

1989 No. 1625

TRANSPORT

The Bodmin Railway Centre Light Railway Order 1989

Made - - - - 31st August 1989

Coming into force 1st September 1989

The Secretary of State for Transport on the application of the North Cornwall District Council and the Bodmin and Wenford Railway plc and in the exercise of powers conferred by sections 3, 7, 9, 10, 11, 12 and 18 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 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 Bodmin Railway Centre Light Railway Order 1989 and shall come into force on 1st September 1989.

**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 Board” means the British Railways Board;

“the Company” means the Bodmin and Wenford Railway plc incorporated under the Companies Acts 1948 to 1981 and whose registered office is at 6, Harleigh Road, Bodmin, Cornwall;

“the Council” means the North Cornwall District Council;

“the lease” means any lease granted in pursuance of the powers of paragraph (1) of article 7 (Leasing of railway to Trust) of this Order, any extension of the same or any new lease granted under any statutory powers or provisions;

“the operator” means the body for the time being authorised pursuant to the powers of this Order to operate any part of the railway;

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

“the railway” means the railway more particularly described in the Schedule to this Order including all lands and works relating thereto;

“the sub-lease” means any sub-lease granted in pursuance of the powers of paragraph (1) of article 8 (Sub-letting of railway to Company) of this Order, any extension of the same or any new sub-lease granted under any statutory powers or provisions;

“the Trust” means the Bodmin and Wenford Railway Trust, a company limited by guarantee and incorporated on 24th November 1987 whose registered office is at 6, Harleigh Road, Bodmin, Cornwall.

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(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.

### **Incorporation of general Acts**

3.—(1) Section 16 (Works to be executed), sections 18 to 23 (Protection of gas and water mains) and section 87 (Company empowered to contract with other companies) of the Railways Clauses Consolidation Act 1845(a) are incorporated with and form part of this Order, so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Order, and this Order shall be the special Act for the purposes of the incorporated provisions.

(2) 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(b) (means of communication between passengers and the Company's servants to be provided) and 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), shall not apply to the railway.

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

(4) Without prejudice to the foregoing provisions of this article, sections 116 to 119 of the Transport Act 1968 shall apply to the railway as if references in those sections to the Board were references to the Council.

### **Transfer of rights, etc. in railway to Council**

4.—(1) On the coming into force of this Order all such rights, interests, powers, privileges and obligations as are vested in or borne by the Board immediately before that day with respect to the railway shall be transferred to and vest in the Council and thereafter the Council shall to the exclusion of the Board be entitled to the benefit of, and to exercise, all such rights, interests, 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.

(2) The Council may work the railway as a light railway under the principal Act and in accordance with the provisions of this Order.

### **Gauge of railway and motive power**

5. The railway shall be operated on a gauge of 1.435 metres (4 feet 8½ inches) and the motive power shall be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Secretary of State may approve:

Provided that nothing in this Order shall authorise the use of 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:

Provided also that, 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 telecommunication apparatus as defined in Schedule 2 to the Telecommunications Act 1984(d) or with telecommunication by means of any such apparatus.

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

6.—(1) The operator 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 operator 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 prior written permission of the Secretary of State and the operator shall comply with

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(a) 1845 c.20.

(b) 1868 c.119.

(c) 1889 c.57.

(d) 1984 c.12.

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 operator acts in contravention of any of the provisions of this article it shall for each offence be liable on summary conviction to a fine not exceeding one hundred pounds.

#### **Leasing of railway to Trust**

7.—(1) The Council may lease to the Trust the railway or any part thereof together with the rights, interests, powers, privileges and obligations vested in the Council in accordance with article 4 (Transfer of rights, etc. in railway to Council) of this Order on such terms and conditions as may be agreed between the Council and the Trust.

(2) During the continuance and subject to the terms of any lease granted under paragraph (1) above the Trust shall to the exclusion of the Council be entitled to the benefit of, and to exercise, all such rights, interests, powers and privileges and be subject to all such obligations of the Council whether statutory or otherwise as are transferred to or conferred on the Council in accordance with article 4 above and are for the time being in force in respect of the railway or such part thereof as is comprised in the lease.

#### **Sub-letting of railway to Company**

8.—(1) During the continuance and subject to the terms of any lease granted under article 7 (Leasing of railway to Trust) of this Order the Trust may sub-let to the Company the railway or any part thereof together with the rights, interests, powers, privileges and obligations vested in the Trust in accordance with that article on such terms and conditions as may be agreed between the Trust and the Company.

(2) During the continuance of any sub-lease granted under paragraph (1) above the Company shall to the exclusion of the Trust be entitled to the benefit of, and to exercise, all such rights, interests, powers and privileges and be subject to all such obligations of the Trust whether statutory or otherwise as are transferred to or conferred on the Trust pursuant to article 7 (Leasing of railway to Trust) of this Order and are for the time being in force in respect of the railway or such part thereof as is comprised in the sub-lease.

#### **Public liability insurance**

9.—(1) In this article—

“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;

“policy” means a public liability policy with an 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.

(2)(a) The operator shall not work the railway unless there is in force a policy in accordance with the provisions of this article.

(b) In default of compliance with the provisions of this paragraph the operator shall be liable on summary conviction to a fine not exceeding two thousand pounds and on conviction on indictment to a fine.

(3) The Trust shall while it is the operator—

(a) at all times maintain a policy approved by the Council in the joint names of the Trust and the Council 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 Trust to the Council on demand;

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(a) 1982 c.50.

(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 provisions of this paragraph.

(4) The Company shall while it is the operator—

(a) at all times maintain a policy approved by the Trust and the Council in the joint names of the Company, the Trust and the Council and in default thereof the Council or the Trust 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 or the Trust, as the case may be, on demand;

(b) at the request of the Council or the Trust produce to the Council or the Trust such evidence as may be requisite for the purpose of proving compliance with this paragraph.

(5) Notwithstanding and without prejudice to the provisions of this article, the Council and the Trust or any of them may while the railway is sub-let to the Company 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 they may from time to time determine.

(6) The adequacy of the cover provided by a policy maintained in accordance with this article shall be regularly reviewed by the operator.

#### **For protection of public gas suppliers**

10. Nothing in this Order shall prejudice or affect the rights of any public gas supplier, within the meaning of Part I 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 railway is constructed.

#### **For protection of Water Authority**

11. Nothing in this Order shall prejudice or affect the rights of the South West Water Authority 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 railway is constructed.

#### **Expenditure outside district**

12. The capital expenditure of the Council on the part of the railway outside their district shall not exceed £2,000 or such other sum as the Secretary of State may under the circumstances think fit.

#### **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.  
31st August 1989

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

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(a) 1986 c.44.

## SCHEDULE

### THE RAILWAY

For the purposes of this Order, "the railway" means the railway in the districts of North Cornwall and Caradon in the county of Cornwall between Bodmin Parkway and Boscarne, comprising:-

(1) The railway between a point 300 yards or thereabouts to the west of the level crossing adjacent to Boscarne Mill and Boscarne Junction, being part of the railway authorised by the Bodmin and Wadebridge Railway Act 1832(a) as amended by-

- (a) the Bodmin and Wadebridge Railway Act 1835(b);
- (b) the Bodmin and Wadebridge Railway Act 1865(c);
- (c) the South-western Railway Act 1886(d); and
- (d) the South-western Railway Act 1891(e).

(2) The railway between Bodmin Parkway (formerly Bodmin Road) and Boscarne Junction being the railways Works Nos. 2 (part) 3, 4 and 6 authorised by the Great Western Railway Act (No. 1) 1882(f), but excluding the sidings and siding connections on the land of the Board at Bodmin Parkway situate and affording communication between the railway and their West of England Main Line.

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(a) 1832 c.xlvii.  
(b) 1835 c.xciii.  
(c) 1865 c.cclxx.  
(d) 1886 c.cx.  
(e) 1891 c.cxxi.  
(f) 1882 c.ccxiv.