
STATUTORY INSTRUMENTS

1993 No. 2154

TRANSPORT

The East Kent Light Railway Order 1993

Made - - - - *31st August 1993*

Coming into force - - *1st September 1993*

The Secretary of State for Transport, on the application of the East Kent Light Railway Society, and in the exercise of powers conferred by sections 7, 9, 10, 11, 12, 18 and 24 of the Light Railways Act 1896(1), and section 121(4) of the Transport Act 1968(2), and now vested in him(3), and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the East Kent Light Railway Order 1993 and shall come into force on 1st September 1993.

(2) This Order and the East Kent Light Railway Orders 1911–1931 may together be cited as the East Kent Light Railway Orders 1911–1993.

Interpretation

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the Board” means the British Railways Board;

“the day of transfer” means the day on which the freehold of the Railway Land is transferred to the Society by virtue of an Agreement made under article 4 (Transfer of rights etc. in the Railway to the Society) of this Order;

“the East Kent Light Railway Orders 1911–1931” means the East Kent Light Railways Order 1911(4), the East Kent Light Railways (Extensions) Order 1911(5), the East Kent

(1) 1896 c. 48; sections 7 and 9 were repealed in part by the Railways Act 1921 (c. 55), section 86(2) and Schedule 9; section 10 was repealed in part by the Statute Law (Repeals) Act 1986 (c. 12), Schedule 1; section 11 was amended by the Light Railways Act 1912 (c. 19), section 5(3), and the Railways Act 1921, section 73(1), and was repealed in part and further amended in respects not relevant to this Order; section 12 was repealed in part by the Finance Act 1929 (c. 21), section 6 and Schedule; section 24 was amended by the Light Railways Act 1912, section 6 and the Railways Act 1921, section 73(2).

(2) 1968 c. 73.

(3) Railways Act 1921, section 68(1), and S.I.1970/1681, 1979/571 and 1981/238.

(4) 1911 Cd. 5771.

(5) 1911 Cd. 5917.

Light Railways (Extensions) Order 1912(6), the East Kent Light Railways (Extensions) Order 1920(7) and the East Kent Light Railways (Extensions and General Powers) Order 1931(8);

“the Lease” means the lease of the Railway Land dated 11th August 1992 between the Board and the Society and any subsequent lease between the same parties of the Railway Land;

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

“the Railway” means the railway more particularly described in the Schedule to this Order including all lands and works relating thereto;

“the Society” means the East Kent Light Railway Society registered as Charity No 297767 on 16th November 1987 and having its office at East Kent Railway Station, Station Road, Shepherdswell, Dover CT15 7PD;

“the Railway Land” means the land held by the Board in connection with the Railway;

“statutory undertaker” means:

- (a) any person who is a statutory undertaker for any of the purposes of the Town and Country Planning Act 1990(9);
- (b) any other person who exercises functions under the Land Drainage Act 1991(10); or
- (c) the operator of a telecommunication code system to whom the telecommunications code has been applied under section 10 of the Telecommunications Act 1984(11).

(2) References in this Order to grid references refer to the map co-ordinates on the National Grid used by the Ordnance Survey and shall be construed as if the words “or thereabouts” were inserted after each grid reference.

(3) As soon as practicable after the day of transfer the Society shall publish in the London Gazette and in one or more local newspapers circulating in the locality where the Railway is situated a notice stating that the day has occurred and that accordingly the functions and property of the Board in relation to the Railway have been transferred to the Society.

Incorporation of General Acts

3.—(1) Section 16 (Works to be executed), sections 18 to 23 (Protection of gas and water mains) and section 87 (Company empowered to contract with other companies) of the Railways Clauses Consolidation Act 1845(12) are incorporated with and form part of this Order, so far as the same are applicable for the purposes and are not inconsistent with or varied by the provisions of this Order, and this Order shall be deemed to be the special Act for the purposes of the said incorporated provisions.

(2) Subject to the provisions of this Order, such of the enactments set out in the Second Schedule of the principal Act as are still in force except section 22 of the Regulation of Railways Act 1868(13) (Communication between passengers and the Company’s servants to be provided) and section 1 (Power to order certain provisions to be made for public safety) and section 5 (Penalty for avoiding payment of fare) of the Regulation of Railways Act 1889(14) shall not apply to the Railway.

(3) In its application to the Railway, the said section 22 of the Regulation of Railways Act 1868 shall be read, construed and have effect as if the words “and travels more than twenty miles without stopping” were omitted therefrom.

(6) 1912 Cd. 6500.
(7) 1920 Cd. 1004.
(8) SR & O 1931/430.
(9) 1990 c. 8.
(10) 1991 c. 59.
(11) 1984 c. 12.
(12) 1845 c. 20.
(13) 1868 c. 119.
(14) 1889 c. 57.

(4) Without prejudice to the foregoing provisions of this article, sections 116 to 119 of the Transport Act 1968 shall apply to the Railway as if references in those sections to the Board were references to the Society.

Transfer of rights etc. in the Railway to the Society

4.—(1) The Board and the Society may enter into and carry into effect agreements providing for the transfer to and vesting in the Society of the Railway on such terms and conditions as may be agreed between the Board and the Society.

(2) During the continuation of the Lease and thereafter from the day of transfer:—

- (a) the Railway shall be subject to the same statutory and other provisions as were applicable thereto when the Railway Land was in the ownership and occupation of the Board (insofar as the same are still subsisting and capable of taking effect) and the Society shall to the exclusion of the Board be entitled to the benefit of, and to exercise, all rights, interests, powers and privileges and be subject to all obligations, whether statutory or otherwise, relating thereto as were in effect when the Railway Land was in the ownership and occupation of the Board (insofar as the same are still subsisting and capable of taking effect) to the intent that the Board shall be released from all such obligations.
- (b) The Society may work the Railway as a light railway under the principal Act and in accordance with the provisions of this Order.

Gauge of the Railway and motive power

5. The Railway shall be operated on a gauge of 1.435 metres (4 feet 8½ inches) and the motive power shall be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Secretary of State may approve:

Provided that nothing in this Order shall authorise 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:

Provided also that, if electrical power is used as motive power on the railway, such electrical power shall not be used in such a manner as to cause or be likely to cause any interference with any telecommunication apparatus as defined in Schedule 2 to the Telecommunications Act 1984 or with telecommunication by means of any such apparatus.

Restrictions as to conveyance of passengers

6. No part of the railway shall be used for the conveyance of passengers without the prior written permission of the Secretary of State and the Society shall comply with the conditions (if any) which the Secretary of State may from time to time prescribe for the safety of persons using the Railway.

For protection of public gas suppliers

7. Nothing in this Order shall prejudice or affect the rights of any public gas supplier, within the meaning of Part I of the Gas Act 1986(15), in any apparatus belonging to them or for the maintenance of which they are responsible, or any structure for the lodging therein of apparatus, being any apparatus or structure situate under, over or upon lands in or upon which the Railway is constructed.

(15) 1986 c. 44.

Works on the Railway

8.—(1) Subject to the provisions of this Order, the Society, subject to obtaining by agreement the necessary rights in or over land, and subject to obtaining any necessary consent under the Town and Country Planning Act 1990, may execute, place, maintain and operate on over and adjacent to the Railway such ancillary works and equipment as are required for or in connection with the exercise by it any of its powers and may alter, renew or extend any such ancillary works so constructed or placed.

(2) In the exercise of the powers granted by this article the Society shall not—

- (a) interfere with or damage or otherwise injuriously affect any apparatus belonging to or maintained by any statutory undertaker; or
- (b) do anything which will obstruct or impede any work relating to the inspection, repair or replacement of any such apparatus.

without the consent of the statutory undertaker concerned.

(3) In this article “works” means works of any description.

For the protection of sewerage and water undertakers

9. For the protection of sewerage and water undertakers (in this article referred to as “the undertakers”) the following provisions shall, unless otherwise agreed in writing between the Society and the undertaker concerned, apply and have effect:—

(1) In this article, “relevant pipe” in relation to an undertaker has the meaning given in section 158 of the Water Industry Act 1991(16);

(2) Nothing in section 18 of the Railways Clauses Consolidation Act 1845 in its application to the Railway shall authorise the Society to raise, sink or otherwise alter the position of, or in any way to interfere with, any relevant pipe without the consent in writing of the undertaker concerned, such consent not to be unreasonably withheld;

(3) Where any relevant pipe is situated in or under any land owned or held for the purpose of the Railway the Society shall at their own expense maintain all culverts over such relevant pipe which are in existence at the coming into force of this Order so as to leave the relevant pipe accessible for the purpose of repairs;

(4) The Society shall afford reasonable facilities to the undertakers for the execution and doing of all such works and things as may be reasonably necessary to enable them to inspect, repair, maintain, renew, replace, remove, alter or use any relevant pipe;

(5) The Society shall compensate the undertakers:—

- (a) for any damage done or disturbance caused to any relevant pipe; and
- (b) for any other expenses, loss, damages, penalty or costs incurred by the undertakers,

by reason or in consequence of the execution, maintenance, user or failure of any of the works authorised by this Order or otherwise by reason or in consequence of the exercise by the Society of the powers of this Order:

Provided that nothing in this paragraph shall entitle the undertakers to any payment in respect of damage attributable to the neglect or default of the undertakers, their servants or agents;

(6) Nothing in this Order shall prejudice or affect the rights of the undertakers in respect of any relevant pipe or the provisions of any agreement regulating the relationship between the Society and the undertakers with regard to any relevant pipe and whether made before or after this Order comes into force;

(16) 1991 c. 56.

(7) The provisions of the Railway Clauses Consolidation Act 1845 applied by this Order shall be subject to the provisions of this article;

(8) Any difference arising between the Society and the undertakers under this article shall be referred to and settled by a single arbitrator to be agreed between the parties, or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

For protection of the public electricity suppliers

10. Nothing in this Order shall prejudice or affect the rights of any public electricity supplier, within the meaning of Part 1 of the Electricity Act 1989⁽¹⁷⁾, in any apparatus belonging to them, or for the maintenance of which they are responsible, or any structure for the lodging therein of apparatus, being any apparatus or structure situate under, over or upon lands in or upon which the Railway may be constructed.

Signed by authority of the Secretary of State for Transport

31st August 1993

J. R. Coates
An Under Secretary in the
Department of Transport

(17) 1989 c. 29.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Article 2(1)

THE RAILWAY

For the purposes of this Order, “the Railway” means so much of the railway authorised by the East Kent Light Railway Orders 1911 to 1931 in the parishes of Shepherdswell and Eythorne in the County of Kent as lies between a point 3 metres beyond the north east bridge abutment adjacent to Wigmore Lane which point is situate approximately 1 kilometre to the north east of Lower Eythorne at Grid Reference TR 2853 5003 and the gate erected across the railway in the vicinity of Shepherdswell at Grid Reference TR 2575 4837 and includes all the lands held by the Board relating to the said railway and lying between those points.