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STATUTORY INSTRUMENTS

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**1997 No. 2534**

**The Caernarfon Railway Light Railway Order 1997**

**Citation and commencement**

1. This Order may be cited as the Caernarfon Railway Light Railway Order 1997 and shall come into force on 9th October 1997.

**Interpretation**

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

“the Board” means the British Railways Board;

“the book of reference” means the book of reference prepared in connection with the application for this Order;

“the Company” means the Ffestiniog Railway Holdings Limited having its registered office at Harbour Station, Porthmadog, Gwynedd;

“the deposited plans” and “the deposited sections” mean respectively the plans and sections deposited in respect of the application for this Order with, and available for inspection at the offices of, the Secretary of State for Transport, 76 Marsham Street, London SW1P 4DR and the said registered office of the Company, and marked as those plans and sections respectively;

“the enabling Acts” means the Carnarvonshire Railway Act 1862(1) and the Carnarvonshire Railway (Nantlle Railway Transfer) Act 1867(2);

“the former railway” means so much of the former railway of the Board in the County of Gwynedd described in and authorised by the enabling Acts and works relating thereto as lay between a point 754 metres north north east of the roundabout where the A487 road meets the B4419 and a point 91 metres south south west of the existing road bridge carrying the unclassified road from Dinas to Saron over the former railway of the Board and includes all lands formerly held by the Board relating to the said railway and lying between those points;

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

“the railway” means the railway authorised to be constructed and maintained by the Company pursuant to article 4 of this Order.

**Incorporation of Railways Clauses Acts**

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

section 6 (compensation);

section 7 (correction of errors);

sections 18 to 23 (water and gas pipes);

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(1) 1862 c.ccii.

(2) 1867 c.clii.

(3) 1845 c. 20.

section 24 (obstructing construction of railway);  
sections 30 to 44 (temporary use of land) subject to article 10(5) below;  
section 46 (crossing of roads—level crossings) subject to paragraph (4) below;  
section 47 (provision in cases where roads are crossed on a level);  
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 71 (additional accommodation works by owners), except for the words “or directed by such justices to be made by the company” and “or, in case of difference, as shall be authorised by two justices”;  
sections 72 and 73 (supplementary provisions relating to accommodation works);  
section 75 (omission to fasten gates);  
section 77 (presumption that minerals excepted from acquisition of land);  
sections 78 to 85E and Schedules 1 to 3 (minerals under railways), as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923(4);  
sections 103 and 104 (refusal to quit carriage at destination);  
section 105 (carriage of dangerous goods on railway);  
section 145 (recovery of penalties); and  
section 154 (transient offenders).

(2) The following provisions of the Railways Clauses Act 1863(5) shall be incorporated in this Order—

sections 5, 6 and 7 (level crossings); and  
section 12 (signals, watchmen, etc.).

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

“the company” means the Company;  
“goods” includes any thing conveyed on the railway;  
“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; and  
“the special Act” means this Order.

(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”.

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(4) 1923 c. 20.  
(5) 1863 c. 92.

#### **Power for the Company to construct and maintain railway**

4.—(1) Subject to the provisions of this Order, the Company may construct and maintain the railway hereinafter described 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 said railway is a passenger and freight carrying railway 4707 metres or thereabouts in length commencing at a point 18 metres or thereabouts south of the portal of the existing railway tunnel adjacent to Caernarfon Castle and extending in a southerly direction to the former Dinas Station of the Board and terminating at a point 45 metres or thereabouts north north west of the north western face of the existing bridge carrying the A487 Trunk Road over the formation of the railway authorised by the Welsh Highland Railway (Light Railway) Orders 1922 and 1923<sup>(6)</sup>.

(3) Subject to the provisions of this Order, the 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 substituting and capable of taking effect) and the Company 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 statutory or otherwise relating to the former railway or any part thereof (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.

(4) The Company shall to the exclusion of the Welsh Highland Railway (Light Railway) Company and the Liquidator of that company be entitled to the benefit of, and to exercise, all rights, powers and privileges and be subject to all obligations whether statutory or otherwise for the time being in force in respect of so much of the railway as is to be on the line of the railway authorised by the Welsh Highland Railway (Light Railway) Orders 1922 and 1923.

#### **Power to deviate**

5. In the construction of the railway or any part thereof the Company may deviate from the line or situation thereof shown on the deposited plans to the extent of the limits of deviation shown thereon and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 1 metre upwards or downwards or to such further extent as may be found necessary or convenient and as may be sanctioned by the Secretary of State.

#### **Power to work the railway as a light railway**

6. Subject to the provisions of this Order the railway may be worked as a light railway under the principal Act.

#### **Provision as to bridges**

7. Without prejudice to the generality of the foregoing, sections 116, 117 and 118 of the Transport Act 1968<sup>(7)</sup> shall apply to the railway as if references therein to the Board were references to the Company.

#### **As to crossing of roads and footpaths on the level**

8.—(1) The Company may in the construction of the railway carry the same with a single line across and on the level of the footpaths and occupation crossings described in the Schedule to this Order.

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<sup>(6)</sup> S.R. & O. 1922/432; S.R. & O. 1923/275.

<sup>(7)</sup> 1968 c. 73.

(2) The rails of the railway shall be laid and maintained within the areas of the level crossings so that the upper surface is upon a level with the surface of the footpath or crossing, as the case may be, and the surface of the level crossing shall be maintained in good and even condition.

(3) Access across the railway at each of the level crossings except for the level crossings described in paragraphs 2 and 3 of the Schedule to this Order shall be provided by a self-closing gate on each side of the railway opening away from the railway.

(4) A warning sign to standard railway design containing the words “Stop, Look, Listen” shall be provided and maintained on each approach to the crossings (except for the level crossings described in paragraphs 2 and 3 of the Schedule to this Order) as near as practicable to the railway but not nearer than 2 metres from the running edge of the nearest rail.

(5) The Company shall not within the area of any of the level crossings obstruct or hinder traffic or persons passing along the road or footpath for longer than is reasonably necessary in taking any train, engine or carriage across the footpath or crossing.

#### **For protection of public gas transporters**

9. Nothing in this Order shall prejudice or affect the rights of any public gas transporter, within the meaning of Part I of the Gas Act 1986<sup>(8)</sup>, 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 in, over or upon lands in or upon which the railway may be constructed.

#### **For protection of Dŵr Cymru Cyf**

10.—(1) For the protection of Dŵr Cymru Cyf (in this article referred to as “Dŵr Cymru”) the following provisions shall, unless otherwise agreed in writing between the Company and Dŵr Cymru, apply and have effect.

(2) In this article, “relevant pipe” in relation to Dŵr Cymru has the meaning given in section 158(7) of the Water Industry Act 1991<sup>(9)</sup> and “the works” means the works authorised by this Order.

(3) Nothing in this Order or in the Railways Clauses Consolidation Act 1845<sup>(10)</sup> in its application to the railway shall authorise the Company to raise, sink or otherwise alter the position of, or in any way to interfere with, any relevant pipe without the consent in writing of Dŵr Cymru, such consent not to be unreasonably withheld.

(4) Notwithstanding anything in this Order or shown on the deposited plans the Company shall not acquire any relevant pipe under the powers of this Order otherwise than by agreement.

(5) The Company shall not exercise the powers of sections 30 to 44 (relating to temporary use of land) of the Railways Clauses Consolidation Act 1845, as incorporated with this Order, in relation to any land of Dŵr Cymru.

(i) Before commencing the construction, alteration or reconstruction of any work which will or may be situated over, or within 15 metres measured in any direction of, or which (wherever situated) will or may impose any load directly upon any relevant pipe, the Company shall furnish to Dŵr Cymru such proper and sufficient plans of the work as may reasonably be required by Dŵr Cymru and shall not commence the work until plans thereof have been approved in writing by Dŵr Cymru (which approval shall not be unreasonably withheld) or settled by arbitration under article 12 of this Order.

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<sup>(8)</sup> 1986 c. 44.

<sup>(9)</sup> 1991 c. 56.

<sup>(10)</sup> 1845 c. 20.

- (ii) Dŵr Cymru may as a condition of their approval of the said plans require such modifications to be made as may be reasonably required to secure any relevant pipe against interference or risk of damage and to secure a convenient means of access thereto and the works shall be executed only in accordance with the plans approved in accordance with this paragraph.
- (iii) The approval by Dŵr Cymru of any plans under this paragraph shall not (in the absence of negligence on the part of Dŵr Cymru) exonerate the Company from any liability or affect any claim for compensation under this article.

(7) Where any relevant pipe is situated in or under any land owned or held for the purposes of the 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 purposes of repairs.

(8) The Company shall afford reasonable facilities to Dŵr Cymru 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 and in particular to carry out any protective works or any diversions required by reason of the exercise of the powers of this Order.

(9) The Company shall compensate Dŵr Cymru—

- (a) for any damage done or disturbance caused to any relevant pipe;
- (b) for any costs incurred by Dŵr Cymru in diverting any relevant pipe or in carrying out works for the protection of any relevant pipe; and
- (c) for any other expenses, loss, damages, penalty or costs (including any liabilities resulting from the burst, leakage or other failure of relevant pipes) incurred by Dŵr Cymru;

by reason or in consequence of the execution, maintenance, user or failure of any of the works or otherwise by reason or in consequence of the exercise by the Company of the powers of this Order.

(10) Nothing in the foregoing paragraph shall entitle Dŵr Cymru to any payment in respect of damage attributable to the neglect or default of Dŵr Cymru, their servants or agents.

(11) Nothing in this Order shall prejudice or affect the rights of Dŵr Cymru in respect of any relevant pipe (including the right of access to such pipe for the purpose of inspection, maintenance or renewal) or the provisions of any agreement regulating the relations between the Company and Dŵr Cymru with regard to any relevant pipe and whether made before or after this Order comes into force.

(12) Any difference arising between the Company and Dŵr Cymru under this article (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration.

#### **For protection of Manweb plc, etc.**

**11.**—(1) In this article “apparatus” means any electric line or electrical plant as respectively defined by section 64 of the Electricity Act 1989<sup>(11)</sup>.

(2) Nothing in this Order shall prejudice or affect the rights of any public electricity supplier, within the meaning of Part I of the Electricity Act 1989, 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 in, over or under lands in or upon or near to which the railway or any part thereof may be constructed.

(3) Before commencing any works authorised by this Order under or over or which will or may affect any apparatus belonging to a public electricity supplier or for the maintenance of which a public electricity supplier is responsible, the Company shall give to the public electricity supplier not less than 28 days' notice in writing accompanied by a plan and section of the proposed work and such work shall be executed only in accordance with the plan and section submitted, and in accordance with such reasonable requirements (including those contained or referred to in an Agreement dated

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(11) 1989 c. 29.

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15th November 1995 and made between the Company (1) the Ffestiniog Railway Company (2) and Manweb plc (3)) as may be made by the public electricity supplier for the protection of the apparatus, or for securing access thereto.

(4) If by reason or in consequence of the execution or user of any of the works authorised by this Order any damage to any apparatus or any interruption in supply or distribution of electricity by a public electricity supplier shall be caused, the Company shall bear and pay the cost reasonably incurred by the public electricity supplier in making good such damage or in restoring the supply or distribution of electricity and shall make reasonable compensation to the public electricity supplier for any loss sustained by it and indemnify the public electricity supplier from and against all claims in respect of any such damage or interruption.

### **Arbitration**

**12.** Where under any provision of this Order any difference is to be referred to or settled by arbitration, then such difference 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

*A S D Whybrow*  
Head of Traffic Policy Division,  
Department of the Environment, Transport and  
the Regions

8th October 1997