
STATUTORY INSTRUMENTS

2023 No. 815

The Rother Valley Railway (Bodiam
to Robertsbridge Junction) Order 2023

PART 2

WORKS PROVISIONS

Streets

Power to alter layout etc. of streets

9.—(1) Subject to paragraph (2), the Company may, for the purposes of constructing and maintaining any authorised work, alter the layout of any street within the Order limits and the layout of any street having a junction with such a street; and, without limitation on the scope of that power, the Company may—

- (a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, or verge within the street;
- (b) alter the level or increase the width of any such kerb, footpath, footway, or verge;
- (c) reduce the width of the carriageway of the street; and
- (d) temporarily remove any road hump within the street.

(2) The Company must restore to the reasonable satisfaction of the street authority any street which has been temporarily altered under this article.

(3) The powers conferred by paragraph (1) must not be exercised without the consent of the street authority, but such consent must not be unreasonably withheld.

(4) If within 28 days of receiving an application for consent under paragraph (3) a street authority fails to notify the Company of its decision or refuses consent without giving any grounds for its refusal that street authority is deemed to have granted consent.

(5) When making an application for consent under paragraph (3), the Company must notify the street authority of the effect of paragraph (4).

Power to execute street works

10.—(1) The Company may, for the purposes of the authorised works, enter upon so much of any of the streets specified in Schedule 3 (streets subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it, or tunnel or bore under the street;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position; and

(d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c).

(2) This article is subject to paragraph (3) of Schedule 6 (provisions relating to statutory undertakers etc.).

(3) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Stopping up of street

11.—(1) Subject to the provisions of this article, the Company may, in connection with the carrying out of the authorised works, stop up Footpath S&R 31 between points P1 and P2 on sheet 3 of the Order plans.

(2) The street referred to in paragraph (1) is not to be wholly or partly stopped up under this article unless—

- (a) a new street has been constructed and substituted for it between points P1, P4 and P2 on sheet 3 of the Order plans to the reasonable satisfaction of the street authority and is open for use; or
- (b) a temporary alternative route for the passage of such persons as could have used the street to be stopped up is first provided and subsequently maintained by the Company, to the reasonable satisfaction of the street authority, between points P1, P3, P2 and P5 on sheet 3 of the Order plans until the completion and opening of the new street in accordance with sub-paragraph (a).

(3) Where Footpath S&R 31 has been stopped up under this article—

- (a) all rights of way over or along it are extinguished; and
- (b) the Company may appropriate and use for the purposes of its railway undertaking so much of the site of the street as is bounded on both sides by land owned by the Company.

(4) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article is entitled to compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

(5) This article is subject to paragraph 2 of Schedule 6 (provisions relating to statutory undertakers etc.) to this Order.

Temporary stopping up of streets

12.—(1) The Company, during and for the purposes of the execution of the authorised works, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (3), prevent all persons from passing along the street.

(2) The Company must provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(3) Without limitation on the scope of paragraph (1), the Company may temporarily stop up, alter or divert the streets specified in columns (1) and (2) of Schedule 4 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the Order plans, in column (3) of that Schedule.

(4) The Company must not exercise the powers conferred by this article—

- (a) in relation to any street specified as mentioned in paragraph (3) without first consulting the street authority; and

(b) in relation to any other street without the consent of the street authority which may attach reasonable conditions to any consent, but such consent must not be unreasonably withheld.

(5) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, as if it were a dispute under Part 1 of the 1961 Act.

(6) If within 28 days of receiving an application for consent under paragraph (4)(b) a street authority fails to notify the Company of its decision or refuses consent without giving any grounds for its refusal that street authority is deemed to have granted consent.

(7) When making an application under paragraph (4)(b), the Company must notify the street authority of the effect of paragraph (6).

Access to works

13.—(1) The Company may, for the purposes of, or in consequence of, the authorised works—

- (a) form and lay out means of access, or improve existing means of access, in the locations marked A1 and A2 on sheet 3 of the Order plans; and
- (b) with the approval of the highway authority, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the Company reasonably requires for the purposes of the authorised works.

(2) If a highway authority fails to notify the Company of its decision within 28 days of receiving an application for approval under paragraph (1)(b), that highway authority will be deemed to have granted approval.

(3) When making an application for approval under paragraph (1)(b), the Company must notify the highway authority of the effect of paragraph (2).

Agreements with street authorities

14.—(1) A street authority and the Company may enter into agreements with respect to—

- (a) the strengthening, improvement, repair or reconstruction of any street under the powers conferred by this Order;
- (b) any stopping up, alteration or diversion of a street under the powers conferred by this Order; or
- (c) the execution in the street of any of the works referred to in article 10 (power to execute street works).

(2) Such an agreement may, without limitation on the scope of paragraph (1)—

- (a) make provision for the street authority to carry out any function under this Order which relates to the street in question; and
- (b) contain such terms as to payment and otherwise as the parties consider appropriate.

Level crossings

15.—(1) The Company may construct the new railway so as to carry it on the level across the highways specified in Part 1 of Schedule 5 (level crossings).

(2) The Company may provide, maintain and operate at or near the level crossings referred to in paragraph (1) above such barriers or other protective equipment as the Secretary of State may approve in writing or as may be required through an Order under the Level Crossings Act 1983(1).

(1) 1983 c.16.

(3) The Company may in the exercise of the powers conferred by this article alter the level of any highway specified in Schedule 5.

(4) The highway authority and the Company may enter into agreements with respect to the construction and maintenance of any level crossing; and such agreement may contain such terms as to payment or otherwise as the parties consider appropriate.

(5) Any traffic sign placed pursuant to this article on or near a highway or other road to which the public has access will be treated for the purposes of section 64(4)(2) (general provisions as to traffic signs) of the 1984 Act as having been placed as provided by that Act.

(6) The following enactments will not apply to any level crossing authorised by this Order—

- (a) the Highway (Railway Crossings) Act 1839(3); and
- (b) section 9 (gates at level crossings to be kept closed across the road) of the Railway Regulation Act 1842(4).

(7) In this article—

“barrier” includes gate;

“level crossing” means the place at which the railway crosses a highway on the level under the powers conferred by this article; and

“protective equipment” includes lights, traffic signs (within section 64(1) of the 1984 Act), manual, mechanical, automatic, electrical or telephonic equipment or other devices.

(2) Section 64(4) was amended by paragraph 47 of Schedule 8 to the 1991 Act. There is another amendment that is not relevant to this Order.

(3) 1839 c. 45.

(4) 1842 c. 55.