

1989 No. 1833

TRANSPORT

The Cholsey and Wallingford Light Railway Order 1989

Made - - - - 2nd October 1989

Coming into force 3rd October 1989

The Secretary of State on the application of the Cholsey and Wallingford Railway Preservation Society and in exercise of powers conferred by sections 7, 9, 10, 11 and 12 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 Cholsey and Wallingford Light Railway Order 1989 and shall come into force on 3rd October 1989.

Interpretation

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

“the Board” means the British Railways Board;

“the Council” means the Wallingford Town Council in the district of South Oxfordshire;

“the Society” means the Cholsey and Wallingford Railway Preservation Society incorporated under the Companies Act 1985(f) and whose registered office is at 7 St Martin’s Street, Wallingford, Oxfordshire, OX10 0AN;

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

“the enabling Acts” means the Wallingford and Watlington Railway Act 1864(g) and the Great Western Railway Act 1872(h);

“the Board’s railway” means so much of the former railway of the Board in the district of South Oxfordshire in the County of Oxfordshire authorised by the enabling Acts as is co-extensive with the railway described in the Schedule to this Order including all lands and works relating thereto;

“the Society’s railway” means the railway in the district of South Oxfordshire authorised to be constructed, made and maintained by the Society pursuant to article 4 of this Order, and where any part of that railway remains uncompleted, includes the site of that part:

and all directions and distances stated in the description of the Board’s railway shall be construed as if the words “or thereabouts” were inserted after each direction and distance, and distances between points on the railway shall be taken to be measured along the railway.

(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) 1985 c.6. (g) 1864 c.cclxvi. (h) 1872 c.cxxix.

Incorporation and application of enactments

3.—(1) The provisions of the Railways Clauses Consolidation Act 1845(a), except sections 8, 9, 11 to 15, 32 to 44, 46 to 57, 59 to 62, 94, 95, 97 and 115 to 124, are incorporated with and form part of this Order, so far as they are applicable for the purposes and are not inconsistent with or varied by the provisions of this Order, and this Order shall be deemed to be the special Act for the purposes of the said incorporated provisions.

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

(3) In its application to the Society's railway 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" had been omitted.

(4) Without prejudice to the generality of the foregoing, section 118 of the Transport Act 1968 shall apply to the Society's railway as if for the references therein to the Board there were substituted references to the Society.

Power to make railway

4.—(1) The Society may on lands owned by it or leased from the Council and on the same line and levels as the Board's railway construct, make and maintain a railway together with all necessary works and conveniences connected therewith.

(2) Subject to the provisions of this Order the Society's railway or any part of it shall be subject to all statutory and other provisions applicable to the Board's railway (insofar as they are still subsisting and effective) and the Society shall to the exclusion of the Board be entitled to the benefit of and exercise all rights, powers and privileges and be subject to all obligations statutory or otherwise relating to the Board's railway (insofar as aforesaid) with the intent that the Board shall be released from all such obligations.

(3) Upon the expiration or sooner determination of any lease of lands granted by the Council to the Society for the purposes of paragraph (1) of this article, the Council shall be subject to all obligations statutory or otherwise relating to the Society's railway (insofar as they are then still subsisting and effective).

Power to work Society's railways as a light railway

5. Subject to the provisions of this Order the Society may work the Society's railway as a light railway under the principal Act.

Gauge of railway and motive power

6. The Society's railway shall be constructed to a gauge of 1435 millimetres (four feet eight and one half inches) and the motive power shall be steam or internal combustion or such other motive power as the Secretary of State may approve:

Provided that nothing in this Order shall authorise the Society to use electrical power as motive power unless such power is obtained from storage batteries or from a source of generation entirely contained in and carried along with the engine and carriages:

Provided also that, if electrical power is used as motive power on the Society'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 telecommunication apparatus (as defined in Schedule 2 to the Telecommunications Act 1984(d)) or with telecommunication by means of such apparatus.

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

7.—(1) The Society shall not use upon the Society's 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.

(a) 1845 c.20. (b) 1868 c.119. (c) 1889 c.57. (d) 1984 c.12.

(2) The Society shall not run any train or engine upon any part of the Society'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 Society's railway shall be used for the conveyance of passengers without the permission in writing of the Secretary of State and the Society 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 Society's railway.

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

As to public liability insurance

8.—(1) In this article

“insurer” means any insurer or insurers authorised under the Insurance Companies Act 1982(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;

“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 £1 million.

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

(ii) In default of compliance with the provisions of this article the Society shall be liable on summary conviction to a fine not exceeding £2,000 and on conviction on indictment to a fine.

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

For protection of public gas suppliers

9. 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(b), 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 Society's railway is constructed.

For protection of the Southern Electricity Board

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

(1) In this article:—

“the electricity board” means the Southern Electricity Board and any statutory successor;

“apparatus” means any electric line or works (as respectively defined in the Electric Lighting Act 1882(c)) belonging to the electricity board;

“specified works” means:—

the raising of the level of the ground or the rails by more than one metre; or
the erection of any structure (including any poles or wires) over three metres high;
or
the use of tools, implements, plant or machinery capable of extending to a height of over three metres above rail level;

“specified distance” in relation to any apparatus shall be measured from the point on the ground which is vertically above or below such apparatus and such distance shall be:—

four metres in relation to any overhead apparatus; and two metres in relation to any surface apparatus.

“emergency” means an accident or incident which may reasonably appear to the Society to be an emergency.

(a) 1982 c.50. (b) 1986 c.44. (c) 1882 c.56.

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

(3) Except in an emergency, before commencing any specified works within a specified distance of any apparatus the Society shall give the electricity board not less than fourteen days' notice in writing of the proposed works and such works shall be executed only in accordance with such reasonable requirements as may be made by the electricity board for the protection of the apparatus, or for securing access to it.

Where such work is undertaken as the result of an emergency the Society shall immediately or as soon as is reasonably practicable inform the electricity board by telephone of the intention to commence work, and the electricity board shall take such immediate steps as are necessary to protect the public, the Society's staff or employees, the emergency services and, where appropriate, their apparatus.

If by reason of any such works it is in the reasonable opinion of the electricity board necessary to raise, lower or otherwise alter the position of any apparatus, the expenses reasonably incurred in so doing shall be paid by the Society.

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

(5) The electricity board shall make good and compensate the Society for any injury or damage sustained by the Society resulting from the collapse or failure of any apparatus (except such as may be due to the negligence or wrongful act of the Society or its agents) and indemnify the Society against all claims in respect thereof.

Costs of Order

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

Signed by authority of the Secretary of State

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

2nd October 1989

SCHEDULE

That length of the former railway of the Board which extends from a point in the parish of Wallingford in the district of South Oxfordshire in the County of Oxfordshire 15 metres south of the centre line of the road known as Hithercroft Road in a southerly direction to a point in the parish of Cholsey in the district of South Oxfordshire 740 metres south of the southern face of the bridge carrying Church Lane over the said railway (all which said railway consists of the land registered under Title No. ON 82421 at the Gloucester District Land Registry) but excluding the structure of the said bridge and its approaches.

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