

2015 No. 1652

TRANSPORT AND WORKS, ENGLAND

TRANSPORT, ENGLAND

The Ecclesbourne Valley Railway Order 2015

Made - - - - *7th September 2015*

Coming into force - - *28th September 2015*

An application has been made to the Secretary of State, in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(a), for an Order under sections 1 and 5 of the Transport and Works Act 1992(b) (“the 1992 Act”).

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.

Notice of the Secretary of State’s determination was published in the London Gazette on 25th August 2015.

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1, 8, 15 and 17 of Schedule 1 to, the 1992 Act, makes the following Order—

Citation and commencement

1. This Order may be cited as the Ecclesbourne Valley Railway Order 2015 and comes into force on 28th September 2015.

Interpretation

2.—(1) In this Order—

“the 1996 Order” means the Duffield and Wirksworth Light Railway Order 1996(c);

“the Company” means WyvernRail plc, a company incorporated under the Companies Act 1985(d), whose registered number is 02754846 and whose registered office is Wirksworth Station, Coldwell Street, Wirksworth, Matlock, Derbyshire DE4 4FB;

(a) S.I. 2006/1466.
(b) 1992 c. 42. Section 1 was amended by the Planning Act 2008 (c. 29), Schedule 2, paragraphs 51 and 52; section 5 was amended by S.I. 2012/1659.
(c) S.I. 1996/2660.
(d) 1985 c. 6.

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

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

“Lafarge Tarmac” means Lafarge Tarmac Cement & Lime Limited a company incorporated under the Companies Act 2006(b), whose registered number is 66558 and whose registered office is at Portland House, Bickenhill Lane, Solihull, Birmingham B37 7BQ;

“Network Rail” means Network Rail Infrastructure Limited, a company whose registered number is 02904587 and whose registered office is at 1 Eversholt Street, London NW1 2DN;

“the railway” means the railway described in the Schedule together with all lands and works relating to it which—

- (a) are held by Network Rail at the date on which this Order comes into force; or
- (b) were at any time vested in the former British Railways Board, and which at the date on which this Order comes into force are owned by or leased to the Company, or otherwise occupied by the Company; and

“the undertaker” means the Company and following any sale, lease or underlease under article 5 (transfer of railway by undertaker) this expression means or includes the transferee within the meaning of that article.

(2) Any enactment by which the construction and operation of the railway was authorised has effect subject to the provisions of this Order.

(3) All distances, lengths, measurements and directions stated in any description of powers or lands are approximate, and distances between points on a railway are taken to be measured along the railway.

Transfer of railway to the undertaker

3.—(1) Network Rail and the undertaker may enter into and carry into effect agreements providing for the sale to and vesting in the undertaker of any part of the railway which is vested in Network Rail at the date on which this Order comes into force on such terms and conditions as may be agreed between Network Rail and the undertaker.

(2) Lafarge Tarmac and the undertaker may enter into and carry into effect agreements providing for the sale to and vesting in the undertaker of any part of the railway which is vested in Lafarge Tarmac at the date on which this Order comes into force on such terms and conditions as may be agreed between Lafarge Tarmac and the undertaker.

Transfer of rights and obligations to the undertaker, etc.

4.—(1) Except as may be otherwise provided in this Order, as from the date upon which that part of the railway owned by Network Rail is transferred to the undertaker—

- (a) the railway or any part of it continues to be subject to all statutory and other provisions applicable to it at that date (in so far as those provisions continue in force and are capable of taking effect); and
- (b) the undertaker is, to the exclusion of Network Rail—
 - (i) entitled to the benefit of, and to exercise, all rights, powers and privileges relating to the railway; and
 - (ii) subject to paragraph (c), subject to all obligations, statutory or otherwise, relating to the railway (in so far as they are still in force and capable of taking effect), to the intent that Network Rail is released from all such obligations; and

(a) 2003 c. 21.

(b) 2006 c. 46.

- (c) sections 116 (transfer of responsibility for maintenance of highways on bridges over certain railways, inland waterways, etc.), section 117 (duty as respects bridges carrying highways) and section 118 (duty of highway authorities, etc., as respects bridges over certain railways or inland waterways) of the Transport Act 1968(a) apply to the railway or the relevant part of it as if references to the “Railways Board” were references to the undertaker.

(2) Except as may be otherwise provided in this Order, as from the date upon which that part of the railway owned by Lafarge Tarmac is transferred to the undertaker –

- (a) the railway or any part of it continues to be subject to all statutory and other provisions applicable to it at that date (in so far as those provisions continue in force and are capable of taking effect); and
- (b) the undertaker is, to the exclusion of Lafarge Tarmac—
 - (i) entitled to the benefit of, and to exercise, all rights, powers and privileges relating to the railway; and
 - (ii) subject to all obligations, statutory or otherwise, relating to the railway (in so far as they are still in force and capable of taking effect), to the intent that Lafarge Tarmac is released from all such obligations.

Transfer of railway by undertaker

5.—(1) In this article—

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

“the transferor” means any person by whom the railway, or any part of it, is leased or sold under the powers conferred by this article;

“the transferee” means any person to whom the railway, or any part of it, is leased or sold under the powers conferred by this article; and

“the transferred undertaking” means so much of the railway as is leased or sold under the powers conferred by this article.

(2) The undertaker may, with the consent of the Secretary of State, sell or lease the railway, or any part of it, to any person on such terms and conditions as may be agreed between the undertaker and that person.

(3) Except as may be otherwise provided in this Order—

- (a) the transferred undertaking continues to be subject to all statutory and other provisions applicable to it at the date of the sale or lease (in so far as those provisions continue in force and are capable of taking effect); and
- (b) the transferee, to the exclusion of the transferor—
 - (i) is entitled to the benefit of, and to exercise, all rights, powers and privileges relating to the transferred undertaking; and
 - (ii) is subject to all obligations, statutory or otherwise, relating to the transferred undertaking (in so far as those provisions continue in force and are capable of taking effect), to the intent that the transferor is released from all such obligations.

(4) Paragraph (3) has effect during the term of any lease granted, and from the operative date of any sale, under the powers conferred by this article.

(a) 1968 c. 73. Section 116 was amended by the Local Government Act 1972 (c. 70), section 272 and Schedule 30, S.I. 1996/420, S.I. 2003/1615 and S.I. 2012/1659; section 117 was amended by the Road Traffic Regulation Act 1984 (c. 27), section 146 and Schedule 13, paragraph 7, S.I. 1996/420, S.I. 2000/3251, S.I. 2003/1615, S.I. 2012/1659, and S.I. 2013/2314; section 118 was amended by the New Roads and Street Works Act 1991 (c. 22), section 168(2) and Schedule 9, S.I. 1996/420, S.I. 2003/1615, S.I. 2012/1659, and S.I. 2013/2314.

Operation of railway

6.—(1) The undertaker may operate and use the railway as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Subject to paragraphs (3) and (4), the motive power to be used on the railway is to be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Office of Rail Regulation may in writing approve.

(3) Nothing in this Order authorises the use of electrical power as motive power on the railway 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 railway, such electrical power must not be used in such a manner as to cause, or be likely to cause, any interference with any electronic communications apparatus or with the use of such apparatus.

(5) Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993^(a) or section 5 of the Regulation of Railways Act 1889^(b).

Modification and revocation

7.—(1) For any part of the railway which at the date on which this Order comes into force is owned by Network Rail, on the date upon which that part is transferred from Network Rail to the undertaker—

- (a) so much of the 1996 Order as is not revoked by this Order has effect as if references to “the Company” in the 1996 Order were references to the undertaker; and
- (b) the provisions of the 1996 Order mentioned in paragraph (3) are revoked.

(2) For any other part of the railway, at the date on which this Order comes into force—

- (a) so much of the 1996 Order as is not revoked by this Order has effect as if references to “the Company” in the 1996 Order were references to the undertaker; and
- (b) the provisions of the 1996 Order mentioned in paragraph (3)(b), (c) and (d) are revoked.

(3) The provisions of the 1996 Order referred to in paragraph (1)(b) and 2(b) are—

- (a) article 3 (leasing of the Railway to the Company);
- (b) paragraph (5) of article 4 (incorporation and application of enactments);
- (c) article 5 (gauge of the Company’s Railway and motive power); and
- (d) article 8 (restrictions on conveyance of passengers).

Signed by authority of the Secretary of State for Transport

Martin Woods
Head of the Transport and Works Act Orders Unit
Department for Transport

7th September 2015

(a) 1993 c. 43, as amended by the Transport Act 2000 (c. 38) and the Railways Act 2005 (c. 14).
(b) 1889 c. 57.

SCHEDULE THE RAILWAY

So much of the Duffield and Wirksworth railway of Network Rail in the County of Derbyshire described in and authorised by the Midland Railway (New Lines and Additional Powers) Act 1863^(a) as extends for a distance of 14 kilometres from the junction with Network Rail's North Midland Derby and Sheffield railway at milepost 133 miles (Grid Reference SK 347434) on that railway together with the branch to the former Cromford and High Peak Railway located 382 metres north of milepost 141¼ miles (Grid Reference SK 290540) for a distance of 830 metres to terminate at Ravenstor Station (Grid reference SK 286549).

^(a) 1863 c.clxxxiii.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the transfer from Network Rail to WyvernRail plc of the existing Duffield to Wirksworth branch line in the County of Derbyshire, together with certain statutory provisions and other rights and liabilities, and makes related provisions. At present the railway is leased by Network Rail to WyvernRail plc and is operated under the title of the Ecclesbourne Valley Railway.

The Order also provides for the transfer from Lafarge Tarmac to WyvernRail plc of the former Tarmac Roadstone private siding at the termination of the former branch to the Cromford and High Peak Railway where Ravenstor Station is now located, together with certain statutory provisions and other rights and liabilities, and makes related provisions. At present the siding is leased by Lafarge Tarmac to WyvernRail plc.

The Order permits WyvernRail plc to sell or lease the railway, or any part of it, to a third party, subject to the consent of the Secretary of State.

The applicant for the Order is WyvernRail plc.

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