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STATUTORY INSTRUMENTS

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**2023 No. 815**

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

PART 1

PRELIMINARY

**Citation and commencement**

1. This Order may be cited as the Rother Valley Railway (Bodiam to Robertsbridge Junction) Order 2023 and comes into force on 2nd August 2023.

**Interpretation**

2.—(1) In this Order—

“the 1845 Act” means the Railways Clauses Consolidation Act 1845(1);

“the 1961 Act” means the Land Compensation Act 1961(2);

“the 1965 Act” means the Compulsory Purchase Act 1965(3);

“the 1980 Act” means the Highways Act 1980(4);

“the 1981 Act” means the Compulsory Purchase (Vesting Declarations) Act 1981(5);

“the 1984 Act” means the Road Traffic Regulation Act 1984(6);

“the 1990 Act” means the Town and Country Planning Act 1990(7);

“the 1991 Act” means the New Roads and Street Works Act 1991(8);

“the 2003 Act” means the Communications Act 2003(9);

“address” includes any number or address used for the purposes of electronic transmission;

“authorised works” means the new railway and any other works authorised by this Order, or any part of them;

“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” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

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(1) 1845 c. 20.  
(2) 1961 c. 33.  
(3) 1965 c. 56.  
(4) 1980 c. 66.  
(5) 1981 c. 66.  
(6) 1984 c. 27.  
(7) 1990 c. 8.  
(8) 1991 c. 22.  
(9) 2003 c. 21.

“building” includes any structure or erection or any part of a building, structure or erection;  
“carriageway” has the same meaning as in section 329(1) (further provision as to interpretation) of the 1980 Act;

“the Company” means Rother Valley Railway Limited (Company number 02613553) whose registered office is at Robertsbridge Junction Station, Station Road, Robertsbridge, East Sussex, TN32 5DG;

“electronic transmission” means a communication transmitted—

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form,

and in this definition “electronic communications network” has the same meaning as in section 32(1)(10) (meaning of electronic communications networks and services) of the 2003 Act;

“the existing railways” means the railways specified in Part 2 of Schedule 1 (the railway) together with all lands and works relating to the existing railways vested in the Company at the date this Order is made and held or used by the Company for the purposes of its railway undertaking;

“footpath” and “footway” have the same meanings as in section 329(1) (further provision as to interpretation) of the 1980 Act;

“highway” and “highway authority” have the same meanings as in section 328 (meaning of “highway”) and section 1 (highways authorities: general provision) of the 1980 Act;

“KESR” means the Kent and East Sussex Railway Company Limited, a charitable company limited by guarantee (Registered charity no. 262481 and private company limited by guarantee without share capital (Company number 01007871) whose registered office is at Tenterden Town Station, Station Road, Tenterden, Kent, TN30 6HE;

“limits of deviation” means the limits of deviation for the Railway shown on the Order plans;

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

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

“the new railway” means the railway specified in Part 1 of Schedule 1 together with all lands and works relating to that railway;

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

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

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

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

“owner” in relation to land, has the same meaning as in section 7 (interpretation) of the Acquisition of Land Act 1981(11);

“the railway” means the new railway and the existing railways;

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(10) Section 32(1) was amended by S.I. 2011/1210.

(11) 1981 c. 67. The definition of “owner” was amended by paragraph 9 of Schedule 15 to the Planning and Compensation Act 1992 (c. 34). There are other amendments to section 7 which are not relevant to this Order.

“road hump” has the same meaning as in section 329(1)(12) (further provision as to interpretation) the 1980 Act;

“statutory undertaker” means—

- (a) any person who is a statutory undertaker for any of the purposes of the 1990 Act; and
- (b) any public communications provider within the meaning of section 151(1) of the 2003 Act;

“street” includes part of a street;

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

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

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

(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) References in this Order to numbered plots are references to plot numbers on the Order plans.

(4) All distances, directions and lengths referred to in this Order are approximate and distances between points on an authorised work are taken to be measured along that work.

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

### **Incorporation of Railway Clauses Acts**

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

section 58(13) (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 75 (omission to fasten gates);

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

sections 78 to 83 and 85 to 85E(14) and Schedules 1 to 3 (minerals under railways);

section 103(15) (refusal to quit carriage at destination);

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

section 145(16) (recovery of penalties).

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

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(12) The definition of “road hump” was inserted by section 32 of, and paragraph 1 of Schedule 6 to, the Transport Act 1981 (c. 56).

(13) There is one amendment to section 58 that is not relevant to this Order.

(14) Sections 78 to 83 and 85 to 85E were substituted by section 15 of the Mines (Working Facilities and Support) Act 1923 (c. 20).

(15) Section 103 was amended by the Statute Law Revision Act 1892 (c. 19), Part 3 of Schedule 7 to the Justices of the Peace Act 1949 (c. 101) and section 46 of the Criminal Justice Act 1892 (c. 48).

(16) Section 145 was amended by the Statute Law Revision Act 1892 and Part 2 of Schedule 12 to the Transport Act 1962 (c. 46).

“the company” means the Company;

“goods” includes anything conveyed on the railway;

“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 the new railway authorised to be constructed by this Order, the existing railways and any other authorised work;

“the special Act” means this Order; and

“toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any railway authorised to be constructed by this Order.

### Application of the 1991 Act

4.—(1) Works executed under this Order in relation to a highway which consists of or includes a carriageway are to be treated for the purposes of Part 3 (street works in England and Wales) of the 1991 Act as major transport works if—

- (a) they are of a description mentioned in any of the paragraphs (a), (c) to (e), (g) and (h) of section 86(3) (which defines what highway authority works are major highway works) of that Act; or
- (b) they are works which, had they been executed by the highway authority, might have been carried out in exercise of the powers conferred by section 64(17) of the Highways Act 1980 (dual carriageways and roundabouts).

(2) The provisions of the 1991 Act mentioned in paragraph (3) (which, together with other provisions of that Act, apply in relation to the carrying out street works) and any regulations made or code of practice issued or approved under those provisions apply (with the necessary modifications) in relation to the temporary stopping up, temporary alteration or temporary diversion of a street by the Company under the powers conferred by article 12 (temporary stopping up of streets) and the carrying out of works under article 10 (power to execute street works) whether or not the stopping up, alteration or diversion, or the carrying out of such works, constitutes street works within the meaning of that Act.

(3) The provisions of the 1991 Act(18) referred to in paragraph (2) are—

- section 54(19) (advance notice of certain works), subject to paragraph (4);
- section 55(20) (notice of starting date of works), subject to paragraph (4);
- section 59(21) (general duty of street authority to co-ordinate works);
- section 60 (general duty of undertakers to co-operate);
- section 68 (facilities to be afforded to street authority);
- section 69 (works likely to affect other apparatus in the street);
- section 76 (liability for cost of temporary traffic regulation);
- section 77 (liability for cost of use of alternative route);

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(17) Section 64 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51) and section 168(2) of the 1991 Act.

(18) Sections 54, 55, 57, 60, 68 and 69 were amended by section 40(1) and (2) of, and Schedule 1 to, the Traffic Management Act 2004 (c. 18).

(19) Section 54 was also amended by section 49(1) of the Traffic Management Act 2004.

(20) Section 55 was also amended by sections 49(2) and 51(9) of the Traffic Management Act 2004.

(21) Section 59 was amended by section 42 of the Traffic Management Act 2004.

and all such provisions as apply for the purposes of the provisions mentioned above.

(4) Sections 54 and 55 of the 1991 Act as applied by paragraph (2) have effect as if references in section 57 of that Act to emergency works included a reference to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

### **Disapplication of legislative provisions**

5.—(1) The following provisions do not apply in relation to any works executed under the powers conferred by this Order—

- (a) regulation 12(1)(a) (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016<sup>(22)</sup> in relation to the carrying out of a relevant flood risk activity;
- (b) section 23 (prohibition on obstacles etc. in watercourses) of the Land Drainage Act 1991<sup>(23)</sup>; and
- (c) the provisions of any byelaws made under, or having effect as if made under, section 66 (powers to make byelaws) of the Land Drainage Act 1991, which require consent or approval for the carrying out of the works.

(2) (In this article, “flood risk activity” means an activity described in paragraph 3(1)(a), (b) or (c) of Schedule 25 (flood risk activities and excluded flood risk activities) to the Environmental Permitting (England and Wales) Regulations 2016.

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<sup>(22)</sup> S.I. 2016/1154.

<sup>(23)</sup> 1991 c. 59.