
STATUTORY INSTRUMENTS

2000 No. 2585

TRANSPORT AND WORKS, ENGLAND
TRANSPORT

**The Great Central Railway (East
Leake Branch, etc.) Order 2000**

Made - - - - *14th July 2000*

Coming into force - - *4th August 2000*

Whereas an application has been made to the Secretary of State for the Environment, Transport and the Regions (“the Secretary of State”), in accordance with the Transport and Works (Applications and Objections Procedure) Rules 1992⁽¹⁾ made under sections 6, 7 and 10 of the Transport and Works Act 1992⁽²⁾ (“the Act”), for an Order under sections 1 and 5 of the Act;

And whereas the Secretary of State has taken into consideration the grounds of objections to that application;

And whereas the Secretary of State proposed to make an Order giving effect to the proposals concerned with modifications which in his opinion make a substantial change in the proposals;

And whereas, having considered representations duly made to him pursuant to section 13(4) of the Act, the Secretary of State has determined to make the Order applied for with such modifications;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 13th July 2000;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 1 and 5 of, and paragraphs 1, 2, 5, 15 and 17 of Schedule 1 to, the Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

(1) S.I.1992/2902.

(2) 1992 c. 42.

PART I

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Great Central Railway (East Leake Branch, etc.) Order 2000 and shall come into force on 4th August 2000.

Interpretation

2.—(1) In this Order—

“the Act of 1845” means the Railways Clauses Consolidation Act 1845⁽³⁾;

“the 1995 Order” means the Great Central (Nottingham) Railway Order 1995⁽⁴⁾;

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) Rules 1992;

“the Board” means the British Railways Board;

“the limits of deviation” means the limits of deviation for Railway No.3 shown on the works plan;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;

“the Nottingham Company” means Great Central Railway (Nottingham) Limited having its registered office at Nottingham Transport Heritage Centre, Mere Way, Ruddington, Nottingham;

“Railtrack” means Railtrack PLC;

“Railway No.1”, “Railway No.2” and “Railway No.3” mean respectively the railways so numbered and described in the Schedule to this Order and (in the case of Railway No.1 and Railway No.2) authorised to be transferred pursuant to article 4 of this Order and (in the case of Railway No.3) authorised to be constructed and maintained pursuant to article 6 of this Order together with all lands and works relating thereto and, where in the case of Railway No.3 any part of that railway and works remains uncompleted, the expression Railway No.3 includes the site of that part;

“the railways” means Railway No.1, Railway No.2 or Railway No.3, or two or all of them, as the context shall require;

“the relevant date” means the date of the coming into force of this Order or, in relation to any part of the railways which at that date is not owned by the undertaker, the date upon which the undertaker acquires a legal estate in that part;

“the section” means the section described in rule 7(2) of the Applications Rules prepared in connection with the application for this Order, and marked as the section for the purposes of this Order;

“the undertaker” has the meaning given by paragraph (2) below;

“the works plan” means the plan described in rule 7(1)(a) of the Applications Rules prepared in connection with the application for this Order, and marked as “the works plan” for the purposes of this Order.

(2) In this Order “the undertaker” means the Nottingham Company but—

(3) 1845 c. 20.

(4) S.I. 1995/2143.

- (a) in relation to any property transferred under article 4 to any associated company of the Nottingham Company, means that company; or
- (b) during the currency of any lease granted under article 9(2)(a), or from the operative date of any sale under article 9(2)(b), in relation to any property transferred under that article, means the transferee within the meaning conferred by article 9(1).

(3) 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 a railway shall be taken to be measured along the railway.

Incorporation and application of enactments

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

- section 24 (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 68 (accommodation works by company);
- section 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;
- sections 72 and 73 (supplementary provisions relating to accommodation works);
- section 75 (omission to fasten gates);
- sections 78 to 85E and Schedules 1 to 3 (minerals under railways) as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923(5);
- section 87 (company empowered to contract with other companies);
- sections 103 and 104 (refusal to quit carriage at destination);
- section 105 (carriage of dangerous goods on railway);
- sections 115 to 119 (engines and carriages not to be used on the railway unless approved; unfit engines to be removed);
- section 145 (recovery of penalties); and
- section 154 (transient offenders).

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

- “the company” means the undertaker;
- “goods” includes any thing conveyed on the railways;
- “lease” includes an agreement for a lease;
- “prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;
- “the railway” means Railway No.3;
- “the special Act” means this Order;
- “toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on the railway.

(3) In its application to the railway, section 24 of the Act of 1845 shall have effect as if the maximum fine which may be imposed on summary conviction of an offence under that section were,

instead of a fine not exceeding level 2 on the standard scale, a fine not exceeding level 3 on the standard scale.

(4) Any enactment by which Railway No.1 or Railway No.2, or any railway or former railway situated within the limits of deviation, was authorised shall have effect subject to the provisions of this Order.

PART II

TRANSFER AND CONSTRUCTION OF RAILWAYS

Transfer of railways, etc. by Railtrack PLC.

4.—(1) Railtrack may transfer to the Nottingham Company or, with the consent of the Secretary of State, to any associated company (as defined in section 416 of the Income and Corporation Taxes Act 1988⁽⁶⁾) of the Nottingham Company—

- (a) Railway No.1 and Railway No.2, or any part of those railways; and
- (b) so much of the land required for Railway No.3 as at the date of the coming into force of this Order is owned by Railtrack

on such terms and conditions as may be agreed between Railtrack and the Nottingham Company or its associated company, as the case may be.

(2) As from the date of any agreement made under paragraph (1) above in relation to any part of the railways, sections 116, 117 and 118 of the Transport Act 1968⁽⁷⁾ shall apply to that part as if references to the Board in those sections were references to the undertaker.

Transfer of rights and obligations

5. Except as may be otherwise provided in this Order, as from the relevant date the railways or any part thereof shall continue to be subject to all statutory and other provisions applicable to the railways at that date (in so far as the same are still subsisting and capable of taking effect) and the undertaker shall to the exclusion of Railtrack or the Board, as the case may be, 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 railways (in so far as the same are still subsisting and capable of taking effect) to the intent that Railtrack or the Board, as the case may be, shall be released from all such obligations.

Power to construct and maintain Railway No.3

6.—(1) The undertaker may construct and maintain Railway No.3.

(2) Subject to article 7 below, Railway No.3 shall be constructed in the lines or situations shown on the works plan and in accordance with the levels shown on the sections.

(3) Railway No.3 shall be constructed and operated on a gauge of 1.435 metres (4 feet 8½ inches).

(6) 1988 c. 1.

(7) 1968 c. 73, as amended by the Local Government Act 1972 c. 70, the London Regional Transport Act 1984 c. 32, the New Roads and Street Works Act 1991 c. 22, and the Railways Act 1993 (Consequential Modifications) (No. 5) Order 1996 S.I. 1996/420.

Further powers as to works

7.—(1) Subject to paragraph (3) below, the undertaker may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of Railway No.3, namely—

- (a) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of Railway No.3, and
- (b) works for the benefit or protection of premises affected by Railway No.3.

(2) Subject to paragraph (3) below, the undertaker may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction and maintenance of Railway No.3.

(3) Paragraphs (1) and (2) above shall not authorise the carrying out or maintenance of works outside the limits of deviation.

Power to deviate

8. In constructing or maintaining Railway No.3, the undertaker may—

- (a) deviate laterally from the lines or situations shown on the works plan within the limits of deviation for that work shown on that plan; and
- (b) deviate vertically from the levels shown on the sections to any extent not exceeding 2 metres upwards or downwards.

PART III

MISCELLANEOUS

Transfer of railways by undertaker

9.—(1) In this article—

“lease” includes an underlease and “lease”, where used as a verb, shall be construed accordingly;

“the transferee” means any person to whom the undertaking or any part of it, is leased or sold pursuant to this article;

“the transferred undertaking” means so much of the undertaking as is leased or sold pursuant to this article; and

“the undertaking” means—

- (a) the railways, as defined by article 2(1) of the 1995 Order, and
- (b) the railways, as defined by article 2(1) of this Order.

(2) The undertaker may, with the consent of the Secretary of State—

- (a) lease the undertaking, or any part of it, to any person, or
- (b) sell the undertaking, or any part of it, to any person,

on such terms and conditions as may be agreed between the undertaker and the transferee.

(3) Except as may be otherwise provided in this Order, the transferred undertaking shall continue to be subject to all statutory or other provisions applicable to the transferred undertaking at the date of the lease or sale (in so far as the same are still subsisting and capable of taking effect) and the transferee shall, to the exclusion of the undertaker, 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

transferred undertaking (in so far as the same are still subsisting and capable of taking effect) to the intent that the undertaker shall be released from all such obligations.

(4) Paragraph (3) above shall have effect during the currency of any lease granted under paragraph (2)(a) above and from the operative date of any sale under paragraph (2)(b) above.

(5) Article 9 (leasing of railways) of the 1995 Order is hereby revoked.

Operation of railways

10.—(1) The undertaker may operate and use the railways and the other works authorised by this Order as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Subject as below, the motive power to be used on the railways shall be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Secretary of State may in writing approve.

(3) Nothing in this Order shall authorise the use of electrical power as motive power on the railways 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.

(4) If electrical power is used as motive power on the railways, 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 telecommunication by means of such apparatus.

(5) Except in the case of an emergency—

- (a) no train shall stop at East Leake station to allow passengers to alight from or board the train,
- (b) no train, other than a train being used solely for the carriage of goods, shall run on the railways before 09.00 hours or after 18.00 hours on any day,

without the prior written consent of the Secretary of State.

Protection for Environment Agency

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

(2) Before carrying out, under any powers conferred on or transferred to the undertaker by this Order—

- (a) any operation on the banks of any watercourse;
- (b) the erection or raising of any obstruction to the flow of any watercourse which is not part of a main river within the meaning of section 113 of the Water Resources Act 1991⁽⁹⁾; or
- (c) the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any such watercourse in, under or through any land within the limits of deviation,

the undertaker shall furnish to the Agency proper and sufficient plans thereof for the approval of the Agency and shall not carry out any such operation or work otherwise than in accordance with such plans as are approved.

(3) The approval of plans furnished under paragraph (2) above shall not be unreasonably withheld and if, within two months of such plans being supplied to the Agency, the Agency does not indicate

⁽⁸⁾ 1984, c. 12.

⁽⁹⁾ 1991 c. 57.

in writing its disapproval and the grounds of its disapproval, it shall be deemed to have approved the plans as supplied.

(4) For the purposes of paragraph (2) above, “banks” has the meaning given by section 72 of the Land Drainage Act 1991⁽¹⁰⁾ and “plans” includes sections, drawings, specifications, calculations and descriptions.

(5) Any culvert or any structure designed to contain or divert the flow of any watercourse being a culvert or structure situated within any land within the limits of deviation, whether constructed under the powers of this Order or in existence prior to the making hereof, shall be maintained by the undertaker in good repair and condition and free from obstruction.

(6) Nothing in paragraph (5) above shall have the effect of requiring the undertaker to carry out works of maintenance in respect of any culvert or structure which the Agency or any other person is liable to maintain.

(7) If any operation or work is carried out in contravention of this article the undertaker 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 reasonable 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 undertaker, as a debt due from it to the Agency.

(8) The provisions of the Act of 1845 incorporated in or applied by this Order shall be subject to the provisions of this article.

(9) Any difference arising between the undertaker and the Agency under this article (other than a difference as to its meaning or construction) shall be determined by arbitration.

Maintenance of approved works, etc.

12.—(1) Where pursuant to regulations made under section 41 of the Transport and Works Act 1992⁽¹¹⁾ (approval of works, plant and equipment) approval has been obtained from the Secretary of State with respect to any works, plant or equipment (including vehicles) forming part of the railways such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the railways.

(2) If without reasonable cause the provisions of paragraph (1) above are contravened, the undertaker shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Health and Safety Executive or the Director of Public Prosecutions.

Certification of plans, etc.

13. The undertaker shall, as soon as practicable after the making of this Order, submit copies of the sections and works plan to the Secretary of State for certification that they are true copies of the sections and the works plan referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Arbitration

14. Where under any provision contained or incorporated in this Order any difference is to be determined by arbitration, then such difference shall be referred to and settled by a single arbitrator

⁽¹⁰⁾ 1991 c. 59.

⁽¹¹⁾ 1992. c. 42.

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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.

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

14th July 2000

A. S. D. Whybrow
Head of Charging and Local Transport Division,
Department of the Environment, Transport and
the Regions

SCHEDULE

Article 2(1)

References in this Schedule to the London extension are references to the London extension of the former Great Central Railway (Railway No.1) described in and authorised by the Manchester Sheffield and Lincolnshire Railway (Extension to London &c.) Act 1893⁽¹²⁾ as amended pursuant to section 4 of the Manchester, Sheffield and Lincolnshire Railway Act 1894⁽¹³⁾.

Railway No.1

An existing railway (8,448 metres in length), consisting of part of the London extension, commencing at a point in the county of Nottinghamshire, borough of Rushcliffe, parish of East Leake in the vicinity of the British Gypsum works 332 metres north of the northern parapet of the bridge (Bridge No.307) carrying the C33 road from East Leake to Bunny (being the point of termination of Railway No.1 described in Schedule 1 to the 1995 Order), extending through the parishes of Normanton on Soar and Stanford on Soar in the said county and borough, then through the county of Leicestershire, borough of Charnwood, parish of Cotes and terminating at a point in the county of Leicestershire, borough of Charnwood, 9 metres south of the bridge (Bridge No. 328) carrying the railway over the A60 Nottingham to Loughborough road (Nottingham Road, Loughborough).

Railway No.2

An existing railway (78 metres in length) in the county of Leicestershire, borough of Charnwood, consisting of part of the railway (Work No.8) described in and authorised by the British Railways Act 1971⁽¹⁴⁾ commencing with a junction with Railway No.1 at its termination and extending in the direction of the junction between that existing railway and the Midland main line railway from Leicester to Derby.

Railway No.3

A railway (182 metres in length) in the county of Leicestershire, borough of Charnwood, being a reconstruction of part of the London extension, commencing with a junction with Railway No.1 at its termination, extending in a southerly direction and terminating at a point adjoining the north-eastern abutments of the demolished bridge which formerly carried the London extension over the Midland main line railway from Leicester to Derby.

EXPLANATORY NOTE

(This note is not part of the Order)

The Order authorises—

- (a) the transfer of existing railways in the borough of Rushcliffe, county of Nottinghamshire and in the borough of Charnwood, county of Leicestershire (Railways No.1 and 2) from Railtrack PLC to Great Central Railway (Nottingham) Limited (“the Nottingham Company”) or any associated company of the Nottingham Company; and
- (b) the construction and maintenance of a new railway (Railway No. 3) in the borough of Charnwood.

⁽¹²⁾ 1893 c. c.i.

⁽¹³⁾ 1894 c. lxxxi.

⁽¹⁴⁾ 1971 c. xlv.

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The Order contains provisions for the maintenance and operation of these railways and other related provisions.

The Order also provides for the sale or lease of Railways No.1, 2 and 3 and of the existing rail system of the Nottingham Company in the borough of Rushcliffe.

Copies of the works plan and sections may be inspected at all reasonable hours at Loughborough Central Station, Loughborough, Leicestershire.