
STATUTORY INSTRUMENTS

1993 No. 1607

TRANSPORT

The Swanage Light Railway (Extension) Order 1993

Made - - - - - *21st June 1993*

Coming into force - - - - - *22nd June 1993*

The Secretary of State for Transport, on the application of the Swanage Railway Company Limited, and in exercise of 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.—(1) This Order may be cited as the Swanage Light Railway (Extension) Order 1993 and shall come into force on 22nd June 1993.

(2) This Order and the Swanage Light Railway Order 1987(4) may be cited together as the Swanage Light Railway Orders 1987 and 1993.

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 Swanage Railway Company Limited, incorporated under the Companies Act 1948(5) and having its registered office at The Station, Swanage, Dorset, BH19 1HB;

“the Council” means the Dorset County Council;

“the Board’s railway” means so much of the former Swanage branch railway of the Board in the District of Purbeck, County of Dorset, described in, and authorised by, the Swanage

(1) 1896 c. 48; sections 7 and 9 were repealed in part by the Railways Act 1921 (c. 55), section 86(2) and Schedule 9; section 10 was repealed in part by the Statute Law (Repeals) Act 1986 (c. 12), Schedule 1; section 11 was amended by the Light Railways Act 1912 (c. 19), section 5(3), and the Railways Act 1921, section 73(1), and was repealed in part and further amended in respects not relevant to this Order; section 12 was repealed in part by the Finance Act 1929 (c. 21), section 6 and Schedule.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) Railways Act 1921, section 68(1), and S.I.1970/1681, 1979/571 and 1981/238.

(4) S.I. 1987/1443.

(5) 1948 c. 38.

Railway Act 1881⁽⁶⁾, and works relating thereto, as lies between a point at Harman’s Cross 250 metres west of the bridge carrying Haycraft’s Lane over the Swanage Light Railway of the Company, and a point at Furzebrook 527 metres west of the bridge carrying the A351 road between Corfe Castle and Stoborough over the site of the former branch railway of the Board, and includes all lands held, or formerly held, by the Board relating to the said former branch railway and lying between these points;

“the Council’s land” means the site of the Board’s railway, or so much thereof as has for the time being been conveyed by the Board to the Council;

“the Company’s railway” means the railway authorised to be constructed, made and maintained by the Company pursuant to article 5 of this Order, and prior to such construction, the land on which it is authorised to be constructed;

“the deposited plan” and “the deposited section” means respectively the plan and section deposited in respect of the application for this Order with the Department of Transport.

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

and all directions, distances, and lengths stated in this Order shall be construed as if the words “or thereabouts” were inserted after each such direction, distance, and length, and distances between points on the former Swanage branch railway shall be taken to be measured along the course of the former railway.

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, 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 Council” had been referred to therein instead of the “Clerks of the Peace”;
- (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⁽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 and 5 of the Regulation of Railways Act 1889⁽¹⁰⁾ (power to order certain provisions to be made for public safety and penalty for avoiding payment of fare) 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.

Acquiring Land and Leasing of the Council’s land to the Company

4.—(1) The Council may acquire from the Board such part of the site of the Board’s railway as is not in the Council’s ownership, on such terms and conditions as may be agreed between the Board and the Council.

(6) 1881 c.clix.
(7) 1845 c. 20.
(8) 1923 c. 20.
(9) 1868 c. 119.
(10) 1889 c. 57.

(2) 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, as will enable the Company to construct, make and maintain the Company's railway pursuant to article 5 of this Order.

Power for the Company to make railway

5.—(1) Subject to the provisions of this Order, the Company may, on the line of the Board's railway, 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 plan and deposited section, and with all proper rails, plates, sidings, junctions, culverts, drains, approaches, roads, yards, buildings and other works and conveniences connected therewith.

(2) The said railway is:—

A railway in the District of Purbeck, County of Dorset, 3 and a half miles in length, commencing at Harman's Cross, in the Parish of Worth Matravers, by a junction with the Swanage Light Railway of the Company, and terminating at Furzebrook, in the Parish of Church Knowle, by a junction with the surviving portion of the Swanage branch railway of the Board.

(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:—

- (a) during the continuance of any lease granted under article 4(2) 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 so leased (insofar as the same is still subsisting and capable of taking effect), and
- (b) in the event that any such lease is terminated, the Council shall, to the exclusion of the Board and insofar as aforesaid, be entitled to the benefit of the said rights and shall be subject to the said obligations, to the intent that the Board shall be released from all such obligations in either case.

Power to Deviate

6. In the construction of the Company's railway, or any part thereof, the Company may deviate vertically from the level shown on the deposited section to any extent, not exceeding 0.5 metres upwards or downwards.

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 to a nominal gauge of 1,435 millimetres, and the motive power on the railway shall be steam, electricity, 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(11) or with telecommunication by means of such apparatus.

Provision as to Bridges

9. Without prejudice to the generality of the foregoing, during the continuance of the lease granted under article 4(2) 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.

Conveyance of Passengers

10. 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.

For the protection of the Board

11. The following provisions shall, unless otherwise agreed in writing between the Company and the Board, apply and have effect:—

(1) In this article:—

“railway property” means any railway of the Board, and any works connected therewith for the maintenance and operation of which the Board are responsible, and includes any lands held or used by the Board for the purposes of such railway or works;

“specified works” means so much of the works (whether temporary or permanent) authorised by this Order, or section 16 of the Railways Clauses Consolidation Act 1845, as incorporated with this Order, as may be situated upon, across, under, over, or within 25 metres of, or may in any way affect, railway property, and includes the maintenance and renewal of such works;

“construction” includes execution, placing, and altering, and “construct” and “constructed” have corresponding meanings;

“the engineer” means an engineer to be appointed by the Board;

“plans” include sections, drawings, specifications, soil reports, calculations and descriptions (including descriptions of methods of construction).

(2) The Company shall, before commencing the specified works (other than works of maintenance or repair), furnish to the Board proper and sufficient plans thereof, for the reasonable approval of the engineer, and shall not commence the specified works until plans thereof have been approved in writing by the engineer, or settled by arbitration.

Provided that, if, within 56 days after such plans have been furnished to the Board, the engineer shall not have intimated his disapproval thereof, and the grounds for his disapproval, he shall be deemed to have approved the same.

(3) If, within 56 days after such plans have been so furnished, the Board shall give notice to the Company, that the Board desire to construct any part of the specified works themselves, which, in the opinion of the engineer will, or may, affect the operation or stability of railway property, then, if the Company desire such part of the specified works to be constructed by the Board, the Board shall

construct the same with all reasonable dispatch, on behalf of, and to the reasonable satisfaction of the Company, in accordance with the plans approved, or deemed to be approved, or settled, as aforesaid.

(4) Upon signifying his approval, or disapproval, of the plans, the engineer may specify any protective works, whether temporary or permanent, which, in his opinion, should be carried out before the commencement of the specified works, to ensure the safety, or stability, of railway property, and such protective works as may be reasonably necessary for those purposes, shall be constructed by the Board, or by the Company, if the Board so desire, with all reasonable dispatch, and the Company shall not commence the construction of the specified works until the engineer shall have notified the Company that the protective works have been completed to his reasonable satisfaction.

(5) The Company shall give to the engineer not less than 28 days notice in writing of their intention to commence the construction of any of the specified works and, except in emergency, (when they shall give such notice as may be reasonably practicable) also of their intention to carry out any works for the repair or maintenance of the specified works.

(6) The specified works shall, when commenced, be carried out with all reasonable dispatch, in accordance with the plans approved, or deemed to have been approved or settled as aforesaid, and under the supervision (if given) and to the reasonable satisfaction of the engineer, and in such manner as to cause as little damage to railway property as may be, and so far as is reasonably practicable, so as not to interfere with, or obstruct, the free uninterrupted and safe use of railway property, or traffic thereon, and if any damage to railway property, or any such interference, or obstruction, shall be caused, or take place, the Company shall, notwithstanding any such approval as aforesaid, make good such damage, and shall, on demand, pay to the Board all expenses to which they may be put, and compensation for any loss which they may sustain by reason of such damage, interference or obstruction.

(7) The Company shall, at all times, afford reasonable facilities to the engineer, for access to the specified works during their construction, and shall ensure access for the engineer at all reasonable times to all working sites, depots, and works, at which materials to be employed in the construction of the specified works are being made, constructed, or assembled, and shall supply him with all such information as he may reasonably require, with regard to the specified works, or the method of construction thereof.

(8) If any alterations, or additions, either permanent or temporary, to railway property shall be reasonably necessary, in consequence of the construction of the specified works, such alterations and additions may be effected by the Board, after notice has been given to the Company, and the Company shall pay to the Board, on demand, the cost thereof, as certified by the engineer, including, in respect of permanent alterations and additions, a capitalised sum representing the increased or additional cost of maintaining, working, and, when necessary, renewing any such alterations or additions.

(9) The Company shall repay to the Board all costs, charges, and expenses reasonably incurred by the Board:—

- (a) in constructing any part of the specified works on behalf of the Company, as provided by paragraph (3) above, or in constructing any protective works under the provisions of paragraph (4) above, including, in respect of permanent protective works, a capitalised sum representing the cost of maintaining and renewing such works;
- (b) in respect of the employment of any inspectors, signalmen, watchmen and other persons, whom it shall be reasonably necessary to appoint, for inspecting, watching, lighting and signalling, railway property, and for preventing, as far as may be, all interference, obstruction, danger, or accident, arising from the construction, maintenance, repair, or failure, of the specified works.
- (c) in respect of the approval by the engineer of plans submitted by the Company, and the supervision by him of the specified works;

(10) If, at any time after the completion of the specified works, not being works vested in the Board, the Board shall give notice to the Company, informing them that the state of repair of the specified works appears to be such as to affect prejudicially railway property, the Company shall, on receipt of such notice, take such steps as may be reasonably necessary to put the specified works in such state of repair as not to affect prejudicially railway property and, if, and whenever, the Company fail to do so, and at any time, in cases of emergency, (without being required to give notice as aforesaid) the Board may make and do in, and upon, the lands of the Board, or of the Company, all such works and things as shall be reasonably requisite, to put the specified works into such state of repair as aforesaid, and the costs and expenses reasonably incurred by the Board in so doing, shall be repaid to them by the Company.

(11) All temporary structures, erections, works, apparatus and appliances, erected, or placed, by the Company under the powers of this Order upon, over, or under, any railway of the Board, shall, as soon as may be reasonably practicable, be removed by the Company, at times to be agreed with, and to the reasonable satisfaction of, the engineer, and in such a way as to cause as little damage to railway property, and as little interference with, or interruption to, the traffic of the Board as may be, and if any damage to railway property, or such interference, delay or interruption shall be caused by any such failure to remove any such temporary structures, erections, works, apparatus or appliances, the Company shall forthwith make good such damage, and pay to the Board the reasonable costs and expenses to which they may be put, and reasonable compensation for any loss which they may sustain by reason of such damage, interference, delay or interruption.

(12) Any additional expense which the Board may reasonably incur, after giving two months notice to the Company, in widening, altering, reconstructing, or maintaining railway property, in pursuance of any powers existing at the date of the making of this Order, by reason of the existence of the specified works, shall be repaid by the Company to the Board.

(13) The Company shall be responsible for, and make good to the Board, all costs, charges, damages and expenses not otherwise provided for in this article, which may be occasioned to, or reasonably incurred by the Board:—

- (a) by reason of the specified works, or the failure thereof; or
- (b) by reason of any act or omission of the Company, or of any persons in their employ, or of their contractors, or others whilst engaged upon the specified works;

and the Company shall effectively indemnify, and hold harmless the Board from and against all claims and demands arising out of, or in connection with, the specified works, or any such failure, act or omission as aforesaid, and the fact that any act or thing may have been done by the Board on behalf of the Company, or in accordance with plans approved by the engineer, or in accordance with any requirement of the engineer or under his supervision, shall not (if it was done without negligence on the part of the Board, or of any person in their employ, or of their contractors or agents) excuse the Company from any liability under the provisions of this article:

Provided that the Board shall give to the Company reasonable notice of any claim or demand as aforesaid, and no settlement or compromise thereof shall be made without the prior consent of the Company.

(14) Any difference arising between the Company and the Board under this article, (other than a difference as to the meaning or construction of 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 Southern Electric Plc

12. The following provisions shall have effect unless otherwise agreed in writing between the Company and Southern Electric.

(1) In this article “Southern Electric” means Southern Electric Plc, and “apparatus” means any electrical plant or electric line (as respectively defined in Part I of the Electricity Act 1989⁽¹²⁾) belonging to Southern Electric.

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

(3) Before commencing to execute any works authorised by this Order under or over, or which will or may affect, any apparatus, the Company shall give to Southern Electric not less than 28 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 Southern Electric 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 Southern Electric reasonably necessary to raise, lower, or otherwise alter the position of the apparatus, the expenses reasonably incurred by Southern Electric in, or in connection with, such raising, lowering, or alteration, shall be repaid to them by the Company.

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

For the protection of the public gas suppliers

13. 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⁽¹³⁾, in respect of any apparatus belonging to them, or for the maintenance of which they are responsible, or any structure for the lodging therein of any apparatus, being any apparatus situated in, under, over, or upon the land to which this Order relates.

For the protection of the sewerage undertaker and water supply undertaker

14. Nothing in this Order shall prejudice or affect the rights of any water authority within the meaning of the Water Act 1989⁽¹⁴⁾ in respect of any apparatus belonging to them, or for the maintenance of which they are responsible, or any structure for the lodging therein of any apparatus, being any apparatus situated in, under, over, or upon the land to which this Order relates.

Signed by authority of the Secretary of State for Transport

21st June 1993

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

⁽¹²⁾ 1989 C.29
⁽¹³⁾ 1986 c. 44.
⁽¹⁴⁾ 1989 c. 15.