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STATUTORY INSTRUMENTS

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**2004 No. 1817**

**The Eden Valley Railway Order 2004**

**Citation and commencement**

1. This Order may be cited as the Eden Valley Railway Order 2004 and shall come into force on 3<sup>rd</sup> August 2004.

**Interpretation**

2.—(1) In this Order—

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter I of Part 2 of the Communications Act 2003(1);

“the railway” means the railway described in the Schedule to this Order together with all lands and works relating thereto;

“the relevant date” means the date of the coming into force of this Order in relation to so much of the railway as at that date is owned by the Trust and in relation to any other part of the railway, the date upon which that part is transferred to the Trust;

“the Trust” means the Eden Valley Railway Trust, a company incorporated under the Companies Act 1985(2) and whose registered office is at 1 Victoria Road, Barnard Castle, County Durham, DL12 8HW; and

“the undertaker” means the Trust and following any sale, lease or underlease under article 4 this expression shall mean or include the transferee within the meaning of that article.

(2) Any enactment by which the construction and operation of the railway was authorised shall have effect subject to the provisions of this Order.

**Transfer of rights and obligations to undertaker, etc**

3.—(1) Except as may be otherwise provided in this Order, as from the relevant date the railway or any part of it shall continue to be subject to all statutory and other provisions applicable to it 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 BRB (Residuary) Limited, be entitled to the benefit of, and to exercise, all rights, powers and privileges, and, subject to paragraph (2), be subject to all obligations, statutory or otherwise, relating to the railway (in so far as the same are still subsisting and capable of taking effect), to the intent that BRB (Residuary) Limited shall be released from all such obligations.

(2) Without prejudice to the generality of paragraph (1), sections 116 to 118 of the Transport Act 1968(3) shall, as from the relevant date, apply to the railway or the relevant part of it as if references to the British Railways Board were references to the undertaker.

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(1) 2003 c. 21.  
(2) 1985 c. 6.  
(3) 1968 c. 73.

## **Transfer of railway by undertaker**

4.—(1) In this article—

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

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

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

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

(2) The undertaker may, with the consent of the Secretary of State, sell or lease the railway, or any part of it, to any person on such terms and conditions as may be agreed between the undertaker and that person.

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

(4) Paragraph (3) shall have effect during the term of any lease granted, and from the operative date of any sale, under paragraph (2).

## **Operation of railway**

5.—(1) The undertaker may operate and use the railway as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Subject to paragraphs (3) and (4), the motive power to be used on the railway 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 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.

(4) If electrical power is used as motive power on the railway, such electrical power shall not be used in such a manner as to cause, or be likely to cause, any interference with any electronic communications apparatus or with the use of such apparatus.

## **Safety of approved works, etc**

6.—(1) Where pursuant to regulations(4) made under section 41 of the Transport and Works Act 1992 (approval of works, plant and equipment) approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part of the railway, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time when the approval was given unless any change thereto does not materially impair the safe operation of the railway.

(2) If without reasonable cause the provisions of paragraph (1) 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.

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(4) S.I.1994/157.

(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.

Signed by authority of the  
Secretary of State for Transport

13th July 2004

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Unit,  
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