party as heir of entail foresaid and his successors and upon the Company as successors in title of the South Western Company :

And whereas by grant of servitude dated the thirteenth day of December nineteen hundred and twenty-six and recorded in the said division of the General Register of Sasines on the second day of February nineteen hundred and twenty-seven following upon the agreement of nineteen hundred and twenty-two the First Party as heir of entail foresaid for the consideration and on the narrative therein written granted to the Company the right privilege and servitude in all time to come of using for the purpose of playing the game of golf thereon and as an extension of the golf course the ground therein described extending to sixty-seven acres and one hundred and five decimal or one thousandth parts of an acre or thereby imperial standard measure lying in the said parish of Kirkoswald and county of Ayr delineated and coloured red on the plan thereof annexed and signed as relative to the said last-mentioned grant of servitude and that under the like restrictions conditions obligations provisions declarations reservations limitations and others so far as then still subsisting and applicable and the irritant and resolute clauses specified in the first grant of servitude with reference to the said golf course the same to apply to the said additional ground in all respects as if it had formed part of the original golf course and which conditions embraced these contained in article seventh of the agreement of nineteen hundred and one :

And whereas by paragraph thirteenth of article seventh of the agreement of nineteen hundred and one it is provided that any of the conditions thereinbefore made in reference to the golf course might be altered from time to time by agreement between the South Western Company and the First Party :

And whereas it has been arranged between the First Party and the Company that certain alterations on the said conditions and particularly on those contained in sub-article five and also on the conditions contained in sub-articles fifteen sixteen and seventeen of the said seventh article of the agreement of nineteen hundred and one should be made :

And now seeing that it is proper that the terms of the said arrangement between the parties hereto should be reduced to writing therefore this agreement witnesseth :—

First The Company agrees to pay to the First Party as heir of entail foresaid the sum of two thousand five hundred pounds sterling and that on the execution hereof :

Secondly The First Party hereby agrees for himself and his successors in the said entailed estates of Cassillis

and Culzean to cancel and give up the right conferred upon him under sub-article fifteen of the seventh article of the agreement of nineteen hundred and one to call upon the Company to concur with him in vesting the golf course and the right and privilege of playing golf thereon and leasing the grazing thereof in a committee of six members and a chairman and all interest accruing to the First Party from the said vesting and the First Party hereby further agrees as heir of entail foresaid that the Company shall have the absolute right in perpetuity in the administration and control of the golf course :

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Thirdly Nothing herein contained shall alter or affect the right of the First Party or his successors and his or their family and guests to the free use of the golf course and of the golf house and others as provided for in sub-article five of the said seventh article of the agreement of nineteen hundred and one :

Fourthly Notwithstanding the terms of the said sub-article five of the said seventh article of the agreement of nineteen hundred and one with reference to the charges to be made to the feuars of the First Party and the general public the Company shall have the sole right to make such charges to feuars of the First Party and to the general public as the Company may itself fix :

Fifthly In order to give effect to this agreement the clause in the said sub-article five of article seventh of the agreement of nineteen hundred and one providing that the feuars of the First Party and the general public should be entitled to use the golf course on payment of the charges therein stated and also sub-articles fifteen sixteen and seventeen of the said seventh article providing for the vesting of the golf course and the right and privilege of playing golf thereon and leasing the grazing thereof in a committee of six members and a chairman so far as these or any of the other conditions contained in the said article seventh are inconsistent with the terms of this agreement and also these conditions as incorporated in the said two grants of servitude are hereby repealed and cancelled :

Sixthly The provisions hereby agreed to be conferred upon the Company shall be held to be an interest in land acquired by the Company compulsorily under the provisions of the Lands Clauses Acts and the foresaid payment of two thousand five hundred pounds shall be deemed to be compensation fixed in terms of section nine of the Lands Clauses Consolidation (Scotland) Act eighteen hundred and forty-five :

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— Lastly The Company undertake and bind themselves to insert in the Provisional Order for which application is to be made by them to the Secretary for Scotland in the month of December nineteen hundred and twenty-seven a clause or clauses conferring upon the First Party and the Company the powers necessary to enable each of them to carry out the objects and purposes of this agreement and the same shall be subject to such alterations as Parliament may think fit to make thereon.

In witness whereof these presents typewritten on this and the five preceding pages are (together with a duplicate hereof and under the declaration that the word "said" is interlined so as to read between the words "the" and "grant" occurring in the seventh line of page third hereof and that the words "first before mentioned" occurring in the said seventh line of said third page are delete) executed as follows They are subscribed by the said Marquess of Ailsa at Culzean Castle Maybole on the twenty-second day of October nineteen hundred and twenty-seven before these witnesses Thomas Smith factor and John Walker butler both in his employment and they are sealed with the common seal of the said London Midland and Scottish Railway Company and are subscribed for and on their behalf by Sir John Field Beale K.B.E. and the Honorable Arthur Henry Holland-Hibbert two of their directors and Robert Christopher Irwin their secretary all at London on the second day of November and year last mentioned before these witnesses Joseph Griffiths Bellamy railway clerk twenty-seven Silverdale Road Hove Sussex and Richard Alfred Odell railway clerk eighty-eight Kensington Avenue Watford Hertfordshire.

(Sgd.) T. SMITH Witness.
(Sgd.) JOHN WALKER Witness.
(Sgd.) J. G. BELLAMY Witness.
(Sgd.) R. A. ODELL Witness.

(Sgd.) AILSA.
(Sgd.) J. FIELD BEALE.
(Sgd.) A. HOLLAND-HIBBERT.
(Sgd.) R. C. IRWIN.

Seal.

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