
STATUTORY INSTRUMENTS

1996 No. 1267

TRANSPORT

The Churnet Valley Light Railway Order 1996

Made - - - - - *3rd May 1996*

Coming into force - - - - - *4th May 1996*

The Secretary of State for Transport, on the application of Churnet Valley Railway (1992) plc for an Order under the Light Railways Act 1896(1) (hereinafter referred to as “the Act”), being satisfied in accordance with section 7 of the Act that its requirements in relation to the publication and service of notices, and consideration of objections, have been satisfied, and having considered the Order as required by section 9 of the Act, in exercise of the powers conferred by sections 7, 10 to 12 and 18 of the Act, and now vested in him(2), and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Churnet Valley Light Railway Order 1996 and shall come into force on 4th May 1996.

Interpretation

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them:—

“the Act of 1845” means the Railways Clauses Consolidation Act 1845(3);

“the Board” means the British Railways Board;

“the Board’s railway” means so much of the former railway of the Board in the County of Staffordshire described in and authorised by the enabling Acts and works relating thereto as lies between the point immediately to the south of the point known as Leekbrook junction in the parish of Leek at Grid Reference SJ9813/5378 and the point known as the sand sidings in the Parish of Oakamoor at Grid Reference SK0453/4508 and includes all the lands and works relating thereto in those parishes and in the parishes of Cheddleton, Ipstones and Kingsley in

(1) 1896 c. 48; sections 7 and 9 were repealed in part by the Railways Act 1921 (c. 55), section 86(2) and Schedule 9; section 10 was repealed in part by the Statute Law (Repeals) Act 1896 (c. 12), Schedule 1; section 11 was amended by the Light Railways Act 1912 (c. 19), section 5(3), and the Railways Act 1921, section 73(1), and was repealed in part and further amended in respects not relevant to this Order; section 12 was repealed in part by the Finance Act 1929 (c. 21), section 6 and Schedule.

(2) Railways Act 1921, section 68(1), and S.I.1970/1681, 1979/571 and 1981/238.

(3) 1845 c. 20.

the district of Staffordshire Moorlands formerly held by the Board relating to the said railway and lying between those points;

“the Company” means Churnet Valley Railway (1992) plc incorporated under the Companies Acts 1985 to 1989⁽⁴⁾ and having its registered office at Cheddleton Station, Cheddleton, Staffordshire ST13 7EE;

“the Company’s railway” means the railway authorised to be constructed and maintained by the Company pursuant to article 4 of this Order;

“the definitive map” means the definitive map for the area prepared under section 53 of the Wildlife and Countryside Act 1981⁽⁵⁾;

“the deposited plans” and “the deposited sections” mean respectively the plans and sections deposited in respect of the application for this Order with the Secretary of State for Transport, Great Minister House, 76 Marsham Street, London, SW1P 4DR and at the registered office of the Company, and marked as those plans and sections respectively;

“the enabling Acts” means the North Staffordshire Railway (Churnet Valley Line) Act 1846⁽⁶⁾ and the North Staffordshire Railway Act 1847⁽⁷⁾;

“the existing railway centre demonstration line” means the railway and works relating thereto in the County of Staffordshire lying immediately to the south of Cheddleton Station in the parish of Cheddleton on lands owned by or leased to the Company and shown marked “existing railway centre demonstration line & sidings” on the deposited plans;

“Grid Reference” means an Ordnance Survey Grid Reference;

“the transfer date” in respect of the Board’s railway or any part of the Board’s railway means the date on which the Board’s railway or that part of the Board’s railway is transferred to the Company by virtue of an agreement made pursuant to article 6 of this Order.

(2) For the purposes of this Order, “transferred” in relation to any rails, plates, sleepers, chairs, sidings, passing loops, junctions or any other associated track equipment forming part of the Board’s railway includes leased or let to, or licensed for use by, the Company.

Incorporation and application of enactments

3.—(1) Subject to the provisions of this Order, the following provisions of the Act of 1845 shall be incorporated in this Order:—

Section 16 (works to be executed);

Section 18 (alteration of water and gaspipes, etc);

Section 19 (company not to disturb pipes until they have laid down others);

Section 20 (pipes not to be laid contrary to any Act, and 18 inches surface road to be retained);

Section 21 (company to make good all damage);

Section 24 (penalty for obstructing construction of railway);

Section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;

Section 61 (company to make sufficient approaches and fences to highways crossing on the level);

Section 68 (accommodation works by company);

(4) 1985 c. 6 and 1989 c. 40.

(5) 1981 c. 69.

(6) 1846 c.lxxxvi.

(7) 1847 c.cviii.

Sections 78 to 85E (which relate to the working of mines);
Section 105 (carriage of dangerous goods on the railway);
Section 145 (recovery of penalties); and
Section 154 (transient offenders).

(2) In those provisions, as incorporated in this Order—

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means any railway authorised to be constructed by this Order and, except where the context otherwise requires, any other authorised works; and

“the special Act” means this Order.

(3) The following enactments shall apply to the Company’s railway:—

The Regulation of Railways Act 1868⁽⁸⁾—

Section 22 (means of communication between passengers and the Company’s servants to be provided); and

The Regulation of Railways Act 1889⁽⁹⁾—

Section 1 (power to order certain provisions to be made for public safety); and

Section 5 (penalty for avoiding payment of fare).

(4) In its application to the Company’s railway section 22 of the Regulation of Railways Act 1868 shall have effect as if the words “and travels more than 20 miles without stopping” were omitted therefrom.

Power for the Company to construct and maintain railway

4.—(1) Subject to the provisions of this Order, the Company may on lands owned by or leased to the Company and either on the line of so much of the Board’s railway as is transferred pursuant to this Order and within the formation of that railway or on the existing railway demonstration line construct and maintain a railway with all proper rails, plates, sidings, passing loops, junctions, bridges, culverts, drains, approaches, roads, yards, buildings and other works and conveniences connected therewith including station premises, workshops and facilities; and may enter into agreements with any other person for such purposes and may upon such lands work the said railway as a light railway under the Act and in accordance with the provisions of this Order.

(2) Without prejudice to the generality of the foregoing, the Company may construct and maintain the works more particularly described in Schedule 1 to this Order.

Power to deviate

5. In the construction of the Company’s railway or any part thereof the Company may deviate from the line or situation thereof shown on the deposited plans to the extent of the limits of deviation shown thereon and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 1 metre upwards or downwards.

Transfer of railway and rights, etc. from Board to Company

6.—(1) The Board and the Company may enter into and carry into effect agreements providing for the transfer to and vesting in the Company of the Board’s railway or any part thereof on such terms and conditions as may be agreed between the Board and the Company.

(8) 1868 c. 119.

(9) 1889 c. 57.

(2) On the transfer date all such rights, powers, privileges and obligations as are vested in or borne by the Board immediately before that date with respect to any part of the Board's railway transferred to the Company on that date by virtue of an agreement made pursuant to this article shall be transferred to and vest in the Company and thereafter the Company shall to the exclusion of the Board be entitled to the benefit of, and to exercise, all such rights, powers and privileges and be subject to all such obligations, whether statutory or otherwise, then in force to the intent that the Board shall be released from all such obligations.

Gauge of railway and motive power

7.—(1) The Company's railway shall be constructed and operated on a nominal gauge of 1.435 metres (4 feet 8½ inches) and the motive power on the railway shall be diesel-mechanical, diesel-hydraulic, diesel-electric, steam, internal combustion, battery, electric or such other motive power as the Secretary of State may in writing approve.

(2) Nothing in this Order shall authorise the Company to use electrical power as motive power on the Company's railway unless such power is obtained from storage batteries or from a source of generation entirely contained in and carried along with the engines and carriages.

(3) If electrical power is used as motive power on the Company's railway such electrical power shall not be used in such a manner as to cause or be likely to cause any interference with any telecommunications apparatus as defined in Schedule 2 to the Telecommunications Act 1984(10) or with telecommunications by means of any such apparatus.

As to crossing of a road, access ways and footpaths on the level

8.—(1) The Company may carry the Company's railway across and on the level of the private access ways, road and footpaths described in Schedule 2 to this Order.

(2) The rails of the railway shall be maintained within the areas of the level crossings so that the upper surface is upon a level with the surface of the access way, road or footpath, as the case may be, and the surface over the level crossings shall be maintained in good and even condition.

(3) The Company shall not within the area of the level crossings obstruct or hinder traffic or persons passing along the access way, road or footpath for longer than is reasonably necessary in taking any train, engine or carriage across the access way, road or footpath.

As to crossing of certain access ways and footpaths

9.—(1) Subject to paragraphs (2) and (3) of this article, access across the railway at each of the level crossings described in Schedule 2 to this Order, except for the crossings described in paragraphs 2 and 12 thereof, shall be provided by a gate on each side of the railway opening away from the railway which in the case of the crossings described in paragraphs 10, 11, 13 and 14 of that Schedule and that part of the crossing described in paragraph 9 of that Schedule which relates to the footpath shall be a self-closing gate and the Company shall provide and maintain at the said level crossings signs bearing the wording 'STOP, LOOK AND LISTEN' on each side of the railway facing towards persons approaching the level crossing.

(2) The Company shall provide and maintain at or near each of the level crossings described in Schedule 2 to this Order except for the level crossing described in paragraph 2 of that Schedule such barriers, gates or other protective equipment as the Secretary of State may from time to time require in writing, and subject to such requirements as he may from time to time lay down.

(3) In this article "protective equipment" includes lights, traffic signs (within the meaning of section 64(1) of the Road Traffic Regulation Act 1984(11)), as prescribed in Schedule 3 to the Traffic

(10) 1984 c. 12.

(11) 1984 c. 27.

Signs Regulations and General Directions 1994(12) manual, mechanical, automatic, electrical or telephonic equipment or other devices.

As to crossing at Basford Bridge Lane

10.—(1) The Company shall provide at the crossing described in paragraph 2 of Schedule 2 to this Order, and shall operate and maintain, the protective equipment which is specified in Part I of Schedule 3 to this Order.

(2) The Company shall cause to be observed the conditions and requirements with regard to the crossing mentioned in paragraph (1) of this article which are specified in Part II of Schedule 3 to this Order.

Restriction as to working of Company's railway

11. No part of the Company's railway shall be used for the conveyance of passengers without the permission in writing of the Secretary of State.

For the protection of public gas transporters

12. Nothing in this Order shall prejudice or affect the statutory or other rights of any public gas transporter within the meaning of Part I of the Gas Act 1986(13) in or relating to any pipe, main or apparatus belonging to them or for the maintenance of which they are responsible, or any structure for the lodging therein of any pipe, main or apparatus, being any pipe, main or apparatus or structure situate under, over or upon lands in or upon which the Company's railway or any part thereof is constructed.

For the protection of the Environment Agency

13.—(1) For the protection of the Environment Agency (in this article referred to as "the Agency") the following provisions shall, unless otherwise agreed in writing between the Company and the Agency, apply and have effect.

(2) Nothing in this Order or in any enactment incorporated with or applied by this Order shall prejudice or affect the operation of section 109 of the Water Resources Act 1991(14) or any byelaws made under that Act or the Land Drainage Act 1991(15) in relation to anything done under or in pursuance of this Order.

(a) (3) (a) Before carrying out any works involving the erection or raising of any obstruction to the flow of any watercourse or the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any watercourse in, under or through any land held for the purposes of or in connection with the Company's railway the Company shall furnish to the Agency proper and sufficient plans thereof for the approval of the Agency and shall not carry out the said works until the said plans have been approved in writing by the Agency such approval not to be unreasonably withheld;

(b) For the purposes of this paragraph "plans", includes sections, drawings, specifications, calculations and descriptions.

(4) Any culvert or any structure designed to contain or divert the flow of any watercourse situated within any land held for the purposes of or in connection with the Company's railway, whether constructed under the powers of this Order or in existence prior to the making hereof, shall be maintained by the Company in good repair and condition and free from obstruction.

(12) S.I. 1994/1519.

(13) 1986 c. 44; the term "public gas transporter" is defined in section 7(1) as substituted by section 5 of the Gas Act 1995.

(14) 1991 c. 57.

(15) 1991 c. 59.

(5) If any obstruction is erected or raised or any culvert is constructed, altered or replaced in contravention of this article the Company shall upon receiving notice from the Agency take such action as may be necessary to remedy the effect of the contravention to the Agency's satisfaction and in default the Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from the Company as a debt due from them to the Agency.

For the protection of sewerage and water undertakers

14.—(1) For the protection of sewerage and water undertakers for the time being for the area in which the Company's railway is situated (in this article referred to as "the undertakers") the following provisions shall, unless otherwise agreed in writing between the Company and the undertakers concerned, apply and have effect.

(2) In this article, "relevant pipe" in relation to any of the undertakers has the meaning given in section 179(7) of the Water Industry Act 1991⁽¹⁶⁾.

(3) Nothing in section 18 of the Act of 1845 in its application to the Company's railway shall authorise the Company to raise, sink or otherwise alter the position of, or in any way interfere with, any relevant pipe without the consent in writing of the undertaker concerned, such consent not to be unreasonably withheld.

(a) (4) (a) The Company shall not within the limits of deviation and without the consent of the undertakers concerned—

(i) place or deposit any materials or erect any structure or works other than a single line of rails or passing loop; or

(ii) make any excavation to a depth of more than 300 millimetres below the surface of the ground;

in so far as the same is or would be carried out or situated within 15 metres (measured in any direction) of any part of a relevant pipe;

(b) The undertakers concerned shall not unreasonably withhold their consent under this paragraph but may grant their consent subject to reasonable conditions for the protection of a relevant pipe.

(5) Where any relevant pipe is situated in or under any land owned or held for the purposes of the Company's railway the Company shall at their own expense maintain all culverts over such relevant pipe which are in existence at the coming into force of this Order so as to leave the relevant pipe accessible for the purpose of repairs.

(6) The Company shall afford reasonable facilities to the undertakers for the execution and doing of all such works and things as may be reasonably necessary to enable them to inspect, repair, maintain, renew, replace, remove, alter or use any relevant pipe.

(a) (7) (a) The Company shall compensate the undertakers—

(i) for any damage done or disturbance caused to any relevant pipe; and

(ii) for any other expenses, loss, damages, penalty or costs incurred by the undertakers, by reason or in consequence of the execution, maintenance, user or failure of any of the works authorised by this Order or otherwise by reason or in consequence of the exercise by the Company of the powers of this Order.

(b) Nothing in this paragraph shall entitle the undertakers to any payment in respect of damage attributable to the neglect or default of the undertakers, their servants or agents.

(8) Nothing in this Order shall prejudice or affect the rights of the undertakers in respect of any relevant pipe or the provisions of any agreement regulating the relationship between the Company

(16) 1991 c. 56.

and the undertakers with regard to any relevant pipe and whether made before or after this Order comes into force.

Arbitration

15. Any difference arising between the Company and the relevant undertakers under article 13 or 14 above shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President for the time being of the Institution of Civil Engineers.

Signed by authority of the Secretary of State for Transport

3rd May 1996

R. A. Allan
An Under Secretary,
Department of Transport

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SCHEDULE 1

Article 4(2)

Works referred to in Article 4 In the District of Staffordshire Moorlands in the County of Staffordshire

Work No. 1

A station siding approximately 150 metres in length in the parish of Kingsley situated to the south east of Bridge No. 31 as marked on the deposited plans commencing at a junction with the Board's railway approximately 20 metres south of the point marked 12.0 mile post on the deposited plans and terminating at a point approximately 35 metres south-east of the said Bridge No. 31.

Work No. 2

A siding approximately 20 metres in length in the parish of Kingsley commencing at a junction with Work No. 1 approximately 40 metres from its junction with the Board's railway and terminating at a point 20 metres north-east of the point of commencement of the work.

Work No. 3

A passing loop of approximately 270 metres in length in the parish of Kingsley commencing at a junction with the Board's railway at a point approximately 5 metres north north-west of Bridge No. 31 as marked on the deposited plans and terminating at a junction with the Board's railway approximately 15 metres north north-west of Bridge No. 32 as marked on the deposited plans.

Work No. 4

A passing loop of approximately 320 metres in length in the parish of Ipstones commencing at a junction with the Board's railway at a point approximately 45 metres south of Bridge No. 40 as marked on the deposited plans and terminating at a junction with the Board's railway approximately 14 metres south of Bridge No. 42 as marked on the deposited plans.

Work No. 5

A passing loop of approximately 320 metres in length in the parish of Cheddleton commencing at a junction with the Board's railway at a point approximately 180 metres south south-east of the point marked 16.50 mile post on the deposited plans and terminating at a point approximately 140 metres north north-east of the said 16.50 mile post.

Work No. 6

A railway of approximately 30 metres in length in the parish of Cheddleton commencing at a junction with the Board's railway at a point approximately 46 metres south of the proposed extension to the up and down platforms of Cheddleton Station as marked on the deposited plans and terminating at a junction with the existing railway centre demonstration line approximately 32 metres north of the said point.

SCHEDULE 2

Article 8

Level Crossings referred to in Article 8

1. The private vehicular crossing in the parish of Leek between the private access road and the two former Railway Cottages and fields at Leekbrook Junction at Grid Reference SJ9810/5352;
2. The road known as Basford Bridge Lane in the parish of Cheddleton from Basford Bridge Lane to Basford Green at Grid Reference SJ9824/5207;
3. The private vehicular crossing in the parish of Cheddleton between two fields at Grid Reference SJ9833/5183;
4. The private vehicular crossing in the parish of Cheddleton from field 4461 to field 3749 (close to MP 16 1/4) at Grid Reference SJ9836/5163;
5. The private vehicular crossing in the parish of Cheddleton from field 6600 to field 4800 at Grid Reference SJ9857/5096;
6. The private vehicular crossing in the parish of Ipstones between two fields at Grid Reference SJ9873/5075;
7. The private vehicular crossing in the parish of Ipstones between two fields at Grid Reference SJ9898/5047;
8. The private vehicular crossing in the parish of Ipstones from Turners Knipe to field 4200 at Grid Reference SJ9936/5012;
9. The footpath numbered 11 on the definitive map and the private vehicular crossing between the Black Lion Public House and private access road in the parish of Ipstones at Grid Reference SJ9999/4915;
10. The footpath numbered 10 on the definitive map from Kingsley Banks to Consall New Lock in the parish of Ipstones at Grid Reference SK0035/4842;
11. The private pedestrian crossing from Booth's Wood to Hazles Wood in the parish of Ipstones at Grid Reference SK0074/4819;
12. The private vehicular crossing in the parish of Kingsley serving the works of Thomas Bolton Limited at Grid Reference SK0219/4733;
13. The new private pedestrian crossing in the parish of Kingsley serving the works of Thomas Bolton Limited at Grid Reference SK0228/4728;
14. The footpath numbered 43 on the definitive map from Ochre Wood to Whiston Bridge in the parish of Kingsley at Grid Reference SK0273/4673;
15. The private vehicular crossing between two fields in the parish of Kingsley at Grid Reference SK0386/4526.

SCHEDULE 3

Article 10

Level Crossing of Unclassified Road at Basford Bridge Lane

PART I

Particulars of the Gates and Other Protective Equipment

1. Two gates shall be pivoted on the road, on each side of the railway, as close to the railway as practicable.
2. The uppermost surface of the gates shall not be less than 1450 millimetres (“mm”) above the road surface at the centre of the carriageway and the under clearance between the gates and the carriageway shall not exceed 150mm.
3. When closed to road vehicles the gates shall extend across the full width of the carriageway.
4. When open to road vehicles each gate shall be parallel with the edge of the carriageway on the same side of the road as that edge and shall extend across the full width of the railway.
5. Each gate shall be provided with a suitable mechanism to secure the gate in the open or closed positions and, when the railway line is not being operated, to secure the gates against unauthorised operation.
6. The gates shall be painted all over in white and shall each display a circular plate of Red Class I retroreflecting material not less than 750mm in diameter. Each plate shall be fixed to its gate in such a position that when the gate is closed to road traffic it is located in the centre of the gate facing towards the approaching traffic.
7. Provision shall be made for a lamp to be mounted on the centre of each gate on the top rail. This lamp shall when lit show a red light to approaching road traffic.
8. A stop board of standard railway design displaying the words “Stop”“Await Instruction” shall be provided on each railway approach, approximately 50 metres before the crossing on the northern approach to the crossing and approximately 10 metres before the crossing on the southern approach to the crossing. The stop boards shall be provided in Class 1 retroreflecting material or shall be illuminated.
9. A distant signal of standard railway design shall be provided on the northern railway approach to the crossing, approximately 200 metres before the relevant stop board, and a normal signal lamp shall be provided for its illumination at night.
10. In this Part—
“Class I retroreflecting material” is material which satisfies British Standard 873, Part 6, or is of an equivalent standard.

PART II

Conditions and Requirements to be observed by the Operator

11. The surface of the carriageway over the crossing shall be maintained in a good and even condition. The width of the carriageway shall be approximately 8.0 metres.
12. The gates shall be kept constantly in the position mentioned in paragraph 4 above except during the time when any vehicle passing along the railway has occasion to cross the road.

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13. A driver shall bring his train to a halt at the stop board, as mentioned in paragraph 8 above, and shall sound the train's whistle before proceeding. He shall not proceed over the crossing until he has been given a clear hand signal by the person in charge of the level crossing to signify that the gates are securely closed and locked against road traffic and that the crossing is clear.

14. The lamps referred to in paragraph 7 above shall be lit and the stop boards and signals referred to in paragraphs 8 and 9 above shall be illuminated whenever trains are operating on the railway over the crossing during the hours of darkness or during fog or falling snow.

15. The operator shall give notice in writing to the Secretary of State as soon as the provisions of this Schedule have been met and the crossing shall be inspected by Her Majesty's Railway Inspectorate as soon as practicable thereafter.