
STATUTORY INSTRUMENTS

1993 No. 1083

The Peak Rail Light Railway Order 1993

Citation and commencement

1. This Order may be cited as the Peak Rail Light Railway Order 1993 and shall come into force on 26th March 1993.

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 Company” means Peak Rail plc, a company incorporated under the Companies Act 1985(1) and having its registered office at Matlock Station, Matlock, Derbyshire;

“the District Council” means the Derbyshire Dales District Council;

“the County Council” means the Derbyshire County Council;

“the Company’s Railway” means the railway authorised to be constructed, made and maintained by the Company pursuant to Article 4 of this Order;

“the former railway” means the former railway of the board described in Schedule 1 to this Order and includes all the lands and works relating thereto;

“the principal Act” means the Light Railways Act 1896.

(2) 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 the railway shall be taken to be measured along the railway.

Incorporation and application of enactments

3.—(1) Subject to the provisions of this Order the provisions of the Railways Clauses Consolidation Act 1845(2) (except sections 8, 17, 46, 49, 50, 51 and 52) and hereby incorporated with, and form part of, this Order.

(2) In the construction of the provisions of the Railways Clauses Consolidation Act 1845 as incorporated with this Order:—

(a) Sections 7, 9, 10 and 162 shall be read, construed and have effect as if any reference to the clerks of the peace is a reference to the proper officer of the County Council;

(b) Sections 78 to 85 shall have effect as originally enacted and not as amended for certain purposes by section 15 of the Mines (Working Facilities and Support) Act 1923(3) ;

(3) Notwithstanding the provisions of subsection (1) of section 12 of the principal Act, the following enactments shall apply to the Company’s Railway:—

(1) 1985 c. 6.
(2) 1845 c. 20.
(3) 1923 c. 20.

The Regulation of Railways Act 1868⁽⁴⁾ — Section 22 (means of communication between passengers and the Company’s servants to be provided);

The Regulation of Railways Act 1889⁽⁵⁾ —

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

Section 5 (penalty for avoiding payment of fare).

(4) In its application to the Company’s Railway section 22 of the Regulation of Railways Act 1868 shall have effect as if the words “and travels more than twenty miles without stopping” were omitted therefrom.

Power to make Company’s Railway

4.—(1) The Company may on lands leased or licensed to the Company by the District Council, and on the line and to the extent of the former railway, construct, make and maintain a railway with all the necessary works and conveniences connected therewith and work the same as a light railway under the principal Act and in accordance with the provisions of this Order.

(2) the Company’s Railway shall be laid on the same level as, and within the existing formation of, the former railway.

Transfer of rights etc. in former railway

5. Subject to the provisions of this Order the Company’s Railway or any part thereof shall be subject to all statutory and other provisions applicable to the former railway or any part thereof (insofar as the same are still subsisting and capable of taking effect) and the Company shall to the exclusion of the Board be entitled to the benefit of and exercise all rights, powers and privileges and be subject to all obligations, statutory or otherwise relating to the former railway (insofar as the same are still subsisting and capable of taking effect) to the intent that the Board shall be released from all such obligations.

Gauge of the Company’s Railway and motive power

6. The Company’s railway shall be constructed and operated on a gauge of 1435 millimetres and the motive power shall be diesel or steam or internal combustion or such other motive power as the Secretary of State may approve:

Provided that nothing in this Order shall authorise the Company to use electrical power as motive power on the Company’s Railway unless such power is obtained from storage batteries or from a source of generation entirely contained in and carried along with the engine and carriages.

Provided also that, if electrical power is used as motive power on the Company’s Railway, such electrical power shall not be used in such a manner as to cause, or be likely to cause, any interference with telecommunications apparatus (as defined in Schedule 2 to the Telecommunications Act 1984⁽⁶⁾) or with telecommunication by means of such apparatus.

Provisions as to the crossing of public roads and footpaths on the level

7.—(1) The Company shall have authority to make a crossing on the level of the Class C road at Church Road, Darley Dale.

(4) 1868 c. 119.

(5) 1889 c. 57.

(6) 1984 c. 12

(2) The Company shall observe such conditions and requirements in relation to the new level crossing and the use and operation thereof as the Secretary of State may prescribe as being necessary or desirable for the protection, safety and convenience of the public.

(3) The Company may in the construction of the Company's Railway carry the Company's Railway across and on the level of the footpath described in Schedule 2 to this Order (and across any accommodation crossing or right of way existing upon or over the former railway).

(4) The Company shall take all reasonable precautions for the safety of users of public footpaths adjacent to the Company's Railway including, where necessary, the provision of fencing and warning notices.

Restriction as to the conveyance of passengers

8. No part of the Company's Railway shall be used for the conveyance of passengers without prior written permission of the Secretary of State and the Company shall comply with the conditions (if any) which the Secretary of State may from time to time prescribe for the safety of persons using the Company's Railway.

For the Protection of Sewerage and Water Undertakers

9. 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 Company and the undertaker concerned, apply and have effect:—

- (a) In this article, "relevant pipe" in relation to an undertaker has the meaning given in section 158 (97) of the Water Industry Act 1991(7) ;
- (b) Nothing in section 18 of the Railways Clauses Consolidation Act 1845 in its application to the Company's Railway shall authorise the Company 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.
- (c) Where any relevant pipe is situated in or under any land owned or held for the purpose of the Company's Railway the Company 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;
- (d) The Company 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.
- (e) The company shall compensate the undertakers:—
 - (i) for any damage or disturbance caused to any relevant pipe; and
 - (ii) 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 company of the powers of this Order; Provided that nothing in this 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;
- (f) 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 Company and the undertakers with regard to any relevant pipe and whether made before or after this Order comes into force;

(7) 1991 c. 56.

- (g) The provisions of the Railways Clauses Consolidation Act 1845 applied by this Order shall be subject to the provisions of this article;
- (h) Any difference arising between the Company 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 of the Institution of Civil Engineers.

For the protection of flood defences

10. Nothing in this Order or in any enactment incorporated with or applied by this Order shall prejudice or affect the application of section 109 of the Water Resources Act 1991⁽⁸⁾, section 23 of the Land Drainage Act 1991⁽⁹⁾ and any byelaws made under those Acts in relation to anything done under or in pursuance of this Order. For the protection of public gas suppliers

11. Nothing in this Order shall prejudice or affect the rights of any public gas supplier within the meaning of Part I of the Gas Act 1986⁽¹⁰⁾ in any apparatus belonging to them or for the maintenance of which they are responsible, or any structure for the lodging therein of apparatus, being any apparatus or structure situate under, over or upon lands in or upon which the Company's Railway is constructed.

Amendment of the Peal Rail Light Railway Order 1991

12. The Peak Rail Light Railway Order 1991⁽¹¹⁾ shall be amended as follows:—

- (a) in article 10(1) (For the Protection of Sewerage and Water Undertakers) for the words “paragraph 1 Schedule 19 to the Water Act 1989” there shall be substituted the words “section 158(7) of the Water Industry Act 1991;”;
- (b) in article 11 (For the protection of flood defences) for the word “article” there shall be substituted the word “Order” and for the words “sections 28 and 29 of the Land Drainage Act 1976 and any byelaws made under that Act” there shall be substituted the words “section 109 of the Water Resources Act 1991, section 23 of the Land Drainage Act 1991 and any byelaws made under those Acts.”.

Cost of Order

13. All costs, charges and expenses incurred by the Company in, or incidental to, the preparing for, obtaining and making of this Order or otherwise in relation thereto, shall be paid by the Company and may in whole or in part be defrayed out of revenue.

Signed by authority of the Secretary of State for Transport

25th March 1993

J. R. Coates
An Under Secretary in the
Department of Transport

⁽⁸⁾ 1991 c. 57.
⁽⁹⁾ 1991 c. 59.
⁽¹⁰⁾ 1986 c. 44.
⁽¹¹⁾ S.I.1991/2812.