
STATUTORY INSTRUMENTS

1996 No. 1267

The Churnet Valley Light Railway Order 1996

Citation and commencement

1. This Order may be cited as the Churnet Valley Light Railway Order 1996 and shall come into force on 4th May 1996.

Interpretation

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

“the Act of 1845” means the Railways Clauses Consolidation Act 1845⁽¹⁾;

“the Board” means the British Railways Board;

“the Board’s railway” means so much of the former railway of the Board in the County of Staffordshire described in and authorised by the enabling Acts and works relating thereto as lies between the point immediately to the south of the point known as Leekbrook junction in the parish of Leek at Grid Reference SJ9813/5378 and the point known as the sand sidings in the Parish of Oakamoor at Grid Reference SK0453/4508 and includes all the lands and works relating thereto in those parishes and in the parishes of Cheddleton, Ipstones and Kingsley in the district of Staffordshire Moorlands formerly held by the Board relating to the said railway and lying between those points;

“the Company” means Churnet Valley Railway (1992) plc incorporated under the Companies Acts 1985 to 1989⁽²⁾ and having its registered office at Cheddleton Station, Cheddleton, Staffordshire ST13 7EE;

“the Company’s railway” means the railway authorised to be construed and maintained by the Company pursuant to article 4 of this Order;

“the definitive map” means the definitive map for the area prepared under section 53 of the Wildlife and Countryside Act 1981⁽³⁾;

“the deposited plans” and “the deposited sections” mean respectively the plans and sections deposited in respect of the application for this Order with the Secretary of State for Transport, Great Minister House, 76 Marsham Street, London, SW1P 4DR and at the registered office of the Company, and marked as those plans and sections respectively;

“the enabling Acts” means the North Staffordshire Railway (Churnet Valley Line) Act 1846⁽⁴⁾ and the North Staffordshire Railway Act 1847⁽⁵⁾;

“the existing railway centre demonstration line” means the railway and works relating thereto in the County of Staffordshire lying immediately to the south of Cheddleton Station in the parish of Cheddleton on lands owned by or leased to the Company and shown marked “existing railway centre demonstration line & sidings” on the deposited plans;

(1) 1845 c. 20.

(2) 1985 c. 6 and 1989 c. 40.

(3) 1981 c. 69.

(4) 1846 c.lxxxvi.

(5) 1847 c.cviii.

“Grid Reference” means an Ordnance Survey Grid Reference;

“the transfer date” in respect of the Board’s railway or any part of the Board’s railway means the date on which the Board’s railway or that part of the Board’s railway is transferred to the Company by virtue of an agreement made pursuant to article 6 of this Order.

(2) For the purposes of this Order, “transferred” in relation to any rails, plates, sleepers, chairs, sidings, passing loops, junctions or any other associated track equipment forming part of the Board’s railway includes leased or let to, or licensed for use by, the Company.

Incorporation and application of enactments

3.—(1) Subject to the provisions of this Order, the following provisions of the Act of 1845 shall be incorporated in this Order:—

Section 16 (works to be executed);

Section 18 (alteration of water and gaspipes, etc);

Section 19 (company not to disturb pipes until they have laid down others);

Section 20 (pipes not to be laid contrary to any Act, and 18 inches surface road to be retained);

Section 21 (company to make good all damage);

Section 24 (penalty for obstructing construction of railway);

Section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;

Section 61 (company to make sufficient approaches and fences to highways crossing on the level);

Section 68 (accommodation works by company);

Sections 78 to 85E (which relate to the working of mines);

Section 105 (carriage of dangerous goods on the railway);

Section 145 (recovery of penalties); and

Section 154 (transient offenders).

(2) In those provisions, as incorporated in this Order—

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means any railway authorised to be constructed by this Order and, except where the context otherwise requires, any other authorised works; and

“the special Act” means this Order.

(3) The following enactments shall apply to the Company’s railway:—

The Regulation of Railways Act 1868⁽⁶⁾—

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

The Regulation of Railways Act 1889⁽⁷⁾—

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

Section 5 (penalty for avoiding payment of fare).

⁽⁶⁾ 1868 c. 119.

⁽⁷⁾ 1889 c. 57.

(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 20 miles without stopping" were omitted therefrom.

Power for the Company to construct and maintain railway

4.—(1) Subject to the provisions of this Order, the Company may on lands owned by or leased to the Company and either on the line of so much of the Board's railway as is transferred pursuant to this Order and within the formation of that railway or on the existing railway demonstration line construct and maintain a railway with all proper rails, plates, sidings, passing loops, 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 for such purposes and may upon such lands work the said railway as a light railway under the Act and in accordance with the provisions of this Order.

(2) Without prejudice to the generality of the foregoing, the Company may construct and maintain the works more particularly described in Schedule 1 to this Order.

Power to deviate

5. 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.

Transfer of railway and rights, etc. from Board to Company

6.—(1) The Board and the Company may enter into and carry into effect agreements providing for the transfer to and vesting in the Company of the Board's railway or any part thereof on such terms and conditions as may be agreed between the Board and the Company.

(2) On the transfer date all such rights, powers, privileges and obligations as are vested in or borne by the Board immediately before that date with respect to any part of the Board's railway transferred to the Company on that date by virtue of an agreement made pursuant to this article shall be transferred to and vest in the Company and thereafter the Company shall to the exclusion of the Board be entitled to the benefit of, and to exercise, all such rights, powers and privileges and be subject to all such obligations, whether statutory or otherwise, then in force to the intent that the Board shall be released from all such obligations.

Gauge of railway and motive power

7.—(1) The Company's railway shall be constructed and operated on a nominal gauge of 1.435 metres (4 feet 8½ inches) and the motive power on the railway shall be diesel-mechanical, diesel-hydraulic, diesel-electric, steam, internal combustion, battery, electric or such other motive power as the Secretary of State may in writing approve.

(2) 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.

(3) 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(8) or with telecommunications by means of any such apparatus.

(8) 1984 c. 12.

As to crossing of a road, access ways and footpaths on the level

8.—(1) The Company may carry the Company's railway across and on the level of the private access ways, road and footpaths described in Schedule 2 to this Order.

(2) The rails of the railway shall be maintained within the areas of the level crossings so that the upper surface is upon a level with the surface of the access way, road or footpath, as the case may be, and the surface over the level crossings shall be maintained in good and even condition.

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

As to crossing of certain access ways and footpaths

9.—(1) Subject to paragraphs (2) and (3) of this article, access across the railway at each of the level crossings described in Schedule 2 to this Order, except for the crossings described in paragraphs 2 and 12 thereof, shall be provided by a gate on each side of the railway opening away from the railway which in the case of the crossings described in paragraphs 10, 11, 13 and 14 of that Schedule and that part of the crossing described in paragraph 9 of that Schedule which relates to the footpath shall be a self-closing gate and the Company shall provide and maintain at the said level crossings signs bearing the wording 'STOP, LOOK AND LISTEN' on each side of the railway facing towards persons approaching the level crossing.

(2) The Company shall provide and maintain at or near each of the level crossings described in Schedule 2 to this Order except for the level crossing described in paragraph 2 of that Schedule such barriers, gates or other protective equipment as the Secretary of State may from time to time require in writing, and subject to such requirements as he may from time to time lay down.

(3) In this article "protective equipment" includes lights, traffic signs (within the meaning of section 64(1) of the Road Traffic Regulation Act 1984⁽⁹⁾), as prescribed in Schedule 3 to the Traffic Signs Regulations and General Directions 1994⁽¹⁰⁾ manual, mechanical, automatic, electrical or telephonic equipment or other devices.

As to crossing at Basford Bridge Lane

10.—(1) The Company shall provide at the crossing described in paragraph 2 of Schedule 2 to this Order, and shall operate and maintain, the protective equipment which is specified in Part I of Schedule 3 to this Order.

(2) The Company shall cause to be observed the conditions and requirements with regard to the crossing mentioned in paragraph (1) of this article which are specified in Part II of Schedule 3 to this Order.

Restriction as to working of Company's railway

11. 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.

For the protection of public gas transporters

12. Nothing in this Order shall prejudice or affect the statutory or other rights of any public gas transporter within the meaning of Part I of the Gas Act 1986⁽¹¹⁾ in or relating to any pipe, main or apparatus belonging to them or for the maintenance of which they are responsible, or any structure

⁽⁹⁾ 1984 c. 27.

⁽¹⁰⁾ S.I.1994/1519.

⁽¹¹⁾ 1986 c. 44; the term "public gas transporter" is defined in section 7(1) as substituted by section 5 of the Gas Act 1995.

for the lodging therein of any pipe, main or apparatus, being any pipe, main or apparatus or structure situate under, over or upon lands in or upon which the Company's railway or any part thereof is constructed.

For the protection of the Environment Agency

13.—(1) For the protection of the Environment Agency (in this article referred to as “the Agency”) the following provisions shall, unless otherwise agreed in writing between the Company and the Agency, apply and have effect.

(2) 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⁽¹²⁾ or any byelaws made under that Act or the Land Drainage Act 1991⁽¹³⁾ in relation to anything done under or in pursuance of this Order.

- (a) (3) (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 Agency proper and sufficient plans thereof for the approval of the Agency and shall not carry out the said works until the said plans have been approved in writing by the Agency such approval not to be unreasonably withheld;
- (b) For the purposes of this paragraph “plans”, includes sections, drawings, specifications, calculations and descriptions.

(4) 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.

(5) 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 Agency take such action as may be necessary to remedy the effect of the contravention to the Agency's satisfaction and in default the Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from the Company as a debt due from them to the Agency.

For the protection of sewerage and water undertakers

14.—(1) For the protection of sewerage and water undertakers for the time being for the area in which the Company's railway is situated (in this article referred to as “the undertakers”) the following provisions shall, unless otherwise agreed in writing between the Company and the undertakers concerned, apply and have effect.

(2) In this article, “relevant pipe” in relation to any of the undertakers has the meaning given in section 179(7) of the Water Industry Act 1991⁽¹⁴⁾.

(3) Nothing in section 18 of the Act of 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.

- (a) (4) (a) The Company shall not within the limits of deviation and without the consent of the undertakers concerned—

⁽¹²⁾ 1991 c. 57.

⁽¹³⁾ 1991 c. 59.

⁽¹⁴⁾ 1991 c. 56.

- (i) place or deposit any materials or erect any structure or works other than a single line of rails or passing loop; or
- (ii) make any excavation to a depth of more than 300 millimetres below the surface of the ground;

in so far as the same is or would be carried out or situated within 15 metres (measured in any direction) of any part of a relevant pipe;

- (b) The undertakers concerned shall not unreasonably withhold their consent under this paragraph but may grant their consent subject to reasonable conditions for the protection of a relevant pipe.

(5) 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 purpose of repairs.

(6) 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.

- (a) (7) (a) The Company shall compensate the undertakers—
 - (i) for any damage done or disturbance caused to any relevant pipe; and
 - (ii) 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.
- (b) 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.

(8) 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.

Arbitration

15. Any difference arising between the Company and the relevant undertakers under article 13 or 14 above 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 for the time being of the Institution of Civil Engineers.

Signed by authority of the Secretary of State for Transport

3rd May 1996

R. A. Allan
An Under Secretary,
Department of Transport