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STATUTORY INSTRUMENTS

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**1999 No. 2382**

**TRANSPORT**

**The Keith and Dufftown Light Railway Order 1999**

*Made* - - - - - *20th July 1999*

*Coming into force* - - - - - *21st July 1999*

The Secretary of State for the Environment, Transport and the Regions, on the application of the Keith and Dufftown Railway Association and of the Keith and Dufftown Railway Company Limited for an Order under the Light Railways Act 1896(1) being satisfied in accordance with section 7 of that Act that its requirements in relation to the publication and service of notices have been satisfied, and having considered objections as required by that section and the draft Order as required by section 9 of that Act, and in exercise of the powers conferred by sections 7, 10 to 12 and 18 of that Act and section 121(4) of the Transport Act 1968(2) and now vested in him(3), 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 Keith and Dufftown Light Railway Order 1999 and shall come into force on 21st July 1999.

**Interpretation**

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

“the Act” means the Light Railways Act 1896;

“the Association” means the Keith & Dufftown Railway Association (Company Registration Number 157099), incorporated under the Companies Act 1985(4) and having its registered office at Dufftown Station, Dufftown, Banffshire;

“the Board” means the British Railways Board;

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(1) 1896 c. 48; sections 7 and 9 were repealed in part by the Railways Act 1921 (c. 55), section 86(2) and Schedule 9; section 10 was repealed in part by the Statute Law (Repeals) Act 1986 (c. 12), Schedule 1; section 11 was amended by the Light Railways Act 1912 (c. 19), section 5(3), and the Railways Act 1921, section 73(1), and was repealed in part and further amended in respects not relevant to this Order; section 12 was repealed in part by the Finance Act 1929 (c. 21), section 6 and Schedule.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) 1968 c. 73.

(3) Railways Act 1921, section 68(1), repealed in part, and S.I.1970/1681, 1979/571 and 1981/238.

(4) 1985 c. 6.

“the Company” means the Keith & Dufftown Railway Company Limited (Company Registration Number 150013), incorporated under the Companies Act 1985 and having its registered office at Dufftown Station, Dufftown, Banffshire;

“the deposited plan” means the plan deposited in respect of the application for this Order with the Secretary of State for the Environment, Transport and the Regions and at the registered office of the Company, and marked as the plan;

“the enabling Acts” means the Keith and Dufftown Railway (Deviation) Act 1860<sup>(5)</sup> and so far as applicable the Keith and Dufftown Railway Act 1857<sup>(6)</sup> and the Strathspey Railway Act 1861<sup>(7)</sup>;

“the railway” means that part of the railways of the Board described in and authorised by the enabling Acts which is described in Schedule 1 hereto including all lands and works relating thereto;

“the transfer date” means the day on which the railway or any part thereof is vested in the Association by virtue of an agreement made under article 3(1) of this Order.

### **Transfer of the railway to the Association**

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

(2) Except as may be otherwise provided in this Order, as from the transfer date the Association shall to the exclusion of the Board be entitled to the benefit of and to exercise all rights, powers and privileges and be subject to all obligations of the Board whether statutory or otherwise relating to the railway or such part as is transferred as aforesaid (in so far as the same are still subsisting and capable of taking effect) to the intent that the Board shall be released from all such obligations.

(3) As from the transfer date the Association may work the railway or such part thereof as a light railway under the Act.

### **Application of enactments**

4.—(1) Subject to the provisions of this Order, such of the enactments set out in the Second Schedule to the Act as are still in force except section 5 (Penalty for avoiding payment of fare) of the Regulation of Railways Act 1889<sup>(8)</sup> shall cease to apply to the railway.

(2) Sections 116, 117 and 118 of the Transport Act 1968 shall apply to the railway as if references therein to the Board were references to the Association.

### **Leasing or sale of the railway to the Company**

5.—(1) On or after the transfer date, the Association may transfer to and vest in the Company, whether by lease or sale, the railway or any interest therein or part thereof to the extent that the same shall have been transferred to and vested in the Association in accordance with Article 3 of this Order, together with any rights, interests, powers, privileges and obligations so vested, on such terms and conditions as may be agreed between the Association and the Company.

(2) During the continuance of any such lease or after the completion of any such sale the Company shall to the exclusion of the Association be entitled to the benefit of and to exercise all the rights, powers and privileges and be subject to all the obligations of the Association whether statutory or

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(5) 1860 c. lxiii.

(6) 1857 c. lxxxvii.

(7) 1861 c. xvi.

(8) 1889 c. 57.

otherwise for the time being in force in respect of the railway or such a part thereof as are comprised in the lease or sale.

#### **Gauge and motive power**

6.—(1) The railway shall be operated on a gauge of 1.435 metres (four feet eight and one half inches) and the motive power shall be diesel, steam or internal combustion or such other motive power as the Secretary of State may approve in writing.

(2) Nothing in this Order shall authorise the Association to use electrical power as motive power on the 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 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<sup>(9)</sup> or with telecommunication by means of any such apparatus.

#### **As to footpath and accommodation level crossings**

7. The Company shall provide, maintain and operate at or near the crossings referred to in Schedule 2 such barriers or other protective equipment as the Health and Safety Executive may require in writing.

#### **Restriction and condition as to working of the railway**

8. No part of the railway shall be used for the conveyance of passengers without the prior written permission of the Health and Safety Executive.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

20th July 1999

*A S D Whybrow*  
Head of Charging and Local Transport Division,  
Department of the Environment, Transport and  
the Regions

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<sup>(9)</sup> 1984 c. 12.

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

## SCHEDULE 1

Article 2

### THE RAILWAY

That part of the Board's railway which commences at Ordnance Survey Grid reference point NJ429514 lying approximately 30 metres or thereby to the north or northeast of overbridge 187 carrying the minor public road known as Seafield Avenue over the Board's railway in the Parish of Keith in the former Burgh of Keith and which terminates at Ordnance Survey Grid reference point NJ322416 lying approximately 200 metres or thereby to the north or northwest of the centre of the booking office of Dufftown station in the Parish of Mortlach all wholly within the local government area of Moray (formerly the Moray District of Grampian Region) being a distance of 17 kilometres 140 metres or thereby.

## SCHEDULE 2

Article 7

### FOOTPATH AND ACCOMMODATION LEVEL CROSSINGS

1. The private vehicular crossing serving Corsairtly Farm located between underbridge 194 (Strathmill Viaduct) and underbridge 195 (brick arch culvert).
2. The private vehicular crossing serving Fife Cottage located between underbridge 196 (Corsairtly Farm) and overbridge 197 (Douglas Brae Bridge).
3. The private vehicular crossing serving Broadfield Farm located between underbridge 200 (Auchindachy Isla Bridge) and underbridge 201 (West Chalder Culvert East).
4. The private vehicular crossing serving Broadfield Farm located between underbridge 201 (West Chalder Culvert East) and underbridge 202 (West Chalder Culvert West).
5. The private vehicular crossing serving Broadfield Farm located between underbridge 202 (West Chalder Culvert West) and overbridge 204 (B9014 road at Bridge of Auchindachy).
6. The private vehicular crossing serving Towiemore Farm located between the south end of Towiemore Platform and underbridge 207 (Burn of Towie Bridge).
7. The private vehicular crossing serving Loch Park Cottage located between overbridge 218 (Loch Park Bridge) and underbridge 219 (Scout Mill Culvert).
8. The public footpath crossing located at the north end of Dufftown Station platform shown as crossing Number 8 on the deposited plan.