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## STATUTORY INSTRUMENTS

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# 1991 No. 2812

## TRANSPORT

### The Peak Rail Light Railway Order 1991

*Made* - - - - - *5th December 1991*

*Coming into force* - - - *6th December 1991*

The Secretary of State for Transport, on the application of Peak Rail plc and in exercise of the powers conferred by sections 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 Peak Rail Light Railway Order 1991 and shall come into force on 6th December 1991.

#### Interpretation

2.—(1) 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 Company” means Peak Rail plc, a company incorporated under the Companies Act 1985(4) and having its registered office at the Midland Station, Buxton, Derbyshire;

“the District Council” means the Derbyshire Dales District Council;

“the County Council” means the Derbyshire County Council;

“the Company’s Railway” means the railway authorised to be constructed, made and maintained by the Company pursuant to Article 4 of this Order;

“the former railway” means the former railway of the Board described in the First Schedule to this Order and includes all the lands and works relating thereto;

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

(1) 1896 c. 48; sections 7 & 9 were repealed in part by the Railways Act 1921 (c. 55), section 86(2) and Schedule 9; section 10 was repealed in part by the Statute Law (Repeals) Act 1986 (c. 12), Schedule 1; section 11 was amended by the Light Railways Act 1912 (c. 19), section 5(3), and the Railways Act 1921, section 73(1) and was repealed in part and further amended in respects not relevant to this Order; section 12 was repealed in part by the Finance Act 1929 (c. 21), section 6 and Schedule.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

(4) 1985 c. 6.

(2) In this Order, all distances, lengths, measurements and directions stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, length, measurement and direction, and distances between points on the railway shall be taken to be measured along the railway.

### **Incorporation and application of enactments**

3.—(1) Subject to the provisions of this Order the provisions of the Railways Clauses Consolidation Act 1845(5) (except sections 8, 17, 46, 49, 50, 51 and 52) are hereby incorporated with, and form part of, 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 any reference to the clerks of the peace is a reference to the proper officer of the County Council;
- (b) Sections 78 to 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(6).

(3) Notwithstanding the provisions of subsection (1) of section 12 of the principal Act, the following enactments shall apply to the Company’s Railway:—

The Regulation of Railways Act 1868(7)—

Section 22 (means of communication between passengers and the Company’s servants to be provided);

The Regulation of Railways Act 1889(8)—

Section 1 (power to order certain provisions to be made for public safety);

Section 5 (penalty for avoiding payment of fare).

(4) In its application to the Company’s Railway 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.

### **Power to make Company’s Railway**

4.—(1) The Company may on lands leased or licensed to the Company by the District Council, and on the line and to the extent of the former railway, construct, make and maintain a railway with all the necessary works and conveniences connected therewith and work the same as a light railway under the principal Act and in accordance with the provisions of this Order.

(2) The Company’s Railway shall be laid on the same level as, and within the existing formation of, the former railway.

### **Transfer of rights etc. in former railway**

5. 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 former railway or any part thereof (insofar as the same are still subsisting and capable of taking effect) and the Company 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 former railway (insofar as the

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(5) 1845 c. 20.

(6) 1923 c. 20.

(7) 1868 c. 119.

(8) 1889 c. 57.

same are still subsisting and capable of taking effect) to the intent that the Board shall be released from all such obligations.

### **Gauge of the Company's Railway and motive power**

**6.** The Company's Railway shall be constructed and operated on a gauge of 1435 milli-metres and the motive power shall be diesel or 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 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 engine 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 telecommunications apparatus (as defined in Schedule 2 to the Telecommunications Act 1984(9)) or with telecommunication by means of such apparatus.

### **Provision as to Bridges**

**7.** 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.

### **Provision as to the crossing of public roads and footpaths on the level**

**8.—(1)** The Company shall have authority to make a crossing on the level of the B5057 road at Station Road, Darley Dale.

(2) The Company shall observe such conditions and requirements in relation to the new level crossing and the use and operation thereof as the Secretary of State may prescribe as being necessary or desirable for the protection, safety and convenience of the public.

(3) The Company may in the construction of the Company's Railway carry the Company's Railway across and on the level of the footpaths described in the Second Schedule to this Order (and across any accommodation crossing or right of way existing upon or over the former railway).

(4) The Company shall take all reasonable precautions for the safety of users of public footpaths adjacent to the Company's Railway including, where necessary, the provision of fencing and warning notices.

### **Restriction and conditions as to working of Company's Railway**

**9.—(1)** The Company shall not use upon the Company'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.

(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 prior written permission of the Secretary of State 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 persons using the Company's Railway.

(4) If the Company contravene any of the provisions of this Article it shall for each offence be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

## For the Protection of Sewerage and Water Undertakers

**10.** 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(**10**);

(2) Nothing in Section 18 of the Railway 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 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 purpose 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 purpose 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 relationship 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 provision of the Railway 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 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.

## For the protection of flood defences

**11.** Nothing in this article or in any enactment incorporated with or applied by this Order shall prejudice or affect the application of sections 28 and 29 of the Land Drainage Act 1976(**11**) and any byelaws made under that Act in relation to anything done under or in pursuance of this Order.

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(10) 1989 c. 15.

(11) 1976 c. 70.

## For the protection of public gas suppliers

**12.** 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(12) 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 is constructed.

## Public liability insurance

**13.—(1)** In this article—

“insurer” means any insurer or insurers authorised under the Insurance Companies Act 1982(13) 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 Company's Railway of not less than £1 million.

- (a) (2) (a) The Company shall not work the Company's 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 article the Company shall be liable on summary conviction to a fine not exceeding the statutory maximum or 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 Company.

## Cost of order

**14.** All costs, charges and expenses incurred by the Company in, or 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 for Transport

5th December 1991

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

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(12) 1986 c. 44.

(13) 1982 c. 50.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## FIRST SCHEDULE

So much of that part of the former Ambergate and Rowsley railway of the Board in the County of Derbyshire described in and authorised by the Manchester, Buxton, Matlock and Midland Junction Railway Acts 1846 and 1847(14) as extends from a point 280 metres south of the southern abutment of the bridge over the River Derwent (Bridge No. 35) to a point 200 metres south of the former level crossing at Church Road, Darley Dale, a distance of 3,438 metres.

## SECOND SCHEDULE

### LEVEL CROSSINGS REFERRED TO IN ARTICLE 8

Definitive footpath No.	Derbyshire County Council Ward	Location of level crossing
FP 26	Darley Dale	90 metres from A6 road to cross railway 125 metres north-west of Bridge No. 36
FP 25	Darley Dale	From Red House, to cross railway 140 metres from Old Road and 230 metres south east of Bridge No. 39

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(14) 1846 c. cxcii and 1847 c. ccvii.