
STATUTORY INSTRUMENTS

2013 No. 2809

The Network Rail (Redditch Branch Enhancement) Order 2013

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Network Rail (Redditch Branch Enhancement) Order 2013 and comes into force on 21st November 2013.

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 1980 Act” means the Highways Act 1980(3);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(4);

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- (1) 1961 c. 33. Section 2(2) was amended by section 193 of, and Paragraph 5 of Schedule 3 to, the Local Government, Planning and Land Act 1980 (c. 65). There are other amendments to the 1980 Act which are not relevant to this Order.
- (2) 1965 c.56. Section 3 was amended by section 70 of, and paragraph 3 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Section 4 was amended by section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71). Section 5 was amended by sections 67 and 80 of, and Part 2 of Schedule 18 to, the Planning and Compensation Act 1991 (c.34). Section 11(1) and sections 3, 31 and 32 were amended by section 34(1) of, and Schedule 4 to, the Acquisition of Land Act 1981 (c. 67) and by section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). Section 12 was amended by section 56(2) of, and Part 1 to Schedule 9 to, the Courts Act 1971 (c.23). Section 13 was amended by section 139 of the Tribunals, Courts and Enforcement Act 2007 (c.15). Section 20 was amended by section 70 of, and paragraph 14 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). Sections 9, 25 and 29 were amended by the Statute Law (Repeals) Act 1973 (c.39). Section 31 was also amended by section 70 of, and paragraph 19 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34) and by section 14 of, and paragraph 12(2) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (2006 No.1). There are other amendments to the 1965 Act which are not relevant to this Order.
- (3) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); sections 1(2), (3) and (4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted by, and section 1(3) was amended by, section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 36(2) was amended by section 4(1) of, and paragraphs 47 (a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c.71), by S.I. 2006/1177, by section 4 of and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11), by section 64(1) (2) and (3) of the Transport and Works Act 1992 (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.
- (4) 1981 c. 66. Sections 2(3), 6(2) and 11(6) were amended by section 4 of, and paragraph 52 of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11). Section 15 was amended by sections 56 and 321(1) of, and Schedules 8 and 16 to, the Housing and Regeneration Act 2008 (c. 17). Paragraph 1 of Schedule 2 was amended by section 76 of, and Part 2 of Schedule 9 to, the Housing Act 1988 (c 50); section 161(4) of, and Schedule 19 to, the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28); and sections 56 and 321(1) of, and Schedule 8 to, the Housing and Regeneration Act

- “the 1984 Act” means the Road Traffic Regulation Act 1984⁽⁵⁾;
- “the 1990 Act” means the Town and Country Planning Act 1990⁽⁶⁾;
- “the 1991 Act” means the New Roads and Street Works Act 1991⁽⁷⁾;
- “the 2003 Act” means the Communications Act 2003⁽⁸⁾;
- “the 2008 Act” means the Planning Act 2008;
- “the 2009 Regulations” means the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009;
- “the access to works and traffic regulation plan” means the access to works and traffic regulation plan certified by the Secretary of State as the access to works and traffic regulation plan for the purposes of this Order;
- “address” includes any number or address used for the purposes of electronic transmission;
- “the archaeological and historic impact assessment report” means the archaeological and historic impact assessment report certified by the Secretary of State as the archaeological and historic impact assessment report for the purposes of this Order;
- “authorised development” means the development and associated development described in Part 1 of Schedule 1 (authorised development), which is development within the meaning of section 32 of the 2008 Act;
- “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;
- “building” includes any structure or erection or any part of a building, structure or erection;
- “carriageway” has the same meaning as in the 1980 Act;
- “commencement” means the first carrying out of a material operation within the meaning of section 56(4) of the 1990 Act for the construction of the authorised development and commence and commenced are to be construed accordingly;
- “compulsory acquisition notice” means a notice served in accordance with section 134 of the 2008 Act;
- “the design drawings” means the drawings titled (1) Engineering plans including existing services and new services, drainage and surface water management, (2) Section drawings, (3) Alvechurch station general arrangement, and (4) Landscaping plans, each submitted under regulation 5(2)(o) of the 2009 Regulations and together certified as the design drawings by the Secretary of State for the purposes of the Order;
- “the ecological impact assessment report” means the ecological impact assessment report certified by the Secretary of State as the ecological impact assessment report for the purposes of this Order;
- “electronic communications code” has the meaning given in section 137(8) of the 2003 Act
- “electronic transmission” means a communication transmitted—
- (a) by means of an electronic communications network; or
 - (b) by other means but while in electronic form;

2008. Paragraph 3 of Schedule 2 was amended by section 76 of, and Schedule 9 to, the Housing Act 1988 and section 56 of, and Schedule 8 to, the Housing and Regeneration Act 2008. Paragraph 2 of Schedule 3 was repealed by section 277 of, and Schedule 9 to, the Inheritance Tax Act 1984 (c. 51). There are amendments to the 1981 Act which are not relevant to this Order.

(5) 1984 c. 27.

(6) 1990 c. 8. Section 56(4) was amended by section 32 of, and paragraph 10(2) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34). Section 106 was substituted, and section 106A inserted, by section 12(1) of the Planning.

(7) 1991.c. 22. Section 48(3A) was inserted by Section 124 of the Local Transport Act 2008 (c. 26). Section 79(4), 80(4) and 83(4) are amended by s40 of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(8) 2003 c.21. There are amendments to this Act which are not relevant to this Order.

“the environmental reports” means the archaeological and historic impact assessment report; the ecological impact assessment report; the flood risk assessment; the land quality report; the noise assessment report; the visual impacts report and landscape plan/strategy; and the waste management plan;

“first open for use” means the date on which Work No. 1 is first used for revenue earning purposes by the passage of passenger carrying railway vehicles;

“the flood risk assessment” means the flood risk assessment including a river basin management impact assessment and plan certified by the Secretary of State as the flood risk assessment for the purposes of this Order;

“footpath” has the same meaning as in the 1980 Act;

“the footpath stopping up and diversion plan” means the plan certified as the footpath stopping up and diversion plan by the Secretary of State for the purposes of this Order;

“highway” has the same meaning as in the 1980 Act;

“highway authority” means Worcestershire County Council as local highway authority or any successor highway authority;

“implementation plan” means a written plan agreed between Network Rail and the highway authority for creation of the agreed alternative footpaths;

“the land plans” means the plans certified as the land plans by the Secretary of State for the purposes of this Order;

“the land quality report” means the land quality report certified by the Secretary of State as the land quality report for the purposes of this Order;

“lead local flood authority” means the North Worcestershire Water Management Team and any successor flood authority;

“limits of deviation” means the limits of deviation referred to in article 6;

“maintain” includes to inspect, repair, adjust, alter, remove, reconstruct or replace and any derivative of “maintain” is to be construed accordingly;

“Network Rail” means Network Rail Infrastructure Limited, company number 02904587 registered at Kings Place, 90 York Way, London N1 9AG;

“the noise assessment report” means the noise assessment report certified by the Secretary of State as the noise assessment report for the purposes of this Order;

“Order land” means the land shown on the land plans which is within the limits of land to be acquired or used and described in the book of reference;

“the Order limits” means the limits of deviation shown on the works plans and the limits of land to be acquired or used shown on the land plans;

“owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981⁽⁹⁾;

“relevant planning authority” means Bromsgrove District Council or any successor planning authority;

“statutory undertaker” means any statutory undertaker for the purposes of section 127(8), 128(5) or 129(2) of the 2008 Act;

“street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

“street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

(9) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

“traffic authority”, for the purposes of article 36 (procedure in relation to further approvals etc., other than under Part 2 of Schedule 1), has the same meaning as in Part 3 of the 1991 Act;

“the tribunal” means the Lands Chamber of the Upper Tribunal;

“the visual impacts report and landscape plan/strategy” means the visual impacts report and landscape plan/strategy certified by the Secretary of State as the visual impacts report and landscape plan/strategy for the purposes of this Order;

“watercourse” includes all streams, ditches, drains, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain;

“the waste management plan” means the waste management plan certified by the Secretary of State as the waste management plan for the purposes of this Order; and

“the works plan” means the plan certified as the works plan by the Secretary of State for the purposes of this Order.

(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 airspace above its surface.

(3) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised development are taken to be measured along that work.

(4) References in this Order to points identified by letters, with or without numbers, are to be construed as references to points so lettered on the relevant plans.

(5) References in this Order to numbered works are references to the works as numbered in Part 1 of Schedule 1.

Incorporation of the Railway Clauses Acts

3.—(1) The following provisions of the Railway Clauses Consolidation Act 1845⁽¹⁰⁾ are incorporated in this Order—

section 46 (crossing of roads – level crossings), subject to paragraph (4);

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 77 (presumption that minerals excepted from acquisition of land);

sections 78 to 83, 85 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⁽¹¹⁾; and

⁽¹⁰⁾ 1845 c. 20. Section 46 was amended by sections 109(1) and (3) of, and paragraph 22 of Schedule 8, and Schedule 10 to, the Courts Act 2003 (c.39). Section 58 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c.101). Section 78 was amended by section 39(3) of, and Schedule 7 to, the Compulsory Purchase Act 1968 (c.56) and articles 5(1) and (2) of, and paras 1 and 3 of Schedule 1 to, S.I. 2009/1307. Section 105 was amended by section 46 of, and Part 3 of Schedule 7 to, the Justices of the Peace Act 1949 (c.101), and section 31(6) of the Criminal Law Act 1977 (c.45), and sections 37 and 49 of the Criminal Justice Act 1982 (c.48). There are other amendments to the 1845 Act not relevant to this Order.

⁽¹¹⁾ 1923 c. 20. Section 15 was amended by section 10(1) of the Decimal Currency Act 1969 (c.19).

section 105 (carriage of dangerous goods on railway), except for the words from “and if any person” to “for every such offence”.

(2) The following provisions of the Railways Clauses Act 1863⁽¹²⁾ are incorporated in this Order—

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

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

“the company” means Network Rail;

“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 any other authorised development; 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 is substituted “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”.