

---

STATUTORY INSTRUMENTS

---

**1991 No. 2194**

**TRANSPORT**

**The Kirklees Light Railway Order 1991**

*Made* - - - - - *27th September 1991*

*Coming into force* - - - - - *28th September 1991*

The Secretary of State for Transport, on the application of the Council of the Borough of Kirklees and the Kirklees Light Railway Company Limited and in exercise of powers conferred by sections 3, 7, 9, 10, 11 and 12 of the Light Railways Act 1896(1), and by 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 Kirklees Light Railway Order 1991 and shall come into force on 28th September 1991.

**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 Railways Board;

“the Board’s railway” means so much of the former railway of the Board in the Borough of Kirklees in the County of West Yorkshire described in and authorised by the enabling Act and works relating thereto as lies between a point 39 metres east of the easternmost abutment of the bridge over Copley Lane in the parish of Kirkburton and the former railway station to the west of Long Lane in Clayton West in the parish of Denby Dale and includes all lands formerly held by the Board relating to the said railway and lying between those points;

---

(1) 1896 c. 48; section 3 was amended by the Light Railways Act 1912 (c. 19), section 5(1); sections 7 and 9 were repealed in part by the Railways Act 1921 (c. 55), section 86(2) and Schedule 9; section 10 was repealed in part by the Statute Law (Repeals) Act 1986 (c. 12), Schedule 1; section 11 was amended by the Light Railways Act 1912, section 5(3), and the Railways Act 1921, section 73(1), and was repealed in part and further amended in respects not relevant to this Order; section 12 was repealed in part by the Finance Act 1929 (c. 21), section 6 and Schedule.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) S.I.1970/1681, 1979/571 and 1981/238.

“the Company” means the Kirklees Light Railway Company Limited incorporated under the Companies Act 1985(4) and having its registered office at Number 7 Abbey Road, Shepley, in the County of West Yorkshire;

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

“the Council” means the Council of the Borough of Kirklees;

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

“the Definitive Map” means the definitive map for the area prepared under section 53 of the Wildlife and Countryside Act 1981(5);

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

“the enabling Act” means the Lancashire and Yorkshire Railway (West Riding Branches) Act 1866(6);

“the principal Act” means the Light Railways Act 1896.

### **Incorporation of Acts**

3.—(1) Subject to the provisions of this Order, the Railways Clauses Consolidation Act 1845(7) (except sections 8, 11 to 15, 17 and 46 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 Council of the Borough of Kirklees” 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(8).

(3) Subject to the provisions of this Order, such of the enactments set out in the Second Schedule to the principal Act as are still in force except section 22 of the Regulation of Railways Act 1868(9) (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(10) 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 Council’s land to the Company**

4.—(1) The Council may lease to the Company such parts of the Council’s land on such terms and conditions as may be agreed between the 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.

---

(4) 1985 c. 6.  
(5) 1981 c. 69.  
(6) 1866 c. lxxi.  
(7) 1845 c. 20.  
(8) 1923 c. 20.  
(9) 1868 c. 119.  
(10) 1889 c. 57.

(2) During the continuance of the lease the Company shall to the exclusion of the 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 Council whether statutory or otherwise for the time being in force in respect of such parts of the 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 on lands leased or to be leased to the Company construct, make and maintain the railway hereinafter described in the line 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 including station premises, workshops and facilities; and may enter into agreements with any other person or body for such purposes.

(2) The said railway is a passenger carrying railway 5.39 kilometres or thereabouts in length commencing at a point not less than 39 metres east of the easternmost abutment of the bridge over Copley Lane in the parish of Kirkburton and terminating at the former railway station to the west of Long Lane in Clayton West in the parish of Denby Dale in the Borough of Kirklees in the County of West Yorkshire.

(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 Council shall likewise, to the exclusion of the Board and to the same intent, be entitled to the benefit of the said rights, powers and privileges and be subject to the said obligations.

#### **Power to deviate**

6. In the construction of the Company's railway or any part thereof the Company may deviate from the line or situation thereof shown on the deposited plans to the extent of the limits of deviation shown thereon and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 1 metre upwards or downwards or to such further extent as may be found necessary or convenient and as may be sanctioned by the Secretary of State.

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

7. 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**

8. The Company's railway shall be constructed on a nominal gauge of 381 millimetres (fifteen inches) and the motive power on the railway shall be diesel-mechanical, diesel-hydraulic, diesel-electric, 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 to the Telecommunications Act 1984<sup>(11)</sup> or with telecommunication by means of any such apparatus.

### **Provision as to bridges**

9. 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 references 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 Council.

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

10.—(1) The Company may in the construction of the Company's railway carry the same with a single line across and on the level of:—

- (a) the private access way in the parish of Kirkburton from Upper Ozzings into the fields between Copley Lane, Long Moor Lane and the railway at Grid Reference SE 2097 1014;
- (b) the private access way in the parish of Denby Dale from Marsden Street into the fields to the north of the railway together with the public footpath identified as Denby Dale number 28 on the Definitive Map at Grid Reference SE 2338 1103.

(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 access way or the footpath as the case may be, and the surface over the level crossings shall be maintained in good and even condition.

(3) Access across the railway at each of the level crossings shall be provided by a self-closing gate on each side of the railway opening away from the railway.

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

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

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

11.—(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.

---

(11) 1984 c. 12.

(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 level 2 on the standard scale.

### **Public Liability Insurance**

(a) **12.** (1) (a) In this article:—

“approved” means approved by the Council;

“insurer” means any insurer or insurers authorised under the Insurance Companies Act 1982<sup>(12)</sup> 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.

(b) The Company shall at all times during the continuance of any lease or leases granted under article 4(1) of this Order maintain an approved public liability policy in the joint names of the Company and the 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 £5 million and in default thereof the 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 Council.

(c) The Company shall at the request of the Council produce to the Council such evidence as may be requisite for the purpose of providing 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 article they shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to a fine.

(2) Notwithstanding and without prejudice to the provisions of the foregoing paragraph of this article the 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 the public electricity suppliers**

**13.** Nothing in this Order shall prejudice or affect the rights of any public electricity supplier, within the meaning of Part I of the Electricity Act 1989<sup>(13)</sup>, 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.

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

**14.** 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<sup>(14)</sup>, in any apparatus belonging to them, or for the

---

<sup>(12)</sup> 1982 c. 50.

<sup>(13)</sup> 1989 c. 29.

<sup>(14)</sup> 1986 c. 44.

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.

### **For protection of sewerage and water undertakers**

**15.** For the protection of sewerage and water undertakers (in this article referred to as "the undertakers") the following provisions shall, unless otherwise agreed in writing between the Company and the undertaker concerned, apply and have effect:—

(1) In this article, "relevant pipe" in relation to an undertaker has the meaning given in paragraph 1 of Schedule 19 to the Water Act 1989(15):

(2) Nothing in section 18 of the Railways Clauses Consolidation Act 1845 in its application to the Company's railway shall authorise the Company to raise, sink or otherwise alter the position of, or in any way to interfere with, any relevant pipe without the consent in writing of the undertaker concerned, such consent not to be unreasonably withheld:

(3) Where any relevant pipe is situated in or under any land owned or held for the purposes of the Company's railway the Company shall at their own expense maintain all culverts over such relevant pipe which are in existence at the coming into force of this Order so as to leave the relevant pipe accessible for the purposes of repairs:

(4) The Company shall afford reasonable facilities to the undertakers for the execution and doing of all such works and things as may be reasonably necessary to enable them to inspect, repair, maintain, renew, replace, remove, alter or use any relevant pipe:

(5) The Company shall compensate the undertakers:—

- (a) for any damage done or disturbance caused to any relevant pipe; and
- (b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers,

by reason or in consequence of the execution, maintenance, user or failure of any of the works authorised by this Order or otherwise by reason or in consequence of the exercise by the Company of the powers of this Order:

Provided that nothing in this paragraph shall entitle the undertakers to any payment in respect of damage attributable to the neglect or default of the undertakers, their servants or agents:

(6) Nothing in this Order shall prejudice or affect the rights of the undertakers in respect of any relevant pipe or the provisions of any agreement regulating the relations between the Company and the undertakers with regard to any relevant pipe and whether made before or after this Order comes into force:

(7) The provisions of the Railways Clauses Consolidation Act 1845 applied by this Order shall be subject to the provisions of this article:

(8) Any difference arising between the Company and the undertakers under this article (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

### **Arbitration**

**16.** Where under any provision of this Order any difference (other than a difference as to the meaning or construction of any such provision) is to be referred to or settled by arbitration, then such difference shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

---

(15) 1989 c. 15.

### **Costs of Order**

17. All costs, charges and expenses incurred by the Council in, or incidental to, the preparing for, obtaining and making of this Order or otherwise in relation thereto shall be paid by the Council and to the extent that the Company may be liable to make repayment thereof to the Council such repayment may in whole or in part be defrayed out of revenue.

Signed by authority of the Secretary of Stat for Transport

27th September 1991

*D. Rowlands*  
An Under Secretary in the  
Department of Transport