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STATUTORY INSTRUMENTS

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**1996 No. 937**

**TRANSPORT AND WORKS  
TRANSPORT**

**The Elsecar Steam Railway Order 1996**

*Made* - - - - 28th March 1996

*Coming into force* - - 4th April 1996

Whereas an application has been made to the Secretary of State for Transport (“the Secretary of State”), in accordance with the Transport and Works Act (Applications and Objections Procedure) Rules 1992(1) (“the Applications Rules”) made under section 6 of the Transport and Works Act 1992(2) (“the Act”), for an Order under section 1 of the Act;

And whereas the Secretary of State has taken into consideration the grounds of objections to that application;

And whereas the Secretary of State has determined to make an Order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any substantial change in the proposals;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 28th March 1996;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 1 and 5 of, and paragraphs 1, 2, 15, 16 and 17 of Schedule 1 to, the Act and of all other powers enabling him in that behalf, hereby makes the following Order:—

**Citation and commencement**

**1.** —This Order shall come into force on 4th April 1996 and may be cited as the Elsecar Steam Railway Order 1996.

**Interpretation**

**2.**—(1) In this Order, unless the context otherwise requires—

“authorised works” means the railway and any other works authorised by this Order;

“the Council” means Barnsley Metropolitan Borough Council;

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(1) S.I.1992/2902.  
(2) 1992 c. 42.

“the deposited plans” means the plans described in rule 7(1)(a) and 7(3) of the Applications Rules deposited in respect of the application for this Order with the Secretary of State for Transport, Great Minster House, 76 Marsham Street, London SW1P 4DR and at the offices of the Council at the Town Hall, Barnsley, South Yorkshire, S70 2TA, and marked as those plans by the Department of Transport and references to land shown on those plans are references to land so shown in pursuance of those Rules;

“the deposited sections” means the sections described in rule 7(2) of the Applications Rules deposited in respect of the application for this Order with the deposited plans, and marked as those sections by the Department of Transport;

“highway” and “highway authority” have the same meaning as in the Highways Act 1980(3);

“the limits of deviation” means the lines marked “Limits of deviation” shown on the deposited plans;

“maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace and “maintenance” shall be construed accordingly;

“the railway” means the railway authorised to be constructed and maintained by the Council by article 5 (Power to construct and maintain works) below;

“the Regulations” means the Traffic Signs Regulations and General Directions 1994(4);

“street” includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part III of the New Roads and Street Works Act 1991(5).

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the air-space over its surface.

(3) In this Order, all distances, lengths, measurements, directions and durations stated in any description of works, equipment, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, length, measurement, direction and duration and the distances between points on the railway shall be taken to be measured along the railway.

### **Incorporation of Railways Clauses Acts**

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845(6) shall be incorporated in this Order:—

section 46 (crossing of roads—level crossings);

section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;

section 61 (company to make sufficient approaches and fences to highways crossing on the level);

section 68 (accommodation works by company);

section 105 (carriage of dangerous goods on railway);

section 145 (recovery of penalties); and

section 154 (transient offenders).

(2) Section 5 of the Railways Clauses Act 1863(7) shall be incorporated in this Order.

(3) In the above provisions, as incorporated in this Order—

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(3) 1980 c. 66.

(4) S.I. 1994/1519.

(5) 1991 c. 22.

(6) 1845 c. 20.

(7) 1863 c. 92.

“the company” means the Council;

“goods” includes any thing conveyed on the railway authorised to be constructed by this Order;

“lease” includes an agreement for a lease;

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means any railway authorised to be constructed by this Order and, except where the context otherwise requires, any other authorised works;

“the special Act” means this Order;

“toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on the railway.

(4) In section 46 of the Railways Clauses Consolidation Act 1845, as incorporated in this Order, for the proviso there shall be substituted the words “Provided always that, with the consent of the highway authority and subject to such conditions as the authority may reasonably impose, the railway may be carried across a highway on the level”.

#### **Transfer of statutory obligations from Board to Council**

4. On the coming into force of this Order all such statutory obligations as are borne by the British Railways Board (hereinafter referred to as “the Board”) immediately before that day with respect to the railway shall be transferred to and vest in the Council and thereafter the Council shall to the exclusion of the Board be subject to all such statutory obligations then in force to the intent that the Board shall be released from them.

#### **Power to construct and maintain works**

5.—(1) Subject to the provisions of this Order, the Council may construct and maintain the railway in the line and according to the levels and within the limits of deviation shown on the deposited plans and the deposited sections and with all proper rails, plates, sidings, junctions, bridges, culverts, drains, approaches, roads, yards, buildings and other works and conveniences connected therewith including station premises, workshops and facilities.

(2) The railway is a passenger and goods carrying railway in the Metropolitan Borough of Barnsley 2.8 kilometres in length commencing at a point 172 metres south of the Rockingham Station level crossing at Distillery Side and terminating at a point 605 metres east of the Smithy Bridge Lane level crossing forming part of the railway authorised by the South Yorkshire, Doncaster and Goole Railway Act, 1847(8).

(3) Subject to paragraph (5) below, the Council may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the railway, namely—

- (a) works to alter the position of apparatus, including mains, sewers, drains and cables,
- (b) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the railway, and
- (c) works for the benefit or protection of premises affected by the railway.

(4) Subject to paragraph (5) below, the Council may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the railway.

(5) Paragraphs (3) and (4) above shall not authorise the carrying out or maintenance of works to alter the course of or otherwise interfere with, navigable rivers or watercourses.

### **Power to deviate**

6. In constructing or maintaining the railway or any part thereof, the Council may—
- (a) deviate laterally from the lines or situations shown on the deposited plans to the extent of the limits of deviation shown on those plans, and
  - (b) deviate vertically from the levels shown on the deposited sections—
    - (i) to any extent not exceeding 5 metres upwards, or
    - (ii) to any extent downwards that may be found necessary or convenient.

### **Power to execute street works**

7.—(1) The Council may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 1 to this Order as is within the limits of deviation for the railway shown on the deposited plans and may—

- (a) place apparatus in the street,
- (b) maintain apparatus in the street or change its position, and
- (c) execute any works required for or incidental to any works referred to in sub-paragraphs (a) and (b) above (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).

(2) In this article “apparatus” has the same meaning as in Part III of the New Roads and Street Works Act 1991.

### **Temporary stopping up of streets**

8.—(1) The Council, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street, and
- (b) subject to paragraph (2) below, prevent all persons from passing along the street.

(2) The Council shall provide reasonable access for pedestrians going to or from premises abutting on a street affected by the exercise of the powers conferred by this article if there would otherwise be no such access.

(3) The Council shall not exercise the powers of this article—

- (a) in relation to any street specified in columns (1) and (2) of Schedule 1 to this Order without first consulting the street authority, and
- (b) in relation to any other street without the consent of the street authority, but such consent shall not be unreasonably withheld.

(4) The provisions of the New Roads and Street Works Act 1991 mentioned in paragraph (5) below and any regulations made, or code of practice issued or approved, under those provisions shall apply (with the necessary modifications) in relation to the stopping up, alteration or diversion of a street by the Council under the powers conferred by this article where no street works are executed in that street as they would apply if the stopping up, alteration or diversion were occasioned by street works executed in that street by the Council.

(5) The provisions of the New Roads and Street Works Act 1991 referred to in paragraph (4) above are—

- section 54 (advance notice of certain works);
- section 55 (notice of starting date of works);
- section 59 (general duty of street authority to co-ordinate works);

section 60 (general duty of undertakers to co-operate);  
section 69 (works likely to affect other apparatus in the street);  
section 76 (liability for cost of temporary traffic regulation);  
section 77 (liability for cost of use of alternative route); and  
all such other provisions as apply for the purposes of the provisions mentioned above.

#### **Access to works**

9. The Council may, for the purposes of the authorised works, form and lay out means of access or improve existing means of access in the location or locations within the limits of deviation for those works that are shown on the deposited plans.

#### **Construction of bridges and tunnels**

10. Any bridge or tunnel to be constructed under this Order for carrying a highway over or under the railway shall be constructed in accordance with plans and specifications approved by the highway authority, but such approval shall not be unreasonably withheld.

#### **Level crossings**

11. The Council may in the construction of the railway and within the limits of deviation shown on the deposited plans carry the railway with a single line across and on the level of the roads and the foot crossing described in Schedule 2 to this Order.

#### **As to Distillery Side Crossing**

12.—(1) The Council shall provide at Distillery Side Crossing, and shall operate and maintain, the protective equipment which is specified in Part I of Schedule 3 to this Order.

(2) The Council shall cause to be observed the conditions and requirements with regard to the crossing mentioned in paragraph (1) of this article which are specified in Part II of Schedule 3 to this Order.

#### **As to Distillery Side Cottages foot crossing**

13. With regard to the foot crossing from Distillery Side Cottages to the area adjacent to the canal basin of the Sheffield and South Yorkshire Navigation, the Council shall provide and maintain at that crossing—

- (a) signs bearing the words “STOP, LOOK AND LISTEN” on each side of the railway facing persons approaching the crossing;
- (b) self-closing gates on each side of the railway at the said crossing and those gates shall open outwards away from the railway and shall not be latched or bolted shut.

#### **As to Tingle Bridge Lane and Smithy Bridge Lane Crossings**

14. The Council shall, subject to such requirements as the Secretary of State may from time to time lay down, provide, maintain and operate at or near the level crossings of the roads Tingle Bridge Lane and Smithy Bridge Lane described in Schedule 2 to this Order such barriers, lights, traffic signs and automatic or other devices and appliances as may be required in writing by the Secretary of State.

### **Power to operate and use railway**

15. The Council may operate and use the railway and other authorised works as a system, or part of a system, of transport for the carriage of passengers and goods.

### **Maintenance of approved works, etc.**

16.—(1) Where pursuant to the Railways and other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994<sup>(9)</sup> approval has been obtained from the Secretary of State with respect to any works, plant or equipment (including vehicles) forming part of the railway authorised by this Order, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the railway so authorised.

(2) If without reasonable cause the provisions of paragraph (1) above are contravened, the Council shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Secretary of State or the Director of Public Prosecutions.

### **Certification of plans, etc.**

17. The Council shall, as soon as practicable after the making of this Order, submit copies of the deposited plans and the deposited sections to the Secretary of State for certification that they are true copies of, respectively, the deposited plans and the deposited sections, and a document so certified shall be admissible in any proceedings as evidence of its contents.

### **Power to transfer or lease railway**

18.—(1) The Council may, with the consent in writing of the Secretary of State—

- (a) transfer to another person (“the transferee”) the right to operate the railway (or any part of it) and such related rights as may be agreed between the Council and the transferee, or
- (b) grant to another person (“the lessee”) for a period agreed between the Council and the lessee the right to operate the railway (or any part of it) and such related statutory rights as may be so agreed.

(2) The terms of any agreement made by virtue of paragraph (1) above shall be subject to the approval of the Secretary of State.

(3) Where an agreement is made by virtue of paragraph (1) above references in this Order to the Council shall, if and to the extent that the agreement so provides, have effect as references to the transferee or the lessee, as the case may be.

### **Arbitration**

19. Any difference under any provision of this Order 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.

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(9) S.I. 1994/157.

Signed by authority of the Secretary of State for Transport

28th March 1996

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

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## SCHEDULE 1

Articles 7 and 8

## STREETS SUBJECT TO STREET WORKS AND TO BE TEMPORARILY STOPPED UP

Area	Street subject to street works and to be temporarily stopped up
Elsecar	Distillery Side
Hemingfield	Tingle Bridge Lane
Hemingfield	Smithy Bridge Lane

## SCHEDULE 2

Article 11

## LEVEL CROSSINGS REFERRED TO IN ARTICLE 11

Area	Roads and foot crossing over which railway is to be carried	Name of crossing	Grid reference
Elsecar	Distillery Side	Distillery Side Crossing	SE 387 999
Elsecar	A new foot crossing (private path) from Distillery Side Cottages to the area adjacent to the Canal Basin of the Sheffield and South Yorkshire Navigation	Distillery Side Cottages Foot Crossing	SE 387 000
Hemingfield	Tingle Bridge Lane	Tingle Bridge Lane Crossing	SE 395 011
Hemingfield	Smithy Bridge Lane	Smithy Bridge Lane Crossing	SE 401 012

## SCHEDULE 3

Article 12

## PART 1

**Particulars of the Protective Equipment**

1. A road traffic light signal of the size, colour and type shown in diagram 3014 in the Regulations, shall be provided on the left hand side of the carriageway on each approach to the crossing along the specified road and as close as practicable to the railway. There shall be an additional traffic light signal of the same type on the right hand side of the specified road on each side of the railway so located as to be either in line with or on the railway side of the stop line



mentioned in paragraph 3 below. The road traffic light signals on each side of the railway shall be so positioned as to face outwards from the crossing towards approaching road traffic. All the signals shall be capable of directional adjustment.

2. An audible warning device shall be provided on or adjacent to each left hand side road traffic light signal post. Facilities shall be provided to reduce the sound output of these devices and any reduced sound output shall operate between 23.30 hours and 07.00 hours.

3. A reflectorised stop line of the size, colour and type shown in diagram 1001 in the Regulations shall be provided across the left hand side of the carriageway on each side of the railway not more than 2.5 metres in front of the left hand side road traffic light signal.

4. A reflectorised pedestrian stop line of the size, colour and type shown in diagram 1003.2 in the Regulations shall be provided across the right hand side of the carriageway and footway on both sides of the railway. The line shall be not less than 1 metre in front of the road traffic light signal on the same side of the carriageway, not nearer than 2 metres to the running edge of the nearest rail, and shall be as nearly as possible at right angles to the centre line of the carriageway.

5. Where the specified road passes over the crossing, reflectorised edge of carriageway markings of the size, colour and type shown in diagram 1012.1 in the Regulations shall be provided along each edge of each footway.

6. The centre line of the carriageway shall be marked on the crossing between the stop lines above and for a distance of 12 metres on the northern side and 10 metres on the southern side of the railway measured along the centre of the carriageway from the stop lines with a reflectorised double continuous line carriageway marking of the size, colour and type shown in diagram 1013.1A in the Regulations. The centre line shall be continued for a distance of 43 metres on the northern side and 8 metres on the southern side of the railway measured along the centre of the carriageway from the ends of the double continuous line with a reflectorised double line of the size, colour and type shown in diagram 1013.1D in the Regulations wherein the continuous line is on the left hand side of the broken line.

7. A traffic sign of the size, colour and type shown in diagram 774 in the Regulations shall be provided on each side of the specified road on each side of the railway mounted immediately above each traffic light signal. Each of these signs shall face outwards from the crossing towards approaching road traffic.

8. A traffic sign of the size, colour and type shown in diagram 785 in the Regulations shall be provided and mounted below or adjacent to each left hand side traffic light signal and shall face outwards from the crossing towards approaching road traffic.

9. A traffic sign of the size, colour and type shown in diagram 775 in the Regulations shall be provided on each side of the specified road on each side of the railway mounted below or adjacent to the traffic light signal and shall face outwards from the crossing towards approaching traffic.

10. Lighting shall be provided as necessary so that during the hours of darkness in conditions of normal visibility the train driver can see that the crossing is clear before the train proceeds over it.

11. A driver's indicator shall be provided on each railway approach to the crossing and shall, when lit, show either an intermittent red light or an intermittent white light. The red light shall always show except when the white light is shown. The white light shall only show if at least one of the intermittent red lights of each of the traffic light signals mentioned in paragraph 1 above is lit and the main power supply has not failed.

12. A standard level crossing speed restriction board combined with a whistle board with Class 1 retroreflecting material or illuminated shall be provided on the eastern (Cortonwood side) railway approach to the crossing. This board shall be placed 75 metres before the crossing and shall show a speed of 8 kilometres (5 miles) per hour for all trains.

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13. A plunger and a stopboard of standard railway design displaying the words “Stop-Press Plunger—wait for white light and whistle before proceeding” shall be provided on the western railway approach approximately 10 metres before the crossing. The stopboard shall be provided with Class 1 retroreflecting material or shall be illuminated.

14. An advance warning board of standard railway design shall be provided on the eastern approach to the crossing and shall be provided with Class 1 retroreflecting material or shall be illuminated.

15. Cattle-cum-trespass guards of a standard railway design shall be provided adjacent to the footway on the western side of the level crossing. The guards shall extend to a minimum length of 2.6 metres in between the stone walls situated at the crossing.

16. In this part—

- (a) “Class 1 retroreflecting material” is material which satisfies British Standard 873, Part 6, or is of an equivalent standard; and
- (b) references to the left hand and right hand sides are from the viewpoint of a person or vehicle approaching the crossing along the relevant road, carriageway or footway.

## PART II

### Conditions and requirements to be observed

17. The surface of the carriageway and footways over the crossing shall be maintained in good and even condition. The carriageway shall be 5.6 metres wide and the footways 1 metre wide on the eastern side of the carriageway and 2.5 metres wide on the western side of the carriageway.

18. When a train either occupies a track circuit or operates a treadle the sequence of events to close the crossing to road traffic shall automatically begin. The sequence shall be:

- (a) The amber lights shall show and the audible warning shall begin. The lights shall show for approximately 3 seconds.
- (b) Immediately the amber lights are extinguished the intermittent red lights shall show.

Not less than 27 seconds shall elapse between the time the amber lights first show and the time when the train may be expected to reach the crossing. The intermittent red lights and the audible warning shall stop as soon as the train has passed clear of the crossing.

19. If the white light mentioned in paragraph 11 shows and the crossing is unobstructed, drivers of trains may drive their trains towards and over the crossing at a speed not exceeding the speed indicated on the relevant board described in paragraph 12 from the point at which the board is located until the front of the train has passed over the crossing. If the intermittent red light shows or the white light does not show or the crossing is obstructed at the time the white light is showing, drivers of trains shall bring their trains to a stand short of the crossing and may thereafter proceed with caution when it is safe to do so.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order authorises the construction, maintenance and operation of a railway in the Metropolitan Borough of Barnsley consisting of part of the former railway authorised by the South Yorkshire, Doncaster and Goole Railway Act, 1847.

The Order contains provisions relating to level crossings at Distillery Side, Tingle Bridge Lane and Smithy Bridge Lane. It also includes powers to execute street works and stop up streets temporarily.

Copies of the deposited plans and sections may be inspected at all reasonable hours at the offices of Barnsley Metropolitan Borough Council at the Town Hall, Barnsley, South Yorkshire S70 2TA.