
STATUTORY INSTRUMENTS

1994 No. 691

The Bowes Extension Light Railway Order 1994

Citation and commencement

1. This Order may be cited as the Bowes Extension Light Railway Order 1993 and shall come into force on 4th March 1994.

Interpretation

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

“the Borough Council” means the Gateshead Metropolitan Borough Council in the County of Tyne and Wear;

“the City Council” means the Sunderland City Council in the County of Tyne and Wear;

“the Company” means The Bowes Railway Company Limited incorporated under the Companies Act 1985(1) and whose registered office is at the Town Hall and Civic Centre, Burdon Road, Sunderland, SR2 7DN;

“the Corporation” means the British Coal Corporation (formerly the National Coal Board);

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

“the former railway” means the former railway of the Corporation described in the Schedule to this Order;

“the Company’s railway” means the railway authorised to be constructed, made and maintained by the Company pursuant to article 4 of this Order and such parts thereof as shall have been constructed for the time being;

“the Council’s railway” means the railway authorised to be constructed, made and maintained by The Tyne and Wear County Council (Bowes Railway) Light Railway Order 1981(2) and now operated under powers vested in the Borough Council and the City Council(3).

(2) All directions and distances stated in the descriptions of the former 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.

Incorporation and application of enactments

3.—(1) The provisions of the Railways Clauses Consolidation Act 1845(4) (except sections 8, 9, 11 to 15, 17, 32 to 44, 46 to 67, 94, 95, 97, 112, 113, and 115 to 124), section 22 of the Regulation of Railways Act 1868(5) (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

(1) 1985 c. 6.

(2) S.I.1981/616.

(3) Local Government Act 1985 (c. 51) section 17.

(4) 1845 c. 20.

(5) 1868 c. 119.

for avoiding payment of fare) of the Regulation of Railways Act 1889⁽⁶⁾, 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) In its application to the Company'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.

Power to make railway

4.—(1) Subject to and in accordance with the provisions of this Order, the Company may on lands leased from the Borough Council and on the same line and levels as the former railway construct, make and maintain a railway together with all necessary works and conveniences connected therewith, including stations, premises, workshops and facilities, and work it as a light railway under the principal Act.

(2) Subject to the provisions of this Order, the Company's railway or any part of it shall be subject to all statutory and other provisions applicable to the former railway (insofar as they are still subsisting and effective) and the Company shall to the exclusion of the Corporation 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 aforesaid) with the intent that the Corporation shall be released from all such obligations.

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

Agreements with the Borough Council and the City Council

5. The Company may enter into agreements with the Borough Council and with the City Council or either of them as to the working of the Company's railway in conjunction with and as an extension to the Council's railway.

Gauge of railway and motive power

6.—(1) The Company's railway shall be constructed to a gauge of 1435 millimetres (four feet eight and one half inches).

(2) The motive power shall be:

- (a) steam, internal combustion or horse and applied to the trains by locomotive means; or
- (b) 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 any telecommunications apparatus (as defined in Schedule 2 to the Telecommunications Act 1984⁽⁷⁾) or with telecommunication by means of such apparatus.

(6) 1889 c. 57.

(7) 1984 c. 12.

Restriction of conveyance of passengers

7. 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 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.

As to footpath and bridleway level crossings

8.—(1) The Company may construct new footpath and bridleway level crossings at New Quarry, Eighton Banks and Galloping Green where the public footpath and bridleway diverted by the Borough Council parallel to the Company's railway crosses the Company's railway.

(2) At each such crossing referred to in this article:

- (a) signs suitable for such a crossing shall be provided on each side of the railway facing persons approaching the crossing;
- (b) gates shall be provided on each side of the railway at each of the said crossings and shall open outwards away from the railway;
- (c) a whistle board of standard railway design shall be provided on each of the railway approaches to each of the said crossings at a distance of not less than 120 metres from each such crossing, or at such other distance as the Secretary of State may approve, and the Company shall cause trains passing between 0700 and 2330 hours to sound the train whistle.

For protection of public gas and electricity 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(8), or of any public electricity supplier, within the meaning of Part I of the Electricity Act 1989(9), 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.

For protection of National Rivers Authority

10. For the protection of the National Rivers Authority (in this article referred to as "the Authority") the following provisions shall, unless otherwise agreed in writing between the Company and the Authority, apply and have effect:

(1) Nothing in this Order or in any enactment incorporated with or applied by this Order shall prejudice or affect the operation of section 109 of the Water Resources Act 1991(10) or any byelaws made under that Act or the Land Drainage Act 1991(11) in relation to anything done under or in pursuance of this Order;

- (a) (2) (a) Before carrying out any works involving the erection or raising of any obstruction to the flow of any watercourse or the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any watercourse in, under or through any land held for the purposes of or in connection with the Company's railway the Company shall furnish to the Authority proper and sufficient plans thereof for the approval of the Authority and shall not carry out the said works until the said plans have been approved in writing by the Authority, but such approval shall not be unreasonably withheld;

(8) 1986 c. 44.

(9) 1989 c. 29.

(10) 1991 c. 57.

(11) 1991 c. 59.

- (b) For the purposes of this article, “plans” includes sections, drawings, specifications, calculations and descriptions;
- (3) Any culvert or any structure designed to contain or divert the flow of any watercourse situated within any land held for the purposes of or in connection with the Company’s railway whether constructed under the powers of this Order or in existence prior to the making hereof, shall be maintained by the Company in good repair and condition and free from obstruction;
- (4) If any obstruction is erected or raised or any culvert is constructed, altered or replaced in contravention of this article the Company shall upon receiving notice from the Authority take such action as may be necessary to remedy the effect of the contravention to the Authority’s satisfaction and in default the Authority may itself take such action as may be necessary and recover the expenses reasonably incurred by it in so doing from the Company as a debt due from it to the Authority;
- (5) Any dispute or difference which may arise between the Authority and the Company under this article shall be referred to and determined by a single arbitrator to be agreed upon between the parties or, failing such agreement, to be appointed by the President of the Institution of Civil Engineers on application of either party (after notice in writing to the other of them);
- (6) The provisions of the Railways Clauses Consolidation Act 1845 applied by this Order shall be subject to the provisions of this article.

Signed by authority of the Secretary of State for Transport

3rd March 1994

J. R. Coates
An Under Secretary,
Department of Transport