

[6 EDW. 7.] *County of Aberdeen (Monymusk Bridge and Road) Order Confirmation Act, 1906.* [Ch. xx.]



CHAPTER xx.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1899 relating to the County of Aberdeen (Monymusk Bridge and Road). A.D. 1906.
[29th May 1906.]

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 County of Aberdeen (Monymusk Bridge and Road) Order Confirmation Act 1906. Short title.

A.D. 1906.

SCHEDULE.

COUNTY OF ABERDEEN (MONYMUSK BRIDGE
AND ROAD).

Provisional Order to authorise the County Road Board of the County of Aberdeen to construct a new road and bridge within the Garioch district of the county and the Garioch District Committee to manage and maintain the same and the County Council of the said county to acquire lands and servitudes for the purposes thereof and to levy assessments and borrow money and for other purposes.

WHEREAS the County Council of the county of Aberdeen (herein-after called "the County Council") are by the Local Government (Scotland) Act 1889 (herein-after called "the Act of 1889") empowered to acquire and hold lands and to raise money by rate or loan for the purposes of the Roads and Bridges (Scotland) Act 1878 and the Roads and Bridges (Scotland) Amendment Act 1892:

And whereas the County Road Board of the county of Aberdeen (herein-after called "the Road Board") are the authority entitled with the approval of the County Council to construct any new road or bridge that they may think requisite or to enter into an agreement with any person or corporation for the construction of any new road or bridge under the Roads and Bridges (Scotland) Act 1878:

And whereas the county of Aberdeen has been divided into districts in accordance with the provisions of the Act of 1889 one of which districts (herein-after called "the Garioch district") includes among other parishes the parish of Monymusk in the said county:

And whereas the Garioch District Committee of the County Council constituted under the provisions of the Act of 1889 (herein-after called "the District Committee") are the local authority for the management and maintenance of the roads and

[6 EDW. 7.] *County of Aberdeen (Monymusk Bridge and Road) Order Confirmation Act, 1906.* [Ch. xx.]

bridges within the Garioch district except with respect to rating and borrowing money : A.D. 1906.

And whereas it is expedient that the Road Board should be authorised to make a diversion and alteration of part of the public road in the parish of Monymusk leading from the Aberdeen and Alford turnpike road and across the River Don by a bridge to the Aberdeen and Inverness turnpike road as herein-after mentioned and should be authorised to stop up and discontinue the existing road between the points of diversion :

And whereas it is expedient that the County Council should be authorised and required to levy rates and assessments and to borrow money on the security of such assessments for the purposes of this Order :

And whereas it is expedient that the other powers and provisions contained in this Order should be conferred on the County Council the Road Board and the District Committee :

And whereas plans and sections showing the lines and levels of the works authorised by 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 lands required or which may be taken for the purposes or under the powers of this Order were duly deposited with the principal sheriff-clerk of the county of Aberdeen and are herein-after respectively referred to as "the deposited plans sections and book of reference" :

And whereas the purposes aforesaid cannot be effected without an Order of the Secretary for Scotland confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1899 :

Now therefore in pursuance of the powers contained in the said last-mentioned Act the Secretary for Scotland orders as follows :—

1. This Order may be cited as the County of Aberdeen (Monymusk Bridge and Road) Order 1906 and shall come into operation at the date of the passing of the Act confirming the same which date is herein-after referred to as "the commencement of this Order."

Short title and commencement of Order.

2. The following Acts or parts of Acts so far as the same respectively are applicable for the purposes and are not

Incorporation of Acts.

[Ch. xx.] *County of Aberdeen (Monymusk Bridge and Road) Order Confirmation Act, 1906.* [6 EDW. 7.]

A.D. 1906. inconsistent with the provisions of this Order are hereby incorporated with and form part of this Order namely:—

The Lands Clauses Acts;

The clauses and provisions of the Railways Clauses Consolidation (Scotland) Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and the crossing of roads and other interference therewith. And the provisions of the said Act shall for the purposes of this Order be read as if the works by this Order authorised were therein mentioned instead of the railway and the boundaries of these works instead of the centre of the railway and the prescribed limits shall be two hundred yards from such boundaries.

Interpretation.

3. In this Order the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated therewith or by the Roads and Bridges (Scotland) Act 1878 or the Act of 1889 have the same respective meanings unless there be something in the subject or context repugnant to such construction. In this Order and in the Acts wholly or partially incorporated with this Order the following expressions shall have the meanings herein-after assigned to them:—

“The county” means the county of Aberdeen;

“The sheriff” means the sheriff of the county and includes his substitutes;

“The County Council” means the County Council of the county;

“The Road Board” means the Road Board of the county;

“The Garioch district” means the Garioch district of the county;

“The District Committee” means the Garioch District Committee of the county;

“The Act of 1889” means the Local Government (Scotland) Act 1889 and any Act or Acts amending the same;

“The Roads and Bridges Acts” means the Roads and Bridges (Scotland) Act 1878 the Roads and Bridges (Scotland) Amendment Act 1892 and any Act or Acts amending the same.

[6 EDW. 7.] *County of Aberdeen (Monymusk Bridge and Road) Order Confirmation Act, 1906.* [Ch. xx.]

4. Subject to the provisions of this Order the Road Board may on the lands to be acquired by the County Council as herein-after provided construct in the lines and situation and according to the levels shown on the deposited plans and sections the works herein-after described together with all necessary and proper embankments roads approaches ways adits shafts tunnels and works and apparatus and other conveniences in connexion with the said works or necessary or convenient for carrying out and using the same.

A.D. 1906.
Power to construct works.

5. The works herein-before referred to and authorised by this Order are the following :—

Description of works.

A diversion and alteration of the line and levels of so much of the public road in the parish of Monymusk and county of Aberdeen leading from the Aberdeen and Alford turnpike road across the River Don to the Aberdeen and Inverness turnpike road commencing such diversion and alteration at a point in the centre of the said road forty yards west of the junction of the road leading to Pitfichie farm buildings with the existing road and crossing the River Don by a bridge to be constructed as shown on the deposited plans and sections and terminating at a point on the said road where it is joined by the road leading to the farm buildings of Delab and the stopping up and discontinuance of the existing road between such points aforesaid.

6. Subject to the provisions of this Order the County Council may purchase take appropriate acquire hold enter upon and use such of the lands shown on the deposited plans and described in the deposited book of reference as may be required for the purposes of the said works herein-before described.

Power to acquire lands.

7. If there be any omission mis-statement or erroneous description of any lands which may be required or taken for the said works or any of them or of the owners lessees or occupiers of any such lands shown on the deposited plans or specified in the deposited book of reference the County Council after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to the sheriff for the correction thereof and if it appear to the sheriff that such omission mis-statement or erroneous description arose from accident or mistake he shall certify the same accordingly and shall in such certificate state the particulars of the omission and in what respect any such matter is

Omission or mis-statement in plans or book of reference may be corrected.

[Ch. xx.] *County of Aberdeen (Monymusk Bridge [6 EDW. 7.] and Road) Order Confirmation Act, 1906.*

A:D. 1906. — mis-stated or erroneously described and the decision of the sheriff in such matter shall be final.

Certificate to be deposited.

8. The certificate of the sheriff shall be deposited in the office at Aberdeen of the principal sheriff-clerk of the county of Aberdeen and such certificate shall be kept by such sheriff-clerk 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 County Council may enter on purchase take hold and use for the purposes of this Order any lands in accordance with such certificate as if such omission mis-statement or erroneous description had not been made.

Power to take servitudes &c. by agreement.

9. Persons empowered by the Lands Clauses Acts to sell and convey or dispose of lands may if they think fit subject to the provisions of those Acts and of this Order grant to the County Council 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 annual 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 respectively.

Power to acquire additional lands by agreement.

10. In addition to the lands which the County Council are by this Order authorised to purchase compulsorily they may for any of the purposes of this Order from time to time by agreement purchase any additional quantity of land not exceeding in the whole three acres Provided that neither the County Council the Road Board nor the District Committee shall upon any such lands create or permit any nuisance.

Restriction on taking houses of labouring class.

11. The County Council shall not under the powers of this Order purchase or acquire ten or more houses which on the fifteenth day of December last were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers or except with the consent of the Secretary for Scotland ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied If the County Council acquire or appropriate any house or houses under the powers of this Order in contravention

[6 Edw. 7.] *County of Aberdeen (Monymusk Bridge and Road) Order Confirmation Act, 1906.* [Ch. xx.]

of the foregoing provision they shall be liable to a penalty of five hundred pounds in respect of every such house which penalty shall be recoverable by the Secretary for Scotland by action in the Court of Session and shall be carried to and form part of the Consolidated Fund of the United Kingdom Provided that the Court may if it think fit reduce such penalty. A.D. 1906.

For the purposes of this section the expression "labouring class" includes mechanics artisans labourers and others working for wages hawkers costermongers persons not working for wages but working at some trade or handicraft without employing others except members of their own family and persons other than domestic servants whose income does not exceed an average of thirty shillings a week and the families of any of such persons who may be residing with them The expression "house" means any house or part of a house occupied as a separate dwelling.

12. The powers of the County Council for the compulsory purchase of lands for the purposes of this Order shall cease after the expiration of three years after the commencement of this Order. Period for compulsory purchase of lands.

13. Subject to the provisions of this Order the Road Board may in the construction of the works by this Order authorised deviate from the lines thereof as shown or referred to on the deposited plans to any extent not exceeding the limits of deviation shown thereon and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding five feet upwards and five feet downwards Provided that the County Council shall make compensation to any person whose property is injuriously affected by the exercise of the said powers of vertical deviation. Limits of lateral and vertical deviation.

14. For the purposes of the construction and use of the works authorised by this Order the Road Board and the District Committee may break up or cross over or under alter or stop up submerge alter divert and remove any roads highways streams culverts bridges footbridges paths sewers drains and watercourses and other property so far as it may be necessary or expedient for any of the purposes of this Order so to interfere with or in any of the lands acquired by the County Council under the powers of this Order. Power to alter roads streams &c. temporarily or permanently.

[Ch. xx.] *County of Aberdeen (Monymusk Bridge and Road) Order Confirmation Act, 1906.* [6 Edw. 7.]

A.D. 1906.

New portion of road to be subject to same provision as existing roads.

15. The diverted and altered portion of road and new bridge authorised to be constructed by this Order shall be in substitution for the portion of the existing road so diverted and altered and shall with respect to maintenance and management and in all other respects be deemed to be part of the public roads within the jurisdiction of the District Committee and any portion of the existing road stopped up or discontinued under this Order shall be deemed to have been shut up in terms of section forty-three of the Roads and Bridges (Scotland) Act 1878.

Period for completion of works.

16. If the works authorised by this Order are not completed within three years from the commencement of this Order then on the expiration of that period the powers by this Order granted to the Road Board for executing the said works or in relation thereto shall cease except as to so much thereof as is then completed but nothing herein shall restrict the Road Board or the District Committee from maintaining altering repairing or renewing any of the said works so completed from time to time as occasion requires.

Power to levy assessments.

17. The County Council may and are hereby authorised and required annually to impose and levy the assessment authorised by the Roads and Bridges Acts as amended by the Act of 1889 upon all lands and heritages within the Garioch district to defray the expense connected with the carrying out of the powers of this Order and of constructing and maintaining the works authorised as aforesaid.

Power to borrow.

18. The County Council may with the consent of the standing joint committee of the county in addition to any of the powers which they now have for borrowing money borrow such sum or sums not exceeding in the whole five thousand pounds as may be necessary for the purposes of this Order and may assign the said assessment herein-before authorised to be levied in security of the money so borrowed and the provisions of section sixty-seven of the Act of 1889 shall so far as applicable apply to any moneys borrowed under the authority of this Order in the same manner as if such money had been borrowed under the provisions of the Act of 1889.

Application of moneys borrowed.

19. The sums borrowed by the County Council under the authority of this Order shall be applied only to the purposes of this Order to which capital is properly applicable.

[6 EDW. 7.] *County of Aberdeen (Monymusk Bridge and Road) Order Confirmation Act, 1906.* [Ch. xx.]

20. The costs charges and expenses of and incident to the preparing and applying for and the issue of this Order and the confirmation thereof by Parliament or otherwise in relation thereto shall be paid by the County Council out of the assessment to be levied or out of the moneys to be borrowed under the authority of this Order or out of any other moneys which the County Council may legally apply to such purpose and so far as such costs are paid out of borrowed money the same shall be repaid within five years from the commencement of this Order.

A.D. 1906.
—
Costs of
Order.

Printed by EYRE and SPOTTISWOODE,

FOR

ROWLAND BAILEY, Esq., M.V.O., I.S.O., the King's Printer of Acts of Parliament.

And to be purchased, either directly or through any Bookseller, from
WYMAN AND SONS, LTD., FETTER LANE, E.C.; or
OLIVER AND BOYD, EDINBURGH; or
E. PONSONBY, 118, GRAFTON STREET, DUBLIN.