
WELSH STATUTORY INSTRUMENTS

2022 No. 375 (W. 94)

TRANSPORT AND WORKS, WALES

**The Caernarfon and Dinas Welsh Highland
Railway (Transfer and Governance) Order 2022**

Made - - - - 23 March 2022

Coming into force - - 25 March 2022

An application has been made to the Welsh Ministers in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006⁽¹⁾ for an Order under sections 1 and 5 of the Transport and Works Act 1992⁽²⁾ (“the 1992 Act”).

The Welsh Ministers have determined to make an Order giving effect to the proposals comprised in the application with modifications which in their opinion do not make any substantial change in the proposals.

Notice of the Welsh Ministers’ determination was published in the London Gazette on 22 March 2022.

Accordingly, the Welsh Ministers, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 8, 15 and 16 of Schedule 1, to the 1992 Act, now exercisable by them⁽³⁾, make the following Order:

PART 1

PRELIMINARY

Title and commencement

1. The title of this Order is the Caernarfon and Dinas Welsh Highland Railway (Transfer and Governance) Order 2022 and it comes into force on 25 March 2022.

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- (1) [S.I. 2006/1466](#), amended by [S.I. 2010/439](#), [S.I. 2011/556](#), [S.I. 2011/2085](#), [S.I. 2012/147](#), [S.I. 2012/1658](#), [S.I. 2012/2590](#) and [S.I. 2013/755](#).
- (2) [1992 c. 42](#). Section 1 was amended by paragraphs 51 and 52 of Schedule 2 to the Planning Act 2008 (c. 29), section 5 was amended by [S.I. 2012/1659](#).
- (3) Powers under sections 1 and 5 of, and paragraphs 8, 15 and 16 of Schedule 1 to, the Act, are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by virtue of article 2 and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 ([S.I. 1999/672](#)). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

Interpretation

2.—(1) In this Order—

“the 1869 Act” (“*Deddf 1869*”) means the Festiniog Railway Act 1869⁽⁴⁾;

“the Company” (“*y Cwmni*”) means The Festiniog Railway Company (company number ZC 000203) whose principal office is Harbour Station, Porthmadog, Gwynedd, LL49 9NF;

“Holdings” (“*Daliannau*”) means Ffestiniog Railway Holdings Limited (company number 02555576) having its registered office at Former St. Mary’s Church, Church Street, Tremadog, Porthmadog, United Kingdom, LL49 9RA;

“the railway” means “the former railway” as defined in article 2 (interpretation) of the Caernarfon Railway Light Railway Order 1997⁽⁵⁾ and includes all lands and works relating to it;

“the transfer date” (“*y dyddiad trosglwyddo*”) means the date on which the railway or any part of it is vested in the Company by virtue of an agreement made between Holdings and the Company;

“the transferee” (“*y trosglwyddai*”) means any person to whom the railway, or any part of it, is leased or sold under the powers conferred by article 4 (transfer of railway by the Company);

“the transferred undertaking” (“*yr ymgymeriad a drosglwyddwyd*”) means so much of the railway as is leased or sold under the powers conferred by this Order.

(2) All lengths and directions stated in any description of the railway are approximate.

(3) Any enactments by which the construction and operation of the railway were authorised have effect subject to the provisions of this Order.

PART 2

TRANSFER AND OPERATION OF THE RAILWAY

Transfer of rights and obligations to the Company

3.—(1) Subject to the following provisions of this Order, Holdings may enter into and carry into effect agreements providing for the transfer to, and vesting in, the Company of all such rights, interests and powers as it may have in or in respect of the railway.

(2) Except as may be otherwise provided in this Order, as from the transfer date—

(a) the railway or any part of it continues to be subject to all statutory and other provisions applicable to the railway at that date (in so far as those provisions continue in force and are capable of taking effect); and

(b) the Company is to the exclusion of Holdings—

(i) entitled to the benefit of, and to exercise all rights, powers and privileges relating to the railway or any part of it; and

(ii) subject to all obligations statutory or otherwise relating to the railway or any part of it (in so far as those provisions continue in force and are capable of taking effect) with Holdings released from all such obligations.

(4) 1869 c. cxli.

(5) S.I. 1997/2534.

Transfer of railway by the Company

4.—(1) At any time after the transfer date the Company may, with the consent of the Welsh Ministers, sell or lease the railway, or part of it, to any transferee on such terms and conditions as may be agreed between the Company and the transferee.

(2) Except as may be otherwise provided by this Order:

- (a) the transferred undertaking will continue to be subject to all statutory and other provisions applicable to it at the date of the lease or sale (in so far as those provisions continue in force and are capable of taking effect); and
- (b) the transferee is, to the exclusion of the Company entitled to the benefit of, and to exercise all rights, powers and privileges relating to the transferred undertaking and subject to all obligations, statutory or otherwise, relating to the transferred undertaking, with the Company released from all such obligations.

(3) Where an agreement has been made by virtue of paragraph (1) references in this Order to the Company shall include references to the transferee.

(4) Paragraphs (1), (2) and (3) have effect during the continuance of any lease granted, and from the operative date of any sale, under the powers conferred by this article.

Power to operate and use railway

5.—(1) On and after the date the Order comes into force the Company or transferee, as the case may be, 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 is to be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Office of Rail and Road may in writing approve.

(3) Nothing in this Order authorises 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 must not be used in such manner as to cause, or be likely to cause, any interference with any electronic communications apparatus or with the use of such apparatus.

(5) Nothing in this Order, or in any enactment applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993⁽⁶⁾.

PART 3

GOVERNANCE

Amendment of the 1869 Act

6.—(1) The 1869 Act is amended as follows.

(2) In section 22—

- (a) after “time to time” insert “increase or”, and
- (b) for “three” substitute “five”.

(3) In section 23, for “five hundred” substitute “twenty-five”.

⁽⁶⁾ 1993 c. 43. As amended by the Transport Act 2000 (c. 38), Railways and Transport Safety Act 2003 (c. 43) and the Railways Act 2005 (c. 14).

(4) In section 25, after “herein-before contained for” insert “increasing or”.

Shareholders may call extraordinary meetings

7. Section 70 (extraordinary meetings may be required by shareholders) of the Companies Clauses Consolidation Act 1845(7) applies to the 1869 Act but as if for “for the prescribed number of shareholders, holding in the aggregate shares to the prescribed amount, or, where the number of shareholders shall not be prescribed, it shall be lawful for twenty or more shareholders” there were substituted “for a shareholder or shareholders”.

PART 4

MISCELLANEOUS

Arbitration

8. Any difference under any provision of this Order, unless otherwise provided for, 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 giving notice in writing to the other) by the President for the time being of the Chartered Institute of Arbitrators.

23 March 2022

Julie James
Minister for Climate Change, one of the Welsh
Ministers

(7) 1845 c. 16. This Act is incorporated with, and forms part of the 1869 Act by virtue of section 2 of the 1869 Act.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order enables the transfer of the powers and statutory obligations in the Caernarfon Railway Light Railway Order 1997 from Ffestiniog Holdings Limited to the Festiniog Railway Company and amends the Festiniog Railway Act 1869 to modify the governance arrangements of the Festiniog Railway Company.

The Order does not authorise the construction of works.