
STATUTORY INSTRUMENTS

2004 No. 389

The Network Rail (West Coast Main Line) Order 2004

PART I
PRELIMINARY

Citation and commencement

1. This Order may be cited as the Network Rail (West Coast Main Line) Order 2004 and shall come into force on 4th March 2004.

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(1);

“the 1965 Act” means the Compulsory Purchase Act 1965(2);

“the 2003 Act” means the Communications Act 2003(3);

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000;

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

“the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;

“bridleway”, “carriageway”, “footpath”, “footway”, “highway” and “highway authority” have the same meaning as in the Highways Act 1980(4);

“conduit system” has the same meaning as in the electronic communications code and references to providing a conduit system shall be construed in accordance with paragraph 1(3A) of that code;

“the deposited plans” means the composite plans prepared in pursuance of rule 12(1) and (5) of the Applications Rules and certified by the Secretary of State as the deposited plans for the purposes of this Order and references to land shown on those plans are references to land so shown in pursuance of rule 12(5);

“the deposited sections” means the sections certified by the Secretary of State as the deposited sections for the purposes of this Order;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

(1) 1961 c. 33.
(2) 1965 c. 56.
(3) 2003 c. 21.
(4) 1980 c. 66.

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the 2003 Act⁽⁵⁾;

“electronic communications code network” means—

- (a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the 2003 Act; and
- (b) an electronic communications network which the Secretary of State or a Northern Ireland department is providing or proposing to provide;

“electronic communications code operator” means a person in whose case the electronic communications code is applied by a direction under section 106 of the 2003 Act;

“electronic communications network” and “electronic communications service” each has the same meaning as in the 2003 Act⁽⁶⁾;

“enactment” includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“former PTO” means a person—

- (a) who is a provider of a public electronic communications network or a public electronic communications service which, immediately before the date on which the repeal by the 2003 Act⁽⁷⁾ of section 7 of the Telecommunications Act 1984⁽⁸⁾ comes into force, was designated as a public telecommunication system under section 9 of that Act; and
- (b) who, immediately before that date, was authorised to provide that network or service by a licence to which section 8 of that Act applied;

“the limits of deviation”, in relation to a work, means the limits of deviation related to that work which are shown on the deposited plans;

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

“Network Rail” means Network Rail Infrastructure Limited;

“operator”, in relation to an electronic communications code network, means—

- (a) the electronic communications code operator providing that network; or
- (b) the Secretary of State or a Northern Ireland department, to the extent that they are providing or proposing to provide that network;

“the Order limits” means any of the limits of deviation, or the limits of land to be acquired or used, shown on the deposited plans;

“owner”, in relation to land, means, unless the context otherwise requires, a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of land (whether in possession or reversion) and includes a person holding, or entitled to the rents and profits of, the land under a lease or tenancy having an unexpired term exceeding 3 years;

“provide” and cognate expressions, in relation to an electronic communications network, an electronic communications service or associated facilities, are to be construed in accordance with section 32(4) of the 2003 Act;

“public electronic communications network” and “public electronic communications service” each has the same meaning as in Chapter 1 of Part 2 of the 2003 Act⁽⁹⁾;

(5) See section 106.

(6) See section 32.

(7) See section 406(7) and Schedule 19.

(8) 1984 c. 12.

(9) See section 151.

- “the scheduled works” means the works specified in Schedule 1 to this Order;
- “street” includes part of a street;
- “street authority”, in relation to a street, has the same meaning as in Part III of the Street Works Act;
- “the Street Works Act” means the New Roads and Street Works Act 1991⁽¹⁰⁾;
- “the tribunal” means the Lands Tribunal; and
- “working site” includes construction access.

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

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

(4) Any reference in this Order to a work identified by the number of the work shall be construed as a reference to the work of that number authorised by this Order.

(5) Any reference in this Order to a point identified by a letter and number shall be construed as a reference to the point so lettered and numbered on the deposited plans.

(6) References in this Order to reference points shall be construed as references to Ordnance Survey National Grid reference points.

(7) References in this Order to highways lettered FP or BR are references respectively to footpaths or bridleways.

Incorporation of Railways Clauses Consolidation Act 1845

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845⁽¹¹⁾ shall be incorporated in this Order—

- section 24 (obstructing construction of railway), subject to the modification in paragraph (3);
- section 58 (company to repair roads used by them), except for the words from “and if any question” to the end;
- 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 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⁽¹²⁾;
- section 145 (recovery of penalties); and
- section 154 (transient offenders).

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

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

⁽¹⁰⁾ 1991 c. 22.

⁽¹¹⁾ 1845 c. 20.

⁽¹²⁾ 1923 c. 20.

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

“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.

(3) Section 24 of the said Act of 1845, as incorporated in this Order, shall have effect as if the maximum fine which may be imposed on summary conviction for an offence under that section were instead of a fine not exceeding level 2 on the standard scale, a fine not exceeding level 3 on the standard scale.