



British Railways Act 1994

1994 CHAPTER iv

PART II

WORKS, ETC.

Works

5 Power to make works

The Board may, on lands in their ownership, or to be made available to them, and in the line or situation and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections, make and maintain the following work in Mid Glamorgan with all necessary works and conveniences connected therewith:—

In the borough of Cynon Valley—

(Deviation railway at Mountain Ash).

Work No. 2—A railway (704 metres in length), being a deviation of the Cardiff to Aberdare Railway on the eastern side of that railway, commencing by a junction with that railway at a point 58 metres south of Town Bridge over that railway and terminating by a junction with that railway at a point 78 metres south of the junction of Bailey Street with Miskin Road including a crossing on the level of the footpath (

General works provisions

6 Power to deviate

In the execution of Work No. 2 the Board may deviate from the lines or situations thereof shown on the deposited plans to the extent of the limits of deviation and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 3 metres upwards or downwards or to such further extent as may be approved by the Secretary of State.

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7 Stopping up highways

- (1) On the stopping up of any highway or part thereof under any provision of this Act, other than section 11 (Temporary stoppage of highways), all rights of way over or along the highway or part so stopped up shall be extinguished.
- (2) Any person who suffers loss by reason of the extinguishment under this section of any private right shall be entitled to be paid by the Board compensation, to be determined in case of dispute by the tribunal.

8 Appropriating sites of highways

After a highway or part thereof is permanently stopped up under this Act, the Board may, subject to the provisions of the Act of 1845 with respect to mines lying under or near the railway, so far as the said highway or part thereof is bounded on both sides by lands of the Board, appropriate the site thereof without making any payment therefor and use it for the purposes of their undertaking.

9 Repair of highways

Any highway or part thereof made, diverted or altered under this Act (except the structure carrying any such highway over any railway of the Board) shall when completed, unless otherwise agreed, be maintained by and at the expense of the highway authority.

10 Agreements with highway authorities

- (1) Where a highway or part thereof is altered or stopped up or interfered with under this Act, the Board may enter into and carry into effect agreements with the highway authority with respect to such alteration, stopping up or interference, or the construction of any new highway to be made under this Act, contributions to the costs thereof or any other matters relating thereto.
- (2) The Board may by agreement delegate to the highway authority the power of constructing and maintaining any such alterations or new highway, including the structure of any bridge over or under any railway.
- (3) The purposes of this section shall be deemed to be purposes for which a highway authority may incur expenditure and borrow money.

11 Temporary stoppage of highways

- (1) The Board, during and for the purpose of the execution of the works, may temporarily stop up and divert and interfere with any highway and may for any reasonable time divert the traffic therefrom and prevent all persons other than those going bona fide to any land, house or building abutting on the highway from passing along and using the same.
- (2) The Board shall provide reasonable access for persons on foot going bona fide to any such land, house or building.
- (3) (a) The Board shall not exercise the powers of this section without the consent of the highway authority.

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- (b) Any such consent may be given subject to such reasonable conditions as the highway authority may require but shall not be unreasonably withheld and any question whether such consent has been unreasonably withheld, or whether any such condition is reasonable, shall be referred to and settled by arbitration.

12 Underpinning of buildings near works

The Board may at their own expense, subject as hereinafter provided, underpin or otherwise strengthen any house or building within 35 metres of Work No. 2 and the following provisions shall have effect:—

- (1) At least 14 days' notice shall (except in case of emergency) be given to the owner, lessee and occupier of the house or building intended to be so underpinned or otherwise strengthened:
- (2) Each such notice shall be served in a manner prescribed by section 6 of the Acquisition of Land Act 1981 as if required to be served under that Act:
- (3) If any owner, lessee or occupier of any such house or building, within 10 days after the giving of such notice, gives a counter-notice in writing that he disputes the necessity of such underpinning or strengthening, the question of the necessity shall be settled by arbitration and, if the arbitrator decides that such underpinning or strengthening is not necessary, the Board shall not proceed therewith:
- (4) In any case in which any house or building has been underpinned or strengthened under the powers of this section the Board may, from time to time after the completion of such underpinning or strengthening, and during the execution of the work in connection with which such underpinning or strengthening was done, or within five years after the opening for traffic of that work, enter upon and survey such house or building and, after complying with the foregoing provisions of this section, do such further underpinning or strengthening as they may deem necessary or expedient:
- (5) The Board shall be liable to compensate the owner, lessee and occupier of every such house or building for any loss or damage which may result to them by reason of the exercise of the powers of this section:
- (6) Nothing in this section shall affect liability to compensate under section 6 of the Act of 1845, as incorporated with this Act, or section 10 (2) of the Act of 1965, as applied by this Act, or under any other enactment in respect of loss or damage arising from the execution of any works, except so far as compensation is payable under paragraph (5) above:
- (7) Every case of compensation to be ascertained under this section shall be ascertained according to the provisions of the Land Compensation Act 1961.

13 Use of sewers, etc., for removing water

- (1) In this section “relevant authority” means a sewerage undertaker, the National Rivers Authority, an internal drainage board or a local authority.
- (2) The Board may use for the discharge of any water pumped or found by them during the construction of the works any available stream or watercourse, or any sewer or drain of a relevant authority, and for that purpose may lay down, take up and alter conduits, pipes and other works and may make any convenient connections with any such stream, watercourse, sewer or drain within the limits of deviation.

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(3) The Board shall not—

- (a) discharge any water into any sewer or drain vested in or under the control of a relevant authority except with the consent of that authority, which consent shall not be unreasonably withheld, and subject to such terms and conditions as that authority may reasonably impose; or
 - (b) make any opening into any such sewer or drain save in accordance with plans approved by, and under the superintendence (if given) of, the relevant authority in whom the sewer or drain is vested, but approval of those plans by that authority shall not be unreasonably withheld.
- (a) (a) Section 85 of the Water Resources Act 1991 shall apply to, or to the consequence of, a discharge under the powers of this section into any controlled waters within the meaning given by section 104 of that Act as if this section were not a local statutory provision for the purposes of section 88 (1) (f) of that Act.
- (b) In the exercise of their powers under this section the Board shall not damage or interfere with the bed of any watercourse forming part of a main river or the banks thereof, within the meaning of section 113 of the Water Resources Act 1991.
- (5) The Board shall take all such steps as may reasonably be required to secure that any water discharged by them under this section is as free as may be reasonably practicable from any gravel, soil or other solid substance or matter in suspension.
- (6) Any difference arising between the Board and a relevant authority under this section shall be referred to and settled by arbitration.

Miscellaneous

14 Bridge at Hunslet East, Leeds

(1) In this section—

“the existing bridge” means the bridge of the Board (numbered 4) carrying Fewston Avenue in the city of Leeds across the railway between Osmondthorpe and Stourton;

“the footway” means the western footway of Fewston Avenue; and

“the relevant enactments” means section 9 of the North Eastern Railway Act 1893, section 12 of the North Eastern Railway Act 1894, sections 46 and 50 of the Act of 1845 as incorporated with those Acts and any other enactment relating to the existing bridge.

- (2) The Board may bar public access to any part of the existing bridge other than access for persons on foot using the footway.
- (3) The relevant enactments shall cease to have effect in so far as they impose any obligation on the Board to provide a bridge on the site of the existing bridge of a width greater than that required for the accommodation of the footway or to allow public access to any part of the existing bridge other than the footway.

15 Wheal Bois level crossing, Redruth, Cornwall

(1) In this section—

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“the specified enactments” means the Highway (Railway Crossings) Act 1839, section 9 of the Railway Regulation Act 1842, section 47 of the Act of 1845, sections 5, 6 and 7 of the Railways Clauses Act 1863 and any other provision to the same or similar effect incorporated with, or contained in, any enactment; and

“Wheal Bois crossing” means the level crossing in the community of Redruth in the district of Kerrier, county of Cornwall, known as Wheal Bois level crossing (reference point SW 7117:4378) whereby the road leading from the A3047 to Radnor Road is crossed by the railway between Redruth and Truro stations.

- (2) Subject to the provisions of this Act, the Board may stop up and discontinue so much of the road at Wheal Bois crossing as lies within the boundaries of their property.
- (3) Upon the stopping up of Wheal Bois crossing the specified enactments shall cease to apply to that crossing.
- (4) The stopping up under this section of Wheal Bois crossing shall not affect the right of persons to use that crossing on foot and the Board shall provide and maintain wicket gates or stiles on both sides of the railway at that crossing.
- (5) Section 28 of the Great Western Railway (General Powers) Act 1909 is hereby repealed so far as it relates to Wheal Bois crossing.