



British Railways (No. 3) Order Confirmation Act 1994

1994 CHAPTER iii

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to British Railways (No. 3). [24th March 1994]

WHEREAS the Provisional Order set forth in the Schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said Order should be confirmed by Parliament:

Be it therefore enacted by the Queen'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 Confirmation of Order in Schedule

The Provisional Order contained in the Schedule hereunto annexed is hereby confirmed.

2 Short title

This Act may be cited as the British Railways (No. 3) Order Confirmation Act 1994.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

SCHEDULE

BRITISH RAILWAYS (NO. 3)

Provisional Order to empower the British Railways Board to construct works and to purchase or use land; to confer further powers on the Board; and for connected purposes.

WHEREAS—

- (1) It is the duty of the British Railways Board (hereinafter referred to as “the Board”) under the Transport Act 1962 (inter alia) to provide railway services in Great Britain and, in connection with the provision of railway services, to provide such other services and facilities as appear to the Board to be expedient, and to have due regard, as respects all those railway and other services and facilities, to efficiency, economy and safety of operation:
- (2) It is expedient that the Board should be empowered to construct in the Strathclyde Region the works authorised by this Order and to purchase or use the land referred to in this Order and that the other provisions in this Order contained should be enacted:
- (3) Plans and sections showing the lines or situations and levels of the works to be constructed under this Order, and plans of the lands authorised to be purchased or used by this Order, and a book of reference to those plans containing the names of the owners and lessees, or reputed owners and lessees, and of the occupiers of the said lands were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the sheriff clerk of the sheriff court district of Hamilton, which plans, sections and book of reference are respectively referred to in this Order as the deposited plans, the deposited sections and the deposited book of reference:
- (4) The purposes of this Order cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

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

PART I

PRELIMINARY

Short title

- 1 This Order may be cited as the British Railways (No. 3) Order 1994.

Interpretation

- 2 (1) In this Order, unless the context otherwise requires, words and expressions to which meanings are assigned by the enactments incorporated herewith have the same respective meanings; and—
 - “the Act of 1845” means the Railways Clauses Consolidation (Scotland) Act 1845;
 - “the Act of 1991” means the New Roads and Street Works Act 1991;
 - “the Board” means the British Railways Board;

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“enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“the limits of deviation” means the limits of deviation shown on the deposited plans;

“the regional council” means the Strathclyde Regional Council;

“road” has, except in section 31 (For protection of roads and road traffic, etc.) of this Order, the meaning assigned to it by section 107 of the Act of 1991;

“road works authority” has the meaning assigned to it by section 108 of the Act of 1991;

“the sheriff” means the sheriff principal of, or any sheriff appointed for, the Sheriffdom of South Strathclyde, Dumfries and Galloway;

“the tribunal” means the Lands Tribunal for Scotland; and

“the works” means the works authorised by Part II (Works, etc.) of this Order.

- (2) Except in relation to section 8 (Power to deviate) of this Order, all directions, distances and lengths stated in any description of works, powers or lands in this Order shall be construed as if the words “or thereby” were inserted after each such direction, distance and length.
- (3) Any reference in this Order to a work identified by the number of that work shall be construed as a reference to the work of that number authorised by this Order.
- (4) References in this Order to points identified by letters shall be construed as references to the points so lettered on the deposited plans.
- (5) References in this Order to access to any place shall include reference to egress from that place.

Incorporation of enactments.

- 3 (1) The following enactments, so far as the same are applicable for the purposes of and are not inconsistent with, or varied by, the provisions of this Order, are incorporated with this Order, and this Order shall be deemed to be the special Act for the purposes of the said incorporated enactments:—
 - (a) the Lands Clauses Acts, except sections 120 to 124 and section 127 of the Lands Clauses Consolidation (Scotland) Act 1845;
 - (b) the Act of 1845, except sections 1, 7, 8, 9, 17, 19, 20, 22 and 23 thereof; and
 - (c) in the Railways Clauses Act 1863, Part I (relating to construction of a railway) except sections 13, 14, 18 and 19 thereof.

(2) (a)

In the application of the enactments incorporated by subsection (1) (b) and (c) above the expression “the company” means the Board.

- (b) Sections 18 and 21 of the Act of 1845 shall not extend to regulate the relations between the Board and any other person in respect of any matter or thing concerning which those relations are regulated in any respect by the provisions of Part IV of the Act of 1991 or by section 29 (For protection of electricity, gas and water undertakers) of this Order.

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PART II

WORKS, ETC.

Works

Power to make railway

- 4 Subject to the provisions of this Order, the Board may, in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the following works in the Hamilton District, Strathclyde Region, with all necessary works and conveniences connected therewith:—

(Railway between Hamilton and Larkhall)

A reinstatement of part of the former railway between Hamilton and Stonehouse comprising—

Work No. 1 A railway (2,325 metres in length) commencing at Ferniegair by a junction with the Hamilton to Motherwell Railway at a point 160 metres north-east of the bridge carrying Carlisle Road (A74) over that railway and terminating at a point on the said former railway 130 metres west of the bridge carrying Lanark Road (A72) over that former railway; and

Work No. 2 A railway (2,328 metres in length) commencing by a junction with the termination of Work No. 1 and terminating at Larkhall at a point on the said former railway 68 metres north-west of the junction of Caledonian Road with Macneil Street.

Application of Act of 1845 to certain existing bridges

- 5 (1) In this section “the existing bridges” means the bridges in Hamilton District carrying Clyde Avenue and Hamilton Road over the route of the former railway between Hamilton and Stonehouse.
- (2) Nothing in the Act of 1845, as incorporated with this Order, shall be taken to—
- (a) require the Board in constructing Works Nos. 1 and 2 beneath the existing bridges to alter or reconstruct those bridges, or
 - (b) impose any responsibility on the Board for the repair and maintenance of those bridges.

Station works at Larkhall

- 6 In the construction of Works Nos. 1 and 2, the Board may—
- (a) on any part of the land numbered 34 in the Hamilton District which lies within the line marked “Limit of station works” on the deposited plans make, maintain and operate at Larkhall a railway station for the purpose of serving those works, with all necessary works and conveniences connected therewith; and
 - (b) form and lay out means of pedestrian access at points C, D and E from Caledonian Road to that station.

Stopping up of paths

- 7 (1) Subject to the provisions of this Order, the Board may in connection with the construction of Works Nos. 1 and 2 stop up and discontinue—

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- (a) so much of the path between Fairholm Street and High Avon Street, Larkhall, as lies between points X, Y and Z; and
 - (b) so much of any other path as lies within the limits of deviation other than the path between Fairholm Street and Glen View Park, Larkhall.
- (2) After any stopping up under subsection (1) above all rights of way over or along the path or portion thereof authorised to be stopped up shall be extinguished and the Board may, subject to the provisions of the Act of 1845 with respect to mines lying under or near the railway, appropriate without making any payment therefor and use for the purposes of their undertaking the site thereof.
- (3) The Board shall, at least seven days before exercising the powers of subsection (1) above, post notices at each end of every defined path or portion thereof which they intend to stop up stating that they intend to stop it up and setting out the effect of subsection (4) below.
- (4) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the Board compensation to be determined in case of dispute by the tribunal.

Power to deviate

- 8 In the construction of the works the Board may—
- (a) deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation; and
 - (b) deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards or downwards.

General works provisions

Temporary stoppage of roads

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- (1) The Board, during and for the purpose of the execution of the works may temporarily stop up and divert and interfere with any road and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the road from passing along and using the same.
 - (2) The Board shall provide reasonable access for persons on foot bona fide going to or from any such land, house or building.
 - (3) (a)
The Board shall not exercise the powers of this section without the consent of the road works authority.
 - (b) Any such consent may be given subject to such reasonable conditions as the road works authority may require but shall not be unreasonably withheld and any question whether such consent has been unreasonably withheld or whether any such condition is reasonable shall be determined by arbitration.
 - (4) The provisions of this section shall not apply to any road of which temporary possession is taken under section 16 (Temporary use of land) of this Order.