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STATUTORY INSTRUMENTS

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**2004 No 3126**

**TRANSPORT AND WORKS, ENGLAND**  
**TRANSPORT, ENGLAND**

**The Preston Dock Railway Order 2004**

*Made - - - - -*      *24th November 2004*

*Coming into force - - -*      *15th December 2004*

**ARRANGEMENT OF ARTICLES**

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Schedule 1—The existing enactments

Schedule 2—The railways

Whereas an application has been made to the Secretary of State, in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000(a) made under sections 6, 6A, 7 and 10 of the Transport and Works Act 1992(b) (“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 has determined to make an Order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any substantial change in the proposals;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 19th November 2004;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 1 and 5 of, and paragraphs 1, 3, 8, 15 and 17 of Schedule 1 to, the Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

**Citation and commencement**

1. This Order may be cited as the Preston Dock Railway Order 2004 and shall come into force on 15th December 2004.

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(a) S.I. 2000/2190.

(b) 1992 c. 42 as amended by S.I. 1995/1541 and S.I. 1998/2226.

## **Interpretation**

### **2.—(1) In this Order—**

“the Council” means the Preston City Council;

“the dock railway system” means the part vested in the Council of the undertaking which was authorised by the North Union and Ribble Navigation Branch Railway Act 1845(a) to carry goods and passengers by rail;

“electronic communications apparatus” has the same meaning as in the electronic communications code as set out in Schedule 2 to the Telecommunications Act 1984(b);

“the existing enactments” means the enactments mentioned in Schedule 1 to this Order;

“the lease” means any lease of the railways granted by the Council to the undertaker pursuant to article 3(1);

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

“Railway No. 1” and “Railway No. 2” mean respectively the railways so numbered and described in Schedule 2 to this Order together with all lands and works relating thereto to the extent that the same are vested in the Council at the date upon which this Order comes into force and are held or used by the Council for the purposes of its railway undertaking;

“the railways” means Railway No. 1 and Railway No. 2, or either of them, as the case may require;

“the swing bridge” means the swing bridge carrying Railway No. 1 and the road known as Navigation Way over the entrance to Preston Dock together with all works and equipment relating thereto;

“the transfer date”, in relation to any part of the railways, means the date on which that part is leased or sold by the Council to the undertaker under article 3;

“the undertaker” means Steamport Southport Ltd, a company incorporated under the Companies Act 1985(c) as a company limited by guarantee and whose registered office is at 3 Lincoln Drive, Old Roan, Liverpool L10 3LJ and following any sale, lease or underlease under article 4 the expression “the undertaker” shall mean or include the transferee within the meaning of that article.

(2) Any enactment by which the railways were authorised, including the existing enactments, shall have effect subject to the provisions of this Order.

## **Transfer of railways to undertaker**

**3.—(1)** The Council may lease the railways or any part of the railways to the undertaker on such terms and conditions as may be agreed between the Council and the undertaker.

**(2)** The Council and the undertaker may also enter into and carry into effect agreements providing for the sale to and vesting in the undertaker of the railways or any part of the railways on such terms and conditions as may be agreed between the Council and the undertaker.

**(3)** Except as may be otherwise provided in this Order, as from the transfer 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 (insofar as the same are still subsisting and capable of taking effect) and the undertaker shall to the exclusion of the Council 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 (insofar as the same are still subsisting and capable of taking effect) to the intent that the Council shall be released from all such obligations.

**(4)** Paragraph (3) shall have effect during the term of any lease granted under paragraph (1) and from the operative date of any sale under paragraph (2).

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(a) 1845 c.cxvi.

(b) 1984 c. 12. Schedule 2 was amended by the New Roads and Street Works Act 1991, Schedule 8 paragraphs 113 and 115 and the Communications Act 2003, Schedule 3.

(c) 1985 c. 6.

## **Transfer of railways by undertaker**

**4.—(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; and

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

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

(a) lease the railways, or any part of them, to any person; or

(b) following any sale under article 3(2), sell the railways, or any part of them, 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 (insofar 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 (insofar 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) shall have effect during the term of any lease granted under paragraph (2)(a) and from the operative date of any sale under paragraph (2)(b).

## **Preston Dock Bridge**

**5.** Notwithstanding article 3(3), nothing contained in or done under this Order shall transfer the swing bridge to the undertaker, or impose on the undertaker any liability to maintain it, but the Council and the undertaker may enter into and carry into effect agreements relating to the operation of the opening span of the swing bridge and the use of the swing bridge by the undertaker.

## **Operation of railways**

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

(2) Subject to the provisions of paragraphs (3) and (4), 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 electronic communications apparatus or with the use of such apparatus.

## **For the protection of gas transporters**

**7.—(1)** Paragraph (2) shall have effect during the term of any lease granted under article 3(1), and from the operative date of any sale under article 3(2), and shall apply to so much of the railways as is so leased or sold, as the case may be, by the Council to the undertaker.

(2) Nothing in this Order shall prejudice or affect the statutory or other rights of any gas transporters within the meaning of Part 1 of the Gas Act 1986(a) in or relating to any pipe, main or apparatus belonging to them or for the maintenance of which they are responsible, or any structure for the lodging therein of any pipe, main or apparatus, being any pipe, main or apparatus or structure situated under, over or upon lands in or upon or near to which the railways or any part thereof are or is constructed.

**Safety of approved works, etc.**

**8.—(1)** Where, pursuant to regulations(b) 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 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) 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 Secretary of State or the Director of Public Prosecutions.

Signed by authority of the  
Secretary of State for Transport

24th November 2004

*Ellis Harvey*  
Head of the Transport and Works Act Orders Unit,  
Department for Transport

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(a) 1986 c. 44. A new section 7 was substituted by section 6 of the Gas Act 1995 c. 45.  
(b) See S.I. 1994/157.

**SCHEDULE 1**  
**THE EXISTING ENACTMENTS**

Article 2(1)

<b>Chapter</b>	<b>Part A—Acts</b>
1845 c.cxvi 1981 c.xxii	North Union and Ribble Navigation Branch Railway Act 1845 Preston Borough Council Act 1981
<b>Part B—Orders under Level Crossings Act 1983</b>	
	Preston Borough Council Lockside Road Level Crossing Order 1990 Preston Borough Council Bullnose Road Level Crossing Order 1994 Preston Borough Council Swing Bridge Level Crossing Order 1994 Preston Borough Council Bull Nose Level Crossing (Variation) Order 1995 Preston Borough Council Swing Bridge Level Crossing (Variation) Order 1995

**SCHEDULE 2**  
**THE RAILWAYS**

Article 2(1)

In the county of Lancashire, city of Preston—

Railway No. 1—An existing railway (2670 metres in length), consisting of part of the dock railway system, commencing at a point 55 metres or thereabouts from the western boundary of the Strand Road Preston, level crossing (being the point of termination of the railway defined in the Strand Road, Preston Railway Order 2002(a)), extending thence on land adjoining Strand Road, Port Way and Navigation Way, over the Maritime Way (formerly known as Bullnose Road) level crossing, over the swing bridge and the swing bridge level crossing (incorporated in the swing bridge) and the Lockside Road level crossing and terminating at a point 46 metres east of the engine shed located to the south of Nelson Way and incorporating two spurs in the vicinity of Chain Caul Road leading to Williams Yard and to the railway works of the undertaker.

Railway No. 2—An existing railway (220 metres in length), consisting of part of the dock railway system, commencing by a junction with Railway No. 1 at a point 80 metres west of the Lockside Road level crossing, extending thence in a generally north-easterly and northerly direction and terminating at a point adjacent to the southern boundary of Chain Caul Way 15 metres west of its junction with Lockside Road.

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(a) S.I. 2002/2398.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order relates to certain railways forming part of the Preston Dock railway system which at the date of the Order are owned by Preston City Council. The Order authorises the City Council to transfer the railways to Steamport Southport Limited and makes other provisions in relation to the railways.



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