
STATUTORY INSTRUMENTS

2000 No. 2585

The Great Central Railway (East
Leake Branch, etc.) Order 2000

PART III

MISCELLANEOUS

Transfer of railways by undertaker

9.—(1) In this article—

“lease” includes an underlease and “lease”, where used as a verb, shall be construed accordingly;

“the transferee” means any person to whom the undertaking or any part of it, is leased or sold pursuant to this article;

“the transferred undertaking” means so much of the undertaking as is leased or sold pursuant to this article; and

“the undertaking” means—

- (a) the railways, as defined by article 2(1) of the 1995 Order, and
- (b) the railways, as defined by article 2(1) of this Order.

(2) The undertaker may, with the consent of the Secretary of State—

- (a) lease the undertaking, or any part of it, to any person, or
- (b) sell the undertaking, or any part of it, to any person,

on such terms and conditions as may be agreed between the undertaker and the transferee.

(3) Except as may be otherwise provided in this Order, the transferred undertaking shall continue to be subject to all statutory or other provisions applicable to the transferred undertaking at the date of the lease or sale (in so far as the same are still subsisting and capable of taking effect) and the transferee shall, to the exclusion of the undertaker, 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 transferred undertaking (in so far as the same are still subsisting and capable of taking effect) to the intent that the undertaker shall be released from all such obligations.

(4) Paragraph (3) above shall have effect during the currency of any lease granted under paragraph (2)(a) above and from the operative date of any sale under paragraph (2)(b) above.

(5) Article 9 (leasing of railways) of the 1995 Order is hereby revoked.

Operation of railways

10.—(1) The undertaker may operate and use the railways and the other works authorised by this Order as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Subject as below, the motive power to be used on the railways shall be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Secretary of State may in writing approve.

(3) Nothing in this Order shall authorise the use of electrical power as motive power on the railways 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 railways, such electrical power shall not be used in such a manner as to cause or be likely to cause any interference with any telecommunications apparatus (as defined in Schedule 2 to the Telecommunications Act 1984(1)) or with telecommunication by means of such apparatus.

(5) Except in the case of an emergency—

(a) no train shall stop at East Leake station to allow passengers to alight from or board the train,

(b) no train, other than a train being used solely for the carriage of goods, shall run on the railways before 09.00 hours or after 18.00 hours on any day,

without the prior written consent of the Secretary of State.

Protection for Environment Agency

11.—(1) For the protection of the Environment Agency (in this article referred to as “the Agency”) the following provisions of this article shall, unless otherwise agreed in writing between the undertaker and the Agency, have effect.

(2) Before carrying out, under any powers conferred on or transferred to the undertaker by this Order—

(a) any operation on the banks of any watercourse;

(b) the erection or raising of any obstruction to the flow of any watercourse which is not part of a main river within the meaning of section 113 of the Water Resources Act 1991(2); or

(c) the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any such watercourse in, under or through any land within the limits of deviation,

the undertaker shall furnish to the Agency proper and sufficient plans thereof for the approval of the Agency and shall not carry out any such operation or work otherwise than in accordance with such plans as are approved.

(3) The approval of plans furnished under paragraph (2) above shall not be unreasonably withheld and if, within two months of such plans being supplied to the Agency, the Agency does not indicate in writing its disapproval and the grounds of its disapproval, it shall be deemed to have approved the plans as supplied.

(4) For the purposes of paragraph (2) above, “banks” has the meaning given by section 72 of the Land Drainage Act 1991(3) and “plans” includes sections, drawings, specifications, calculations and descriptions.

(5) Any culvert or any structure designed to contain or divert the flow of any watercourse being a culvert or structure situated within any land within the limits of deviation, whether constructed under the powers of this Order or in existence prior to the making hereof, shall be maintained by the undertaker in good repair and condition and free from obstruction.

(1) 1984. c. 12.

(2) 1991 c. 57.

(3) 1991 c. 59.

(6) Nothing in paragraph (5) above shall have the effect of requiring the undertaker to carry out works of maintenance in respect of any culvert or structure which the Agency or any other person is liable to maintain.

(7) If any operation or work is carried out in contravention of this article the undertaker shall upon receiving notice from the Agency take such action as may be necessary to remedy the effect of the contravention to the Agency's reasonable satisfaction and in default the Agency may itself take such action as may be necessary and recover the expenses reasonably incurred by it in doing so from the undertaker, as a debt due from it to the Agency.

(8) The provisions of the Act of 1845 incorporated in or applied by this Order shall be subject to the provisions of this article.

(9) Any difference arising between the undertaker and the Agency under this article (other than a difference as to its meaning or construction) shall be determined by arbitration.

Maintenance of approved works, etc.

12.—(1) Where pursuant to regulations made under section 41 of the Transport and Works Act 1992⁽⁴⁾ (approval of works, plant and equipment) approval has been obtained from the Secretary of State with respect to any works, plant or equipment (including vehicles) forming part of the railways 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 railways.

(2) If without reasonable cause the provisions of paragraph (1) above are contravened, the undertaker 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 Health and Safety Executive or the Director of Public Prosecutions.

Certification of plans, etc.

13. The undertaker shall, as soon as practicable after the making of this Order, submit copies of the sections and works plan to the Secretary of State for certification that they are true copies of the sections and the works plan referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Arbitration

14. Where under any provision contained or incorporated in this Order any difference is to be determined 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 of the Institution of Civil Engineers.

(4) 1992. c. 42.