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STATUTORY INSTRUMENTS

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1981 No. 616

TRANSPORT

**The Tyne and Wear County Council (Bowes Railway) Light  
Railway Order 1981**

*Made* - - - 10th April 1981

*Coming into Operation* 12th April 1981

The Secretary of State for Transport on the application of the Tyne and Wear County Council and in exercise of powers conferred by sections 3, 7, 9, 10 and 11 of the Light Railways Act 1896(a) and now vested in him(b) 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 Tyne and Wear County Council (Bowes Railway) Light Railway Order 1981 and shall come into operation on 12th April 1981.

*Interpretation*

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

“the Company” means the Bowes Railway Company Limited whose registered address is situate at Sandyford House, Newcastle upon Tyne, Tyne and Wear;

“the Council” means the Tyne and Wear County Council;

“the definitive map” means the definitive map for the area prepared under section 32 of the National Parks and Access to the Countryside Act 1949;

“the deposited plan” and “the deposited sections” mean respectively the plan and sections deposited in respect of the application for this Order with the Department of Transport;

“the principal Act” means the Light Railways Acts 1896 and 1912, as amended by the Railways Act 1921;

“the railway” means the railway authorised to be constructed, made and maintained by the Council pursuant to article 3 hereof.

*Power to the Council to make a railway*

3.—(1) Subject to the provisions of this Order the Council may construct in the Districts of Sunderland and Gateshead in the County of Tyne and Wear between the points marked A-B-C (Springwell Wagon Shops commencement—Pelaw Main junction—termination) on the deposited plan a light railway with a further light railway between the points marked B-X (Pelaw Main junction—branch termination Waggon Inn) on the deposited plan incorporating the existing railway within the levels and within the limits of deviation shown on

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(a) 1896 c. 48, as amended by the Light Railways Act 1912 (c. 19) and Part V of the Railways Act 1921 (c. 55).

(b) S.I. 1970/1681, 1979/571 and 1981/238.

the deposited plan and the deposited sections and with all proper rails, plates, sidings, junctions, bridges, culverts, drains, approaches, roads, yards, buildings and other works and conveniences connected therewith including station premises, workshops and facilities.

(2) The Council may work the railway between the points marked A-B-X for the conveyance of both passengers and freight and may work the railway between the points marked B-C for the conveyance only of freight as a light railway under the principal Act and in accordance with the provisions of this Order.

*Incorporation of enactments*

4.—(1) Subject to the provisions of this Order the Railways Clauses Consolidation Act 1845(a) (except sections 8, 13, 17, 46 to 67, 112 and 113), section 22 of the Regulation of Railways Act 1868(b) (means of communication between passengers and the Company's servants to be provided), sections 1 and 5 of the Regulation of Railways Act 1889(c) (power to order certain provisions to be made for public safety and penalty for avoiding payment of fare) are hereby incorporated with this Order.

(2) In its application to the railway the said section 22 of the Regulation of Railways Act 1868 shall be read, construed and have effect as if the words "and travels more than twenty miles without stopping" were omitted therefrom.

(3) In their application to the railway sections 78 to 85 of the said Railways Clauses Consolidation Act 1845 shall have effect as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923(d).

*Passengers not to be conveyed in rope-hauled trains*

5.—(1) The Council shall not on any part of the railway permit the conveyance of passengers in a rope-hauled train.

(2) If the Council act in contravention of the provision in paragraph (1) above they shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £50.

*Restriction of weight on rails and of speed and as to conveyance of passengers*

6.—(1) The Council shall not use upon the railway any engine, carriage or truck bringing any weight upon the rails by any one pair of wheels exceeding such weight as the Secretary of State may allow.

(2) The Council shall not run any train or engine upon any part of the railway at a rate of speed exceeding at any time that fixed by the Secretary of State for such part.

(3) No part of the railway shall be used for the conveyance of passengers without the permission in writing of the Secretary of State being first had and obtained and the Council shall comply with the conditions (if any) which the Secretary of State may from time to time prescribe for the safety of persons using the railway.

(4) If the Council act in contravention of any of the provisions of these articles they shall for each offence be liable on summary conviction to a fine not exceeding £50.

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(a) 1845 c. 20.

(b) 1868 c. 119.

(c) 1889 c. 57.

(d) 1923 c. 20.

*Gauge of railway and motive power*

7.—(1) The railway shall be constructed on a gauge of 1.435 metres (4 ft. 8½ ins.).

(2) The motive power on the railway shall be:—

- (a) (i) steam, diesel-electric, diesel, internal combustion or horse and applied to the trains by locomotive means; or
- (ii) electric, diesel-electric or gravity and applied to the trains by means of rope-haulage utilising stationary machines; or
- (iii) any combination of these types:

Provided that—

- (A) the types specified in sub-paragraph (i) above shall not be used as the motive power upon the portion of the railway between the points marked Q-C (Blackham's Hill-Termination) on the deposited plan; and
- (B) the types specified in sub-paragraph (ii) above shall not be used—
  - (I) as the motive power upon the portion of the railway between the points marked B-X on the deposited plan;
  - (II) for the conveyance of passengers upon any part of the railway.

(b) such other motive power as the Secretary of State may approve.

(3) Provided that if electrical power is used to power the stationary machines and 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 telegraphic line (as defined by the Telegraph Act 1878(a)) belonging to or used by the Post Office or with telegraphic communication by means of such line.

*Agreement with the Company*

8.—(1) The Council may agree with the Company to assign to it such of the functions of the Council in relation to the railway and such rights and obligations, conferred on them by this Order, as may be provided in the agreement for such period and on such terms and conditions as may be agreed.

(2) During the continuance of the agreement the Company shall to the exclusion of the Council be entitled to the benefit of, and to exercise all rights, powers and privileges and be subject to all the obligations of the Council, whether statutory or otherwise, for the time being in force in respect of the railway or such part thereof as is comprised in the agreement.

*As to crossing of roads and footpaths on the level*

9.—(1) The Council may carry the railway with a single line across and on the level of—

- (a) the crossing in the Borough of Sunderland whereby the classified public road from Leam Lane to Springwell and Birtley, numbered B1288 (and known as Springwell Road), is crossed by the railway on the level; and
- (b) the crossing in the Parish of Birtley, in the Metropolitan Borough of Gateshead, whereby the unclassified public road from Eighton Banks towards Birtley is crossed by the railway on the level; and

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(a) 1878 c. 76.

- (c) the crossing in the Borough of Sunderland whereby the public footpath from Springwell to Eighton Banks and denoted on the Definitive Map as number 61, is crossed by the railway on the level; and
- (d) the crossing in the Borough of Sunderland 230 metres west of the crossing described in subsection (1)(a) above where an access way from the quarry premises adjoining the railway to an unmade track leading to Windsor Road in Springwell, is crossed by the railway on the level; and
- (e) the crossing in the Borough of Sunderland near the head of Blackham's Hill West Bank where the public footpath between Blackham's Hill West Bank and "The Ship" public house, Eighton Banks is crossed by the railway on the level; and
- (f) the crossing in the Parish of Lamesley in the Metropolitan Borough of Gateshead 60 metres east of the crossing referred to in subsection (b) above where an unmade track giving vehicular access to the railway's premises at Blackham's Hill is crossed by the railway on the level,

which are in the Schedule to this Order respectively referred to as the Springwell, Mount, Blackham's Hill Footpath, Quarry, Blackham's Hill West Bank Head and the East of Mount Crossing Ungated Crossing within the area of the level crossings as shown on the plan and sections.

(2) The rails of the railway shall be laid and maintained within the areas of the level crossings so that the upper surface is upon a level with the surface of the carriageway or footpath of the road or the footpath as the case may be.

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

*Provision of barriers, etc.*

10.—(1) The Council shall provide within the area of the level crossings and shall maintain and operate the gates, barriers, lights, traffic signs and other devices and appliances specified in Part I of the Schedule to this Order and the Council shall observe the conditions and requirements specified in Part II of that Schedule in relation to the said level crossings by which the railway crosses the road or footpath and the use and operation thereof.

(2) If the Council fail to comply with the provisions of paragraph (1) above they shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £50.

*For protection of Newcastle and Gateshead Water Company*

11. Nothing in this Order shall prejudice or affect the rights of the Newcastle and Gateshead Water Company in any apparatus belonging to that Company, or for the maintenance of which they are responsible or any structure for the lodging therein of apparatus, being any apparatus or structure situate under, over or upon lands in or upon which the railway may be constructed.

*Public liability insurance*

12.—(1) In this article—

“approved” means approved by the Council;

“insurer” means any insurer or insurers authorised under the Insurance Companies Act 1974(a) to carry on in the United Kingdom insurance business of a relevant class or who has corresponding permission under the law of another member state of the European Economic Community.

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(a) 1974 c.49.

(2) The Company shall during all such time as the functions of the Council are assigned to them under an agreement made pursuant to article 8(1) above—

- (a) maintain an approved public liability policy in the joint names of the Company and the Council with an approved insurer providing maximum cover in respect of any one accident on or occasioned by the operation of the railway of not less than one million pounds and in default thereof the Council may (without prejudice to any other powers granted under this Order) effect and maintain such policy and pay the premiums payable in respect thereof so that the premiums so paid and all incidental expenses shall be repaid by the Company to the Council on demand;
- (b) at the request of the Council produce to the Council such evidence as may be requisite for the purpose of proving compliance with the foregoing provisions of this paragraph;
- (c) not work the railway unless there is in force such a public liability policy as is referred to in the foregoing provisions of this paragraph.

(3) If the Company fail to comply with the provisions of paragraphs 2(a) and (c) of this article they shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

(4) Notwithstanding and without prejudice to the provisions of this article, the Council may effect and maintain a public liability policy in their own name with an insurer providing such cover for such period or periods and generally in such manner as the Council may from time to time determine.

(5) During such times as the Company are not operating the railway under the agreement specified in article 8(1) of this Order the Council shall not work the railway unless there is in force such a public liability policy as is referred to in paragraph (2) of this article and the Council shall on those occasions be liable for failure to comply with this provision on the terms referred to in paragraph (3) of this article.

(6) The adequacy of the cover provided by a public liability policy maintained in accordance with this article shall be regularly reviewed by the body which is required to effect and maintain the policy.

#### *Costs of Order*

13. All costs, charges and expenses of and incidental to the preparing for obtaining and making of this Order or otherwise in relation thereto shall be paid by the Council.

*J. E. Sanderson,*  
An Under Secretary in  
the Department of Transport.

Signed by Authority  
of the Secretary of State.  
10th April 1981.

## SCHEDULE

### PART I

#### 1. *Springwell Crossing*

(a) The gates at the level crossing shall be kept closed across the railway except when engines or vehicles passing along the railway have occasion to cross road numbered B1288; and

(b) The gates shall be painted white and equipped with reflectorised targets facing approaching road traffic when the gates are closed across the road; and

(c) An advance warning sign of the size, colour and type shown in diagram 537 in the Traffic Signs Regulations and General Directions currently in force under the Road Traffic Regulation Act 1967 with a plate to diagram 572 stating the distance to the crossing shall be provided on each road approach to the crossing; and

(d) A road marking diagram 1004 shall be provided for a distance of 100 metres on the north road approach to the crossing and 50 metres on the south road approach to the crossing; and

(e) The said gates shall at all times be maintained by the Council in a fit and proper state of repair; and

(f) The Council shall erect and permanently maintain a lodge at the crossing.

#### 2. *Mount Crossing*

(a) The gates at the level crossing shall be kept closed against the railway except when engines or vehicles passing along the railway have occasion to cross the road which runs from Eighton Banks towards Birtley or Springwell; and

(b) The gates shall be painted white and equipped with reflectorised targets facing approaching road traffic when the gates are closed across the road; and

(c) An advance warning sign of the size, colour and type shown in diagram 537 in the Traffic Signs Regulations and General Directions currently in force under the Road Traffic Regulation Act 1967 with a plate to diagram 572 stating the distance to the crossing shall be provided on each road approach to the crossing; and

(d) The gates shall at all times be maintained by the Council in a fit and proper state of repair; and

(e) The Council shall erect and permanently maintain a lodge at the crossing.

#### 3. *Blackham's Hill Footpath Crossing*

(a) Access to the railway shall be provided by an unlocked gate on each side of the railway; and

(b) Vehicles shall not cross the railway by means of the crossing; and

(c) A warning sign to standard railway design containing the words " Stop, Look, Listen " shall be provided on each approach to the crossing as near as practicable to the railway but not nearer than 2 metres from the running edge of the nearest rail.

#### 4. *Quarry Crossing*

(a) The boundary gate into the Quarry premises shall in each day be kept locked during the hours of railway operation and the key to such gate shall be held by an authorised officer of the Council; and

(b) Any person wishing to use the gate shall apply to the said authorised officer who may arrange for the gate to be opened for use by the applicant providing that such use remains subject to the control of the said authorised officer who shall not permit any use which is prejudicial to the safe operation of the railway.

**5. *Blackham's Hill West Bank Head Crossing***

(a) The security gates of the Blackham's Hill compound shall each day be opened against the carriageway on each side of the railway during such hours as the railway is operational; and

(b) Any person wishing to cross the railway at the crossing shall obey any direction from an authorised officer of the Council.

**6. *East of Mount Crossing Ungated Crossing***

(a) Access to the railway shall be provided by an unlocked gate on each side of the railway; and

(b) The crossing keeper at the Mount Crossing shall check whether any persons are or are about to use the crossing before closing the gates at the Mount Crossing against the road; and

(c) A warning sign to standard railway design containing the words "Stop, Look, Listen" shall be provided on each approach to the crossing as near as practicable to the railway but not nearer than 2 metres from the running edge of the nearest rail.

**PART II**

**CONDITIONS AND REQUIREMENTS TO BE OBSERVED**

1. The surface of the carriageway over the level crossing shall be maintained in good and even condition.

2. The ground at the edges of the carriageway over the level crossing shall be made up to the level of the carriageway for a distance of 1 metre beyond each edge.

3. A footway of 2 metres width shall be retained adjacent to the western side of the carriageway where it passes over the Springwell crossing.

4. There shall be a catch point in the railway track at a position some 83.8 metres to the west (uphill) side of the Springwell crossing, worked from levers situated near the level crossing under the responsibility of the crossing keeper. The catch point shall be kept open at all times when both the level crossing is open to the passage of road traffic, and there is a train, other than a locomotive-hauled train fitted with automatic train brake equipment, on the track to the west of the catch point and not separated from the crossing by another opened catch point.

5. Following the passage of a rope-hauled train in an easterly direction over the Springwell crossing the crossing shall be kept closed to road traffic until the rope has settled safely into the bottom of the trough which crosses the carriageway.

6. Following the passage of a rope-hauled train in a westbound direction over the Mount crossing, the crossing shall be kept closed to road traffic until the rope has settled safely into the bottom of the trough which crosses the carriageway.

7. A rope-hauled train travelling in an eastbound direction shall not be started from its position of rest west of the Mount crossing nor shall a rope-hauled train travelling in a westbound direction be started from its position of rest east of the Springwell crossing until the crossing keeper has closed the appropriate crossing to road traffic and signalled the appropriate instructions that it is safe for the train to proceed across the crossing.

8. Following the passage of an eastbound rope-hauled train over the Mount crossing, the crossing shall be kept closed to road traffic until the train has passed over the Blackham's Hill Bank Head, or the crossing has been otherwise protected from the possibility of the train running back by the opening of any intervening catch points installed in the railway lines.

9. The Mount crossing shall be kept closed to road traffic throughout any time when there is a train occupying the track between Blackham's Hill and the crossing, unless that train has been subjected to special measures to prevent its movement carried out by a responsible officer of the railway.