
STATUTORY INSTRUMENTS

1995 No. 2142

TRANSPORT

The Oswestry Light Railway Order 1995

Made - - - - 28th July 1995

Coming into force - - 29th July 1995

The Secretary of State for Transport, on the application of the Cambrian Railways Society Limited for an Order under the Light Railways Act 1896(1)(hereinafter referred to as “the Act”), being satisfied in accordance with section 7 of the Act that its requirements in relation to the publication and service of notices, and consideration of objections, have been satisfied, and having considered the Order as required by section 9 of the Act, in exercise of powers conferred by sections 7, 10 to 12 and 18 of the Act and now vested in him(2)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 Oswestry Light Railway Order 1995 and shall come into force on 29th July 1995.

Interpretation

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

“the Board” means the British Railways Board;

“the deposited plan” means the plan deposited in respect of the application for this Order with the Secretary of State for Transport, a copy of which may be inspected at the registered office of the Society;

“the lease” means any lease granted by the Board to the Society under article 5 (Leasing or transfer of railway) of this Order, any extension of the said lease or any new lease of the railway granted by the Board to the Society;

“the railway” means the railway described in Schedule 1 to this Order;

(1) 1896 c. 48; sections 7 and 9 were repealed in part by the Railways Act 1921 (c. 55), section 86(2) and Schedule 9; section 10 was repealed in part by the Statute Law (Repeals) Act 1986 (c. 12), Schedule 1; section 11 was amended by the Light Railways Act 1912, section 5(3), and the Railways Act 1921, section 73(1), and was repealed in part and further amended in respects not relevant to this Order; section 12 was repealed in part by the Finance Act 1929 (c. 21), section 6 and Schedule.

(2) Railways Act 1921 section 68(1), and S.I.1970/1681, 1979/571 and 1981/238.

“the Society” means the Cambrian Railways Society Limited, incorporated under the Companies Acts 1948 to 1967 and having its registered office at Oswald Road, Oswestry, Shropshire.

(2) In this Order, all distances, lengths, measurements and directions stated in any descriptions 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 shall apply to the railway:—

Regulation of Railways Act 1868⁽³⁾—

Section 22 (means of communication between passengers and railway servants);

Regulation of Railways Act 1889⁽⁴⁾—

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

Section 5 (penalty for avoiding payment of fare).

(2) In its application to the 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.

Power to work railway

4. As from the coming into force of this Order and during the currency of the lease or from the operative date of any transfer under the provisions of article 5 of this Order the Society may work the railway as a light railway under the Act and in accordance with the provisions of this Order.

Leasing or transfer of railway

5.—(1) The Board may lease the railway or any part thereof to the Society together with the rights, powers and privileges vested in the Board and relating to the railway on such terms and conditions as may be agreed between the Board and the Society.

(2) The Board and the Society may also enter into and carry into effect agreements providing for the transfer to and vesting in the Society of the railway or any part thereof.

Transfer of rights, etc. to the Society

6.—(1) The Society shall to the exclusion of the Board be entitled to the benefit of and to exercise all rights, powers and privileges and be subject to all obligations of the Board, whether statutory or otherwise for the time being in force in respect of the railway or such parts thereof as are leased or transferred as aforesaid (insofar as the same are still subsisting and capable of taking effect) to the intent that (subject to paragraph (2) of this article) the Board shall be released from all such obligations.

(2) Paragraph (1) of this article shall have effect during the currency of the lease and from the operative date of any transfer under the provisions of article 5 of this Order.

Coney Green level crossing

7.—(1) The following provisions of this article and the provisions of Schedule 2 to this Order shall have effect at all times when the Society are entitled pursuant to this Order to work the railway.

(3) 1868 c. 119.

(4) 1889 c. 57.

(2) The Society shall maintain the existing Coney Green level crossing where the footpath between the points marked A and B on the deposited plan is crossed by the railway.

(3) The Society shall not operate the railway until they have provided in relation to the said level crossing the safety devices specified in Schedule 2 to this Order and the Society shall maintain the said devices, and shall observe the other requirements contained in the said Schedule.

(4) The Society shall maintain the footway forming part of the said level crossing in a good state of repair.

(5) Notwithstanding anything in any enactment, the Society shall not be required to erect or maintain a station or lodge at the said level crossing.

Gauge of railways and motive power

8.—(1) The railway shall be operated on a nominal gauge of 1.435 metres (4 feet 8 inches) and the motive power shall be steam, diesel, diesel-electric, internal combustion, electric battery, or such other motive power as the Secretary of State may approve.

(2) Nothing in this Order shall authorise the Society to use 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.

(3) 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 telecommunications apparatus (as defined in Schedule 2 to the Telecommunications Act 1984)⁽⁵⁾ or with telecommunication by means of any such apparatus.

Conveyance of passengers

9. No part of the railway shall be used for the conveyance of passengers without the prior written permission of the Secretary of State.

For the protection of sewerage and water undertakers

10.—(1) For the protection of sewerage and water undertakers (in this article referred to as “the undertakers”) the following provisions shall, unless otherwise agreed in writing between the Society 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⁽⁶⁾.

(3) Nothing in section 18 of the Railways Clauses Consolidation Act 1845 in its application to the railway shall authorise the Society 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.

(4) Where any relevant pipe is situated in or under any land owned or held for the purpose of the railway the Society 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: Provided that nothing in this paragraph shall have the effect of requiring the Society to carry out works of maintenance in respect of any culvert which the undertakers or any other person are liable to maintain.

(5) The Society 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.

(5) 1984 c. 12.

(6) 1991 c. 56.

(6) The Society shall compensate the undertakers:—

- (a) for any damage done or disturbance caused to any relevant pipe; and
- (b) 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 Society of the powers of this Order.

- (a) (7) (a) Nothing in the foregoing 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.
- (b) 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 Society and the undertakers with regard to any relevant pipe and whether made before or after this Order comes into force.

(8) The provisions of the Railways Clauses Consolidation Act 1845 applying to the railway shall be subject to the provisions of this article.

(9) Any difference arising between the Society and the undertakers under this article 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

28th July 1995

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

SCHEDULE 1

Article 2(1)

The Railway

The railways situated in the former goods yard of the Board and other lands on the west side of the Gobowen to Blodwel Quarry railway of the Board at Oswestry in the County of Shropshire (the boundaries of which former goods yard and lands are shown coloured red on the deposited plan) together with the lands, buildings, works and conveniences situated within the said boundaries.

SCHEDULE 2

Article 7

Coney Green Crossing Safety Devices to be Provided and Safety Requirements to be Observed

1. Wicket gates (“the gates”) shall be provided across the footpath on either side of the railway opening away from the railway.
2. The gates shall be so constructed as (when closed) to close off the railway.
3. The Society may remove the gates at times when they are not operating the railway provided that they replace the gates before the railway is next operated.
4. The gates must not be locked at any time.
5. The Society shall provide trained staff to open and close the gates at all times when the railway is being operated, and shall instruct such staff to ensure that the level crossing is clear of pedestrians before the passage of any train.
6. A sign bearing the words “Stop, Look, Listen, Beware of Trains” shall be provided on the left-hand side of the footpath on either side of the railway and shall face towards persons approaching the level crossing.