
STATUTORY INSTRUMENTS

2002 No. 1384

The East Lancashire (Heywood Extension) Light Railway Order 2002

Citation and commencement

1.—(1) This Order may be cited as the East Lancashire (Heywood Extension) Light Railway Order 2002 and shall come into force on 16th May 2002.

(2) This Order and the East Lancashire Light Railway Order 1986(1) (“the 1986 Order”) may be cited together as the East Lancashire Light Railway Orders 1986 and 2002.

Interpretation

2.—(1) In this Order—

“the authorised works” means the works specified in the Schedule to this Order and any other works authorised to be carried out under the Order;

“the Board” means BRB (Residuary) Limited;

“the Company” means the East Lancashire Light Railway Company Limited incorporated under the Companies Act 1985(2) and having its registered office at Bolton Street Station, Bury, Lancashire BL9 0EY;

“the Councils” means the Bury Metropolitan Borough Council and the Rochdale Metropolitan Borough Council or either of them;

“the deposited plans” and “the deposited sections” mean respectively the plans and sections deposited in respect of the application for this Order and available for inspection at the offices of the Secretary of State for Transport, Local Government and the Regions, 76 Marsham Street, London SW1P 4DR, the offices of the Bury Metropolitan Borough Council, Town Hall, Bury, Lancashire BL9 0SW and the Rochdale Metropolitan Borough Council, Town Hall, Rochdale OL16 1AB;

“the light railway” means the light railway authorised to be constructed and maintained by the Councils pursuant to article 4 of this Order together with all lands and works relating thereto and, where any part of the said railway and works remains incomplete, includes the site of that part;

“the principal Act” means the Light Railways Act 1896;

“Railtrack” means Railtrack Plc a company incorporated under the Companies Act 1985 and having its registered office at Railtrack House, Euston Square, London NW1 2EE; and

“the Trust” means the East Lancashire Railway Trust Limited incorporated under the Companies Act 1985 and having its registered office at the Town Hall, Rawtenstall, Lancashire.

(2) All directions and distances stated in the descriptions of the authorised works shall be construed as if the words “or thereabouts” were inserted after each direction and distance, and

(1) S.I. 1986/277.

(2) 1985 c. 6.

distances between points on a railway comprised in the authorised works shall be taken to be measured along the railway.

Incorporation and application of enactments

3.—(1) The provisions of the Railways Clauses Consolidation Act 1845⁽³⁾ (except sections 8, 11 to 13, 15, 17, 32 to 44, 47 to 57, 59 to 66, 68, 71 to 73, 75, 77 to 85E, 88 to 95, 112 to 124, 162 and Schedules 1 to 3 (minerals under railways)) are incorporated with and form part of this Order so far as the same are applicable for the purposes of and are not inconsistent with or varied by the provisions of this Order.

(2) In the construction of the provisions of the Railways Clauses Consolidation Act 1845 as incorporated in this Order—

- (a) this Order shall be deemed to be the special Act for the purposes of the said incorporated provisions;
- (b) sections 7, 9 and 10 shall be read, construed and have effect as if the “proper officers of the Metropolitan Borough Councils of Bury and Rochdale” had been referred to therein instead of the “Clerks of the Peace”;
- (c) section 46 shall be read, construed and have effect as if for the proviso there were substituted the words “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”; and
- (d) section 58 shall have effect as if the words “and if any question” to the end were omitted.

(3) Section 5 (penalty for avoiding payment of fare) of the Regulation of Railways Act 1889⁽⁴⁾ shall apply to the light railway.

(4) Without prejudice to the generality of the foregoing, sections 116 to 119 of the Transport Act 1968 shall apply to the light railway as if references therein to the Board were references to the person for the time being authorised to work the light railway under this Order.

Power to construct and maintain railway

4.—(1) In accordance with the provisions of this Order, the Councils may construct (so far as may be necessary) and maintain the works described in the Schedule to this Order in the lines and according to the levels and within the limits of deviation shown on the deposited plans and the deposited sections, together with all proper rails, plates, sidings, junctions, bridges, culverts, drains, approaches, roads, yards, buildings and other works and conveniences connected therewith including station premises, workshops and facilities.

(2) In the construction of the said works the Councils may deviate from the line or situation of the whole or any part thereof shown on the deposited plans to the extent of the limits of deviation shown thereon and may deviate vertically from the levels shown on the deposited sections to any extent not exceeding 2 metres upwards or downwards or to such further extent as may be found necessary or convenient and as may be sanctioned by the Secretary of State.

(3) Subject to the provisions of this Order, the said works may be worked as a light railway under the principal Act and the Councils may within the limits of deviation shown on the deposited plans maintain, reconstruct, repair, alter and renew the light railway with all necessary works and conveniences connected therewith.

(3) 1845 c. 20.

(4) 1889 c. 57.

Leasing of light railway to Trust

5.—(1) Subject to the provisions of this Order, the Councils may agree with the Trust to lease to the Trust the light railway or any part thereof on such terms and conditions as may be agreed between the Councils and the Trust.

(2) During the continuance and subject to the terms of any lease granted under paragraph (1), the Trust shall to the exclusion of the Councils be entitled to the benefit of, and to exercise, all the rights, interests, powers and privileges and be subject to all the obligations of the Councils whether statutory or otherwise for the time being in force in respect of the light railway or such part thereof as is leased as aforesaid.

Sub-letting of light railway to Company

6.—(1) During the continuance and subject to the terms of any lease granted under article 5 the Trust may sub-let to the Company the light railway or any part thereof together with rights, interests, powers, privileges and obligations vested in the Trust in accordance with that article on such terms and conditions as may be agreed between the Trust and the Company.

(2) During the continuance of any sub-lease granted under paragraph (1) the Company shall, to the exclusion of the Trust, be entitled to the benefit of, and to exercise, all such rights, interests, powers and privileges, and be subject to all such obligations of the Trust whether statutory or otherwise for the time being in force in respect of the light railway or such part thereof as is comprised in the sub-lease.

Gauge of railway and motive power

7.—(1) Subject to paragraphs (2) and (3), the light railway shall be constructed and operated on a gauge of 1435 millimetres (4 feet 8 and a half inches) and the motive power for the light railway shall be diesel, steam or internal combustion or such other motive power as the Secretary of State may approve.

(2) Nothing in this Order shall authorise the Councils to use electrical power as motive power on the light railway unless such power is obtained from storage batteries or from a source of generation entirely carried in, and carried along with, the engines and carriages.

(3) If electrical power is used as motive power on the light railway, 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⁽⁵⁾ or with telecommunications by means of such apparatus.

As to former railway

8.—(1) Nothing in the original authorising enactments cited in paragraph (2) shall apply to the construction, maintenance or operation of the light railway but the Councils shall, to the exclusion of the Board and Railtrack (according to their respective interests), be entitled to the benefit of, and to exercise, all rights, powers and privileges and be subject to all obligations of the Board or Railtrack, as the case may be, contained therein so far as the same remain for the time being in force and appertain to the lands comprised within the limits of deviation for the authorised works or which otherwise relate thereto.

(2) The original authorising enactments referred to in paragraph (1) are—
the Manchester and Leeds Railway Act 1836⁽⁶⁾,

(5) 1984 c. 12.

(6) 1836 c. cxi.

the Manchester and Leeds Railway Act 1837(7),
the Manchester and Leeds Railway Act 1839(8),
the Manchester and Leeds Railway Act 1844(9),
the Manchester and Leeds Railway Act No. 1 1845(10),
the Manchester and Leeds Railway Act No. 2 1845(11),
the Manchester and Leeds Railway Act No. 3 1847(12),
the Lancashire and Yorkshire Railway (New Works and Additional Powers) Act 1874(13),
the Lancashire and Yorkshire Railway Act 1891(14), and
the Lancashire and Yorkshire Railway Act 1897(15).

As to crossing of road on the level

9.—(1) The Councils may in the construction of the light railway carry the same with a double line of rails across and on the level of the road known as Green Lane.

(2) The rails of the railway shall be laid and maintained within the areas of the level crossing so constructed.

For the protection of the Environment Agency

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

(2) Nothing in this Order or in any enactment incorporated with or applied by this Order shall prejudice or affect the operation of section 109 of the Water Resources Act 1991(16) or any byelaws made under that Act or the Land Drainage Act 1991(17) in relation to anything done under or in pursuance of this Order.

(3) Before carrying out any works involving the erection or raising of any obstruction to the flow of any watercourse or the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any watercourse in, under or through any land held for the purposes of or in connection with the light railway, the Councils shall furnish to the Agency proper and sufficient plans thereof for the approval of the Agency and shall not carry out the said works until the said plans have been approved in writing by the Agency.

(4) For the purposes of paragraph (3), “plans” includes sections, drawings, specifications, calculations and descriptions.

(5) Any culvert or any structure designed to contain or divert the flow of any watercourse situated within any land held for the purposes of or in connection with the light railway, whether constructed under the powers of this Order or in existence prior to the making hereof, shall be maintained by the Councils in good repair and condition and free from obstruction.

(7) 1837 c. xxiv.

(8) 1839 c. lv.

(9) 1844 c. xvi.

(10) 1845 c. clxxi.

(11) 1845 c. liv.

(12) 1847 c. clxiii .

(13) 1874 c. cii.

(14) 1891 c. xcix.

(15) 1897 c. cxxx.

(16) 1991 c. 57.

(17) 1991 c. 59.

(6) If any obstruction is erected or raised or any culvert is constructed, altered or replaced in contravention of this article, the Councils 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 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 Councils as a debt due from them to the Agency.

(7) Any dispute or difference which may arise between the Agency and the Councils under this article shall be referred to and determined by a single arbitrator to be agreed between the parties or, failing such agreement, to be appointed by the President of the Institution of Civil Engineers on application of either party (after notice in writing to the other).

(8) The provisions of the Railways Clauses Consolidation Act 1845 applied by this Order shall be subject to the provisions of this article.

For the protection of public gas transporters

11. Nothing in this Order shall prejudice or affect the statutory or other rights of any public gas transporter within the meaning of Part I of the Gas Act 1986⁽¹⁸⁾ in or relating to any gas pipe, main or apparatus belonging to it or for the maintenance of which it is responsible, or any structure for the lodging therein of any gas pipe, main or apparatus, being any gas pipe, main or apparatus or structure situate under, over or upon lands in or upon or near to which the light railway or any part thereof is constructed.

Signed by authority of the Secretary of State for Transport, Local Government and the Regions

Ellis Harvey
Head of the Transport and Works Act Processing
Unit,
Department for Transport, Local Government
and the Regions

15th May 2002

⁽¹⁸⁾ 1986 c. 44; the term "public gas transporter" is defined in section 7(1) as substituted by section 5 of the Gas Act 1995 (c. 45).