

1987 No. 1443

TRANSPORT

The Swanage Light Railway Order 1987

Made - - - - - *6th August 1987*

Coming into force *7th August 1987*

The Secretary of State for Transport on the application of the Dorset County Council and the Swanage Railway Company Limited and in exercise of powers conferred by sections 3, 7, 9, 10 and 11 of the Light Railways Act 1896(a) as amended by the Light Railways Act 1912(b) and Part V of the Railways Act 1921(c), and by section 121(4) of the Transport Act 1968(d), and now vested in him(e) 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 Swanage Light Railway Order 1987 and shall come into force on 7th August 1987.

Interpretation

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

“the Board” means the British Railway Board;

“the Board’s railway” means so much of the former railway of the Board in the District of Purbeck in the County of Dorset described in and authorised by the enabling Act and works relating thereto as lies between the former railway station in Swanage at a point immediately to the west of Rempstone Road and Harman’s Cross in the Parish of Worth Matravers at a point two hundred and fifty metres to the west of the place at which Haycraft’s Lane crosses the former railway line and includes all lands formerly held by the Board relating to the said railway and lying between those points;

“the Company” means the Swanage Railway Company Limited incorporated under the Companies Act 1948(f) and having its registered office at The Station House, Swanage, Dorset BH19 1HB;

“the Company’s railway” means the railway authorized to be constructed, made and maintained by the Company pursuant to article 5 of this Order;

“the County Council” means the Dorset County Council;

“the County Council’s land” means such of the site of the Board’s railway as is vested in the County Council;

“the enabling Act” means the Swanage Railway Act 1881(g);

(a) 1896 c. 48.
(b) 1912 c. 19.
(c) 1921 c. 55.
(d) 1968 c. 73.
(e) S.I. 1970/1681, 1979/571 and 1981/238.
(f) 1948 c. 38.
(g) 1881 c. cliv.

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

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

Incorporation of Acts

3.—(1) Subject to the provisions of this Order the Railways Clauses Consolidation Act 1845(a) (except sections 8, 11 to 15, 17, 46 to 48 and 59 to 62) is hereby incorporated with this Order.

(2) In the construction of the provisions of the Railways Clauses Consolidation Act 1845 as incorporated with this Order:—

(a) sections 7, 9 10 and 162 shall be read, construed and have effect as if the “proper officer of the County Council of Dorset” had been referred to therein instead of the “Clerk of the Peace”;

(b) sections 78 and 85 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(b).

(3) Subject to the provisions of this Order such of the enactments set out in the Second Schedule to the Light Railways Act 1896 as are still in force except section 22 of the Regulation of Railways Act 1868(c) (means of communication between passengers and the Company’s servants to be provided) and sections 1 (power to order certain provisions to be made concerning public safety) and 5 (penalty for avoiding payment of fare) of the Regulation of Railways Act 1889(d) shall not apply to the Company’s railway.

(4) In its application to the Company’s 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 20 miles without stopping” were omitted therefrom.

Leasing of the County Council’s land to the Company

4.—(1) The County Council may lease to the Company such parts of the County Council’s land on such terms and conditions as may be agreed between the County Council and the Company in order to enable the Company to construct, make and maintain the railway authorised to be constructed, made and maintained pursuant to article 5 of this Order.

(2) During the continuance of the lease the Company shall to the exclusion of the County Council be entitled to the benefit of, and to exercise all the rights, powers and privileges and be subject to all the obligations of the County Council whether statutory or otherwise for the time being in force in respect of such parts of the County Council’s land as are comprised in the lease.

Power for the Company to make railway

5.—(1) Subject to the provisions of this Order the Company may construct, make and maintain the railway hereinafter described in the lines and according to the levels and within the limits of deviation shown on the deposited plans 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;

(2) The said railway is:—

a railway 3 miles or thereabouts in length commencing in Swanage at the former Swanage Railway Station at a point immediately to the west of Rempstone Road and terminating at Harman’s Cross at a point two hundred and fifty metres to the west of the place at which Haycraft’s Lane crosses the former railway line, all in the District of Purbeck in the County of Dorset.

(a) 1845 c. 20.

(b) 1923 c. 20.

(c) 1868 c. 119.

(d) 1889 c. 57.

(3) Subject to the provisions of this Order, the Company's railway or any part thereof shall be subject to all statutory and other provisions applicable to the Board's railway or any part thereof (insofar as the same are still subsisting and capable of taking effect) and during the continuance of any lease granted under article 4(1) of this Order, the Company 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 statutory or otherwise relating to the Board's railway or any part thereof (insofar as the same are still subsisting and capable of taking effect) to the intent that the Board shall be released from all such obligations and in the event of such lease being terminated the County Council shall be entitled to the benefit of the said rights and shall also be subject to the said obligations.

Power to work the Company's railway as a light railway

6. Subject to the provisions of this Order the Company's railway may be worked as a light railway under the principal Act.

Gauge of railway and motive power

7. The Company's railway shall be constructed on a nominal gauge of 1,435 millimetres and the motive power on the railway shall be diesel, steam, internal combustion or such other motive power as the Secretary of State may approve:

Provided that 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:

Provided also that 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 of the Telecommunications Act 1984(a) or with telecommunication by means of any such apparatus.

Provision as to bridges

8. Without prejudice to the generality of the foregoing, during the continuance of any lease granted under article 4(1) of this Order, sections 116, 117 and 118 of the Transport Act 1968 shall apply to the Company's railway as if reference therein to the Board were references to the Company and during such time as there is no lease continuing the said sections shall apply as if references therein to the Board were references to the County Council.

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

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

(2) The Company shall not run any train or engine upon any part of the Company's 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 Company's railway shall be used for the conveyance of passengers without the permission in writing of the Secretary of State first being obtained and the Company shall comply with the conditions (if any) which the Secretary of State may from time to time prescribe for the safety of passengers conveyed or to be conveyed on the Company's railway.

(4) If the Company act in contravention of any of the provisions of this article they shall for each offence be liable on summary conviction to a fine not exceeding one hundred pounds.

Public Liability Insurance

10.—(1)(a) In this article:—

“approved” means approved by the County Council.

(a) 1984 c. 12.

“insurer” means any insurer or insurers authorised under the Insurance Companies Act 1982(a) to carry on in Great Britain or in Northern Ireland insurance business of a relevant class or who has corresponding permission under the law of another member state of the European Economic Community.

- (b) The Company shall at all times during the continuance of any lease or leases granted under article 4(1) hereof maintain an approved public liability policy in the joint names of the Company and the County Council with an insurer providing maximum cover in respect of any one accident on or occasioned by the operation of the Company’s railway of not less than £1 million and in default thereof the County Council may (without prejudice to any other powers granted under this Order) effect and maintain such a policy in respect of the Company’s railway 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 County Council.
- (c) The Company shall at the request of the County Council produce to that Council such evidence as may be requisite for the purpose of proving compliance with the foregoing provisions in this paragraph.
- (d) The Company shall not work the Company’s railway unless there is in force such a public liability policy as is hereinbefore referred to.
- (e) If the Company shall fail to comply with the provisions of sub-paragraphs (b) or (d) of this paragraph they shall be liable on summary conviction to a fine not exceeding £2,000 and on conviction on indictments to a fine.

(2) Notwithstanding and without prejudice to the provisions of the foregoing paragraph of this article the County Council may effect and maintain public liability policies in its 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.

(3) The adequacy of the cover provided by a public liability policy maintained in accordance with paragraph 1 of this article shall be regularly reviewed by the Company.

For protection of Southern Electricity Board

11. The following provisions shall have effect unless otherwise agreed in writing between the Company and the electricity board.

(1) In this Article “the electricity board” means the Southern Electricity Board and “apparatus” means any electric line or works (as respectively defined in the Electric Lighting Act 1882(b)) belonging to the electricity board.

(2) Nothing in the Order shall prejudice or affect the rights of the electricity board in respect of any apparatus situated in, under, across or upon the land to which the Order relates.

(3) Before commencing to execute any works authorised by the Order under or over, or which will or may affect, any apparatus the Company shall give to the electricity board not less than twenty-eight days notice in writing accompanied by a plan and section of the proposed work and such work shall be executed only in accordance with the plan submitted and in accordance with such reasonable requirements as may be made by the electricity board for the protection of the apparatus, or for securing access thereto, or if by reason of any works proposed by the Company it is in the opinion of the electricity board reasonably necessary to raise, lower or otherwise alter the position of any apparatus, the expenses reasonably incurred by the electricity board in, or in connection with, such raising, lowering or alteration shall be paid to them by the Company.

(4) If by reason or in consequence of the execution or user of any of the works authorised by the Order any damage to any apparatus or any interruption in the supply of electricity by the electricity board shall be caused, the Company responsible for the execution or user causing such damage or interruption shall bear and pay the cost reasonably incurred by the electricity board in making good such damage, or in restoring the supply of electricity and shall make reasonable compensation to the electricity board for any loss sustained by them and indemnify the Board from and against all claims in respect of any such damage or interruption.

(a) 1982 c. 50.

(b) 1882 c. 56.

For protection of public gas suppliers

12. Nothing in the Order shall prejudice or affect the rights of any public gas supplier, within the meaning of Part 1 of the Gas Act 1986(a), in any apparatus belonging to them, 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 Company's railway may be constructed.

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 Company and may in whole or in part be defrayed out of revenue.

Signed by authority of the Secretary of State
6th August 1987.

J.R. Coates
An Under Secretary in the
Department of Transport

(a) 1986 c. 44.