
STATUTORY INSTRUMENTS

1993 No.1651

TRANSPORT

The Tunbridge Wells and Eridge Light Railway Order 1993

Made - - - - - *28th June 1993*

Coming into force - - - - - *29th June 1993*

The Secretary of State for Transport, on the application of the Tunbridge Wells and Eridge Railway Preservation Society Limited and the Wealden Railway Company Limited and in the exercise of powers conferred by sections 7, 9, 10, 11, 12 and 18 of the Light Railways Act 1896(1) and by section 121(4) of the Transport Act 1968(2) and now vested in him(3) 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 Tunbridge Wells and Eridge Light Railway Order 1993 and shall come into force on 29th June 1993.

Interpretation

2. In this Order unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the Board” means the British Railways Board;

“the Company” means the Tunbridge Wells and Eridge Railway Preservation Society Limited, a company incorporated under the Companies Act 1985(4) and whose registered office is at Eridge Station, Eridge, near Tunbridge Wells, East Sussex;

“the effective date” in relation to Railway No.1 means the day on which that railway or any part thereof is vested in the Company by virtue of agreements made between the Board and the Company and in relation to Railway No.2 means the day from which any lease of that railway or any part thereof granted under article 5(1) of this Order (Leasing of railway to Company and Operating Company) takes effect, as the case may be;

“lease” in the context of Railway No.2 includes a grant of easements or a licence;

(1) 1896 c. 48; sections 7 and 9 were repealed in part by the Railways Act 1921 (c. 55), section 86(2) and Schedule 9; section 10 was repealed in part by the Statute Law (Repeals) Act 1986 (c. 12), Schedule 1; section 11 was amended by the Light Railways Act 1912 (c. 19), section 5(3), and the Railways Act 1921, section 73(1), and was repealed in part and further amended in respects not relevant to this Order; section 12 was repealed in part by the Finance Act 1929 (c. 21), section 6 and Schedule.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) 1968 c. 73.

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

(4) 1985 c. 6.

“the Operating Company” means the Wealden Railway Company Limited, a company incorporated under the Companies Act 1985 and whose registered office is at Eridge Station, Eridge, near Tunbridge Wells, East Sussex;

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

“the railway” means Railway No.1 and Railway No.2;

“Railway No.1” and “Railway No.2” mean respectively the railways more particularly described in the Schedule to this Order as “Railway No.1” and “Railway No. 2” including all lands and works relating thereto.

Incorporation of general Acts

3.—(1) Subject to paragraph (5) below, section 16 (Works to be executed), sections 18 to 23 (Protection of gas and water mains) and section 87 (Company empowered to contract with other companies) of the Railways Clauses Consolidation Act 1845⁽⁵⁾ are incorporated with and form part of this Order, so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Order, and this Order shall be the special Act for the purposes of the incorporated provisions.

(2) Subject to the provisions of this Order such of the enactments set out in the Second Schedule to the principal Act as are still in force, except section 22 of the Regulation of Railways Act 1868⁽⁶⁾ (means of communication between passengers and the Company’s servants to be provided) and sections 1 and 5 of the Regulation of Railways Act 1889⁽⁷⁾ (power to order certain provisions to be made for public safety and penalty for avoiding payment of fare), shall not apply to the railway.

(3) In its application to the railway the said 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.

(4) Without prejudice to the foregoing provisions of this article, sections 116 to 118 of the Transport Act 1968 shall apply to Railway No.1 as if references in those sections to the Board were references to the Company.

(5) In respect of Railway No.2, only so much of section 16 of the said Act of 1845 shall be incorporated with and form part of this Order as authorises the Company to repair or discontinue the said Railway No.2.

Transfer of rights, etc. in railway to Company

4.—(1) Subject to paragraph (2) below, as from the effective date all such rights, powers, privileges and obligations as are vested in or borne by the Board immediately before that day with respect to Railway No.1 or Railway No.2, as the case may be, shall be transferred to and vest in the Company and thereafter the Company shall to the exclusion of the Board be entitled to the benefit of, and to exercise, all such rights, powers and privileges and be subject to all such obligations, whether statutory or otherwise, then in force to the intent that the Board shall be released from all such obligations.

(2) In respect of Railway No.2, paragraph (1) above shall apply only during the continuance of any lease of that railway but shall not apply to the obligations of the Board under section 68 of the Railways Clauses Consolidation Act 1845.

(3) As from the effective date the Company may work Railway No.1 or Railway No.2, as the case may be, as a light railway under the principal Act and in accordance with the provisions of this Order.

(5) 1845 c. 20.

(6) 1868 c. 119.

(7) 1889 c. 57.

Leasing of railway to Company and Operating Company

5.—(1) The Board may lease Railway No.2 or any part thereof to the Company on such terms and conditions as may be agreed between the Board and the Company.

(2) The Company may lease to the Operating Company the railway or any part thereof together with the rights, powers, privileges and obligations vested in the Company in accordance with article 4 (Transfer of rights, etc. in railway to Company) of this Order on such terms and conditions as may be agreed between the Company and the Operating Company.

(3) During the continuance and subject to the terms of any lease granted under paragraph (2) above the Operating Company shall to the exclusion of the Company be entitled to the benefit of, and to exercise, all such rights, powers and privileges and be subject to all such obligations of the Company whether statutory or otherwise as are transferred to or conferred on the Company in accordance with article 4 above and are for the time being in force in respect of the railway or such part thereof as is comprised in the lease.

Gauge of railway and motive power

6. The railway shall be operated on a gauge of 1.435 metres (4 feet 8½ inches) and the motive power shall be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Secretary of State may approve:

Provided that nothing in this Order shall authorise 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:

Provided also that, 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 telecommunication apparatus as defined in Schedule 2 to the Telecommunications Act 1984(8) or with telecommunication by means of any such apparatus.

Conveyance of passengers

7. No part of the railway shall be used for the conveyance of passengers without the prior written permission of the Secretary of State and the Company and the Operating 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 railway.

For protection of public gas suppliers

8. 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(9), 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 situated under, over or upon lands in or upon which the railway is constructed.

For protection of Water Companies

9. Nothing in this Order shall prejudice or affect the rights of the Mid Sussex Water Company or the West Kent Water Company 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 situated under, over or upon lands in or upon which the railway is constructed.

(8) 1984 c. 12.

(9) 1986 c. 44.

For protection of Seeboard plc

10. The following provisions shall have effect unless otherwise agreed in writing between the Company and the protected undertaker.

(1) In this article—

“electric line” means an electric line (as defined in the Electricity Act 1989(10)) and includes communication cables;

“electric plant” means any electric plant as defined in the Electricity Act 1989;

“emergency” means an accident or incident which may reasonably appear to the Company or the Operating Company to be an emergency;

“protected undertaker” means Seeboard plc and any successor;

“specified distance” in relation to any electric line or electric plant shall be measured from the point on the ground which is vertically above or below such line or plant and such distance shall be:—

four metres in relation to any overhead line or plant; and

two metres in relation to any surface electric line or plant;

“specified works” means:—

the raising of the level of the ground or the rails by more than one metre; or

the erection of any structure (including any poles or wires) over three metres high;

or the use of tools, implements, plant or machinery capable of extending to a height of over three metres above rail level.

(2) Nothing in this Order shall prejudice or affect the rights of the protected undertaker in respect of the electric line or electric plant situated in, under, over or upon the land to which the Order relates.

(3) Except in an emergency, before commencing any specified works within a specified distance of any electric line or electric plant the Company or the Operating Company shall give the protected undertaker not less than fourteen days' notice in writing of the proposed works and such works shall be executed only in accordance with such reasonable requirements as may be made by the protected undertaker for the protection of the electric line or electric plant, or for securing access to it.

Where such work is undertaken as the result of an emergency the Company or the Operating Company shall immediately or as soon as is reasonably practicable inform the protected undertaker by telephone of the intention to commence work, and the protected undertaker shall take such immediate steps as are necessary to protect the public, the staff or employees of the Company and the Operating Company, the emergency services and, where appropriate, their electric line or electric plant.

If by reason of any such works it is in the reasonable opinion of the protected undertaker necessary to raise, lower or otherwise alter the position of any electric line or electric plant, the expenses reasonably incurred in so doing shall be paid by the Company or the Operating Company.

(4) If by reason or in consequence of the execution or user by the Company or the Operating Company of any works authorised by this Order any damage to any electric line or electric plant or any interruption in the supply of electricity by the protected undertaker shall be caused, the Company or the Operating Company shall pay the cost of making good such damage or of restoring such supply, and shall make reasonable compensation to the protected undertaker for any loss sustained by them and indemnify them against all claims in respect of such damage or interruption.

(10) 1989 c. 29.

(5) The protected undertaker shall make good and compensate the Company or the Operating Company for any injury or damage sustained by the Company or the Operating Company resulting from the collapse or failure of any electric line or electric plant (except such as may be due to the negligence or wrongful act of the Company or the Operating Company or its agents) and indemnify the Company or the Operating Company against all claims in respect thereof.

For protection of Southern Water Services Limited

11.—(1) Where any public sewer within the meaning of the Water Act 1989⁽¹¹⁾ vested in Southern Water Services Limited is situated under, over or upon lands in or upon which Railway No. 1 is constructed the Company shall at its own expense maintain a good and sufficient culvert over the said sewer so as to leave the same accessible for the purpose of repairs.

(2) The Company shall compensate Southern Water Services Limited for any damage done or any disturbance caused to any public sewer aforesaid as a result of any works undertaken in connection with the operation of Railway No. 1.

Signed by authority of the Secretary of State for Transport

28th June 1993

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

⁽¹¹⁾ 1989 c. 15.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

RAILWAY NO.1

The railway in the districts of Tunbridge Wells in the county of Kent and Wealden in the county of East Sussex between Tunbridge Wells and Harrisons Rocks comprising the railway between Tunbridge Wells West Station and Birchden Junction being part of the railway authorised by the Brighton, Uckfield and Tunbridge Wells Railway Act 1861⁽¹²⁾.

RAILWAY NO.2

The railway in the district of Wealden in the County of East Sussex between Harrisons Rocks and Eridge comprising the railway between Birchden Junction and Eridge Station being part of the railway authorised by the Brighton, Uckfield and Tunbridge Wells Railway Act 1861.

⁽¹²⁾ 1861 c.clxxiv.