



British Railways Order Confirmation Act 1984

CHAPTER xxxi

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1. Short title.
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ELIZABETH II



1984 CHAPTER xxxi

An Act to confirm a Provisional Order under the Private
Legislation Procedure (Scotland) Act 1936, relating to
British Railways. [20th December 1984]

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 1936 c. 52.
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. The Provisional Order contained in the Schedule hereunto
annexed is hereby confirmed. Confirmation
of Order in
Schedule.
2. This Act may be cited as the British Railways Order Short title.
Confirmation Act 1984.

SCHEDULE

British Railways

Provisional Order to confer powers on the British Railways Board with respect to their railway between Edinburgh and Berwick-upon-Tweed; to extend the period limited by section 54 of the British Transport Commission Act 1949; and for other purposes.

Whereas—

1962 c. 46.

(1) By the Transport Act 1962 the British Railways Board (hereinafter referred to as “the Board”) were established:

(2) It is the duty of the Board under the said Act of 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:

1844 c. lxvi.

(3) By the Act 7 & 8 Vict. c. lxvi (hereinafter referred to as “the Act of 1844”) the North British Railway Company, as predecessors of the Board, were authorised to construct (inter alia) a railway between Edinburgh and Berwick-upon-Tweed, being partly in tunnel at Penmanshiel in the parish of Cockburnspath which is now in the district of Berwickshire, Borders Region:

1858 c. cix.

(4) By The North British Railway Consolidation Act 1858 the Act of 1844 was, with certain exceptions, repealed and the undertaking of the said company continued:

(5) On 17th March 1979 part of the said tunnel at Penmanshiel collapsed, resulting in the closure of a section of the Board’s east coast main line and the severance of all direct rail communication between Edinburgh and Berwick-upon-Tweed:

(6) In performance of their duty under the said Act of 1962 the Board carried out by agreement with, and with the consent of, the Secretary of State and the local authorities emergency works to restore rail communication by deviating the line of the railway as originally authorised in 1844 around the collapsed tunnel and on the surface, the emergency works being completed and rail communication restored on 20th August 1979:

(7) In order to provide for such deviation around the tunnel, and to secure the safe operation of their undertaking, the Board were obliged to construct part of the railway at a level in conflict with the limit of vertical deviation imposed by the Act of 1844, although still maintaining the line of the railway within the limits of lateral deviation as shown on the plans for that Act:

(8) It is therefore expedient that the Board should be empowered by this Order to maintain the deviated railway as now constructed, notwithstanding the provisions of the Act of 1844:

(9) It is expedient that the period limited by section 54 (3) of the British Transport Commission Act 1949, as applying to Scotland and in its application to the Board and British Transport Hotels Limited, should be further extended in relation only to section 54 (1) of that Act as in this Order provided: 1949 c. xxix.

(10) It is expedient that the other powers in this Order contained should be conferred upon the Board and that the other provisions in this Order contained should be enacted:

(11) A plan and section showing the line and situation and level of the railway at Penmanshiel 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 within which the said railway is situated, which plan and section are respectively referred to in this Order as the deposited plan and the deposited section:

(12) The purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936: 1936 c. 52.

Now therefore in pursuance of the powers contained in the said Act the Secretary of State orders as follows:—

1. This Order may be cited as the British Railways Order 1984. Short title.
2. In this Order—
“the Board” means the British Railways Board;
“enactment” means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment; and
“reference point” means Ordnance Survey National Grid reference point.
- 3.—(1) In this section—
“the Act of 1844” means the Act 7 & 8 Vict. c. lxvi intitled “An Act for making a Railway from the City of Edinburgh to the Town of Berwick-upon-Tweed, with a Branch to the Town of Haddington”; Railway at Penmanshiel. 1844 c. lxvi.
“the Act of 1858” means The North British Railway Consolidation Act 1858; 1858 c. cix.
“the existing enactments” means the Act of 1858 and those provisions of the Act of 1844 thereby continued and of the Railways Clauses Consolidation (Scotland) Act 1845, 1845 c. 33. therein incorporated;

“the railway at Penmanshiel” means the railway in the parish of Cockburnspath in the district of Berwickshire, Borders Region, being so much of the railway between Edinburgh and Berwick-upon-Tweed as was authorised by the Act of 1844 and continued and maintained under the existing enactments and is now shown on the deposited plan, being 2324.10 metres in length.

(2) Notwithstanding anything to the contrary contained in the existing enactments the Board may, on land in the ownership of, or to be made available to, them, and in the line and situation and within the limit of deviation shown on the deposited plan and according to the levels shown on the deposited section, maintain the railway at Penmanshiel which shall for all purposes continue to form part of the undertaking of the Board.

(3) The provisions of the existing enactments (so far as the same are applicable and are not inconsistent with or varied by subsection (2) above) shall apply to the railway at Penmanshiel as if the same had been authorised by the Act of 1844 and continued by the Act of 1858.

Powers of
police as
to search
and arrest.
1962 c. 46.
1949 c. xxix.

1981 c. xxxv.

4. In its application to the Board and British Transport Hotels Limited under Part III of Schedule 2 to the Transport Act 1962, subsection (3) of section 54 (Powers of police as to search and arrest) of the British Transport Commission Act 1949, in relation only to subsection (1) of that section and as amended by section 57 (Powers of police as to search and arrest) of the British Railways (No. 2) Act 1981, shall, in its application to Scotland, have effect as if for the words “one thousand nine hundred and eighty-five” there were substituted “1988”.

Level crossings.

5.—(1) (a) The level crossings referred to in Part I of the Schedule to this Order are hereby stopped up and discontinued and all rights of way over or across the said level crossings are extinguished.

(b) The level crossings referred to in Part II of the said Schedule have been stopped up and discontinued and all rights of way over or across the said level crossings, other than a right for all persons to use Whitelaw crossing on foot, are extinguished and the Board shall provide and maintain wicket gates or stiles on both sides of the railway at that crossing.

(c) All rights of way over or across the level crossings referred to in Part III of the said Schedule, other than a right for all persons to use Curriehill crossing on foot, are extinguished and the Board shall provide and maintain wicket gates or stiles on both sides of the railway at that crossing.

1839 c. 45.
1842 c. 55.
1845 c. 33.
1863 c. 92.

(2) The Highway (Railway Crossings) Act 1839, section 9 of the Railway Regulation Act 1842, section 40 of the Railways Clauses Consolidation (Scotland) Act 1845, sections 5, 6 and 7 of the Railways Clauses Act 1863 and any other provision to the same or similar effect incorporated with, or contained in, any enactment cease to apply to the level crossings referred to in the said Schedule.

(3) The level crossings referred to in the said Part III (including the gates thereof, other than the gates provided at Curriehill crossing, under subsection (1) (c) above) shall be deemed for all purposes to be works provided by the Board under section 60 of the said Act of 1845 for the accommodation of the owners and occupiers of the lands adjoining the railways at the said level crossings; (that is to say) for the purpose of making good any interruptions caused by such railways to the use of the lands through which the same have been made as if the making of such railways had been authorised by this Order.

(4) If any part of the road crossed by the railway at any of the level crossings referred to in the said Part III shall have ceased to be a road over which there existed a right of way for the passage of vehicles, the owners and occupiers of the lands abutting on that part of that road shall be deemed to have such rights of passage over or across the said level crossing as shall be necessary to enable them to pass and repass to and from the said lands.

(5) Any person who suffers, or has suffered, loss by the extinguishment of any private rights of way over the level crossings referred to in the said Schedule shall be entitled to be paid by the Board compensation to be determined, in case of dispute, by the Lands Tribunal for Scotland.

6. All costs, charges and expenses of and incidental to the preparing for, obtaining and confirming of this Order, or otherwise in relation thereto, shall be paid by the Board and may in whole or in part be defrayed out of revenue. Costs of Order.


Section 5.

SCHEDULE

LEVEL CROSSINGS REFERRED TO IN SECTION 5 OF THIS ORDER

Area	Description of level crossing
PART I	
In the Grampian Region— In the Gordon District— In the parish of Drumblade ..	The level crossing known as Huntly crossing (reference point NJ 532:392) whereby the road connecting Upper Pirriesmill with the A.96 and A.97 roads was crossed on the level by the railway between Gartly and Huntly.
In the Tayside Region— In the Perth and Kinross District— In the parish of Logierait ..	The level crossing known as Ballinluig crossing (reference point NN 977:523) whereby the A.827 road is crossed on the level by the railway between Dunkeld and Pitlochry.
PART II	
In the Highland Region— In the Inverness District— In the parish of Petty ..	The level crossing known as Gollanfield crossing (reference point NH 819:534) whereby the A.96 road was crossed on the level by the railway between Nairn and Inverness.
In the Lothian Region— In the City of Edinburgh District— In the parish of Currie ..	The level crossing known as Whitelaw crossing (reference point NT 184:692) whereby Baberton Road was crossed on the level by the railway between Kingsknowe and Kirknewton.

Area	Description of level crossing
PART III	
In the Fife Region— In the Kirkcaldy District— In the parish of Markinch	The level crossing known as Double Dykes crossing (reference point NT 306:986) whereby the road connecting the Coaltown of Balgonie with the Coaltown of Wemyss is crossed on the level by the railway between Thornton Yard and Methil West:
In the North East Fife District— In the parish of Leuchars . .	The level crossing known as Seggiehill crossing (reference point NO 433:191) whereby the road connecting the A.91 road with the A.92 road is crossed on the level by the railway between Cupar and Leuchars.
In the Lothian Region— In the City of Edinburgh District— In the parish of Currie . .	The level crossing known as Curriehill crossing (reference point NT 163:677) whereby Gowanhill Road is crossed on the level by the railway between Kingsknowe and Kirknewton.

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