
STATUTORY INSTRUMENTS

1997 No. 1688

The Golden Valley Railway Order 1997

Citation and commencement

1. This Order may be cited as the Golden Valley Railway Order 1997 and shall come into force on 29th July 1997.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

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

“the Applications Rules” means the Transport and Works (Applications and Objections Procedure) Rules 1992;

“authorised works” means the scheduled works and any other works authorised by this Order;

“existing” means existing at the coming into force of this Order;

“the existing railway” means the railway described in Schedule 1 to this Order;

“the limits of deviation” means the limits of deviation for the scheduled works shown on the works plan;

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

“the railways” means the existing railway, Work No. 1 and Work No. 2 as described in Schedule 2 or any of them, as the case may require, together with all lands and works relating thereto and, where in the case of Work No. 1 or Work No. 2 any part of those works remains uncompleted, the expression includes the site of that part;

“the scheduled works” means the works specified in Schedule 2 to this Order;

“the sections” means the sections described in rule 7(2) of the Applications Rules prepared in connection with the application for this Order and certified by the Secretary of State as “the sections” for the purposes of this Order;

“the undertaker” means the Midland Railway Trust Limited having its registered office at Butterley Station, Ripley, Derbyshire;

“the works plan” means the plan described in rule 7(1)(a) of the Applications Rules prepared in connection with the application for this Order and certified by the Secretary of State as “the works plan” for the purposes of this Order.

(2) In this Order, all distances, lengths, measurements and directions stated in any description of works, powers or lands shall be construed as if the words “or thereabouts” were inserted after each such distance, length, measurement and direction, and distances between points on a railway shall be taken to be measured along the railway.

(3) Any reference in this Order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this Order.

(1) 1845 c. 20.

Incorporation and application of enactments

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

section 24 (obstructing construction of railway);

section 58 (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 such 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);

sections 78 to 85E and Schedules 1 to 3 (minerals under railways) as respectively substituted and inserted by section 15 of the Mines (Working Facilities and Support) Act 1923(2);

section 87 (company empowered to contract with other companies);

sections 103 and 104 (refusal to quit carriage at destination);

section 105 (carriage of dangerous goods on railway);

sections 115 to 119 (engines and carriages not to be used on the railway unless approved; unfit engines to be removed);

section 145 (recovery of penalties); and

section 154 (transient offenders).

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

“the company” means the undertaker;

“goods” includes any thing conveyed on the railways;

“prescribed”, in relation to any such provision, means prescribed by this Order for the purposes of that provision;

“the railway” means the railways;

“the special Act” means this Order;

“toll” includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on the railways.

(3) In its application to the railways, section 24 of the said Act of 1845 shall have effect as if the maximum fine which may be imposed on summary conviction for an offence under that section were, instead of a fine not exceeding level 2 on the standard scale, a fine not exceeding level 3 on the standard scale.

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

Power to maintain existing railway

4. The undertaker may maintain the existing railway.

(2) 1923 c. 20.

(3) 1868 c. 119.

Power to construct and maintain new works

5.—(1) The undertaker may construct and maintain the scheduled works.

(2) Subject to article 8 below, the scheduled works shall be constructed in the lines or situations shown on the works plan and in accordance with the levels shown on the sections.

(3) Following the completion of Work No. 3 the undertaker may fill in so much of the unnamed stream in the county of Derbyshire, borough of Amber Valley, parish of Ripley as is situated between the points marked “A” and “B” on the works plan.

Gauge of railways

6. The existing railway shall be maintained and Works Nos. 1 and 2 shall be constructed and maintained on a gauge of 610 millimetres (2 feet).

Further powers as to works

7.—(1) Subject to paragraph (3) below, the undertaker may on any land in which it has a sufficient interest carry out and maintain such of the following works as may be necessary or expedient for the purposes of, in connection with or in consequence of, the construction of the authorised works namely—

- (a) works to alter the position of apparatus, including mains, sewers, drains and cables,
- (b) works to alter the course of, or otherwise interfere with, non-navigable rivers, streams or watercourses,
- (c) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised works, and
- (d) works for the benefit or protection of premises affected by the authorised works.

(2) Subject to paragraph (3) below, the undertaker may on any land in which it has a sufficient interest carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, in connection with or in consequence of, the maintenance of the existing railway or the construction and maintenance of the scheduled works.

(3) Paragraphs (1) and (2) above shall not authorise the carrying out or maintenance of works to alter the course of, or otherwise interfere with, navigable rivers or watercourses or (in relation to the scheduled works) of works outside the limits of deviation.

Power to deviate

8. In constructing or maintaining the scheduled works the undertaker may—

- (a) deviate laterally from the lines or situations shown on the works plan within the limits of deviation for that work shown on that plan;
- (b) deviate vertically from the levels shown on the sections to any extent not exceeding 2 metres upwards or downwards.

Level crossing

9.—(1) The undertaker may in the construction of Work No. 1 make a level crossing (“the level crossing”) with a single line of rails across footpath No. 76 in the parish of Ripley.

(2) The undertaker shall observe the requirements specified in Schedule 3 to this Order in relation to the level crossing.

(3) The undertaker shall not be required to erect or maintain a station or lodge at the level crossing or to provide keepers.

Operation of railways

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

(2) Subject as below, the motive power to be used on the railways shall be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Secretary of State may in writing approve.

(3) Nothing in this Order shall authorise the use of electrical power as motive power on the railways 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 railways, 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⁽⁴⁾) or with telecommunication by means of such apparatus.

Maintenance of approved works, etc.

11.—(1) Where pursuant to the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994⁽⁵⁾ approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part of the railways such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given unless any change thereto does not materially impair the safe operation of the railways.

(2) If without reasonable cause the provisions of paragraph (1) above are contravened, the undertaker shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Health and Safety Executive or the Director of Public Prosecutions.

Certification of plans, etc.

12. The undertaker shall, as soon as practicable after the making of this Order, submit at least one copy of each of the sections and of the works plan to the Secretary of State for certification that they are true copies of the sections and the works plan referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

For protection of Environment Agency

13.—(1) For the protection of the Environment Agency (in this article referred to as “the Agency”) the provisions of this article shall, unless otherwise agreed in writing between the undertaker 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⁽⁶⁾ or any byelaws made under that Act or the Land Drainage Act 1991⁽⁷⁾ in relation to anything done under or in pursuance of this Order.

(4) 1984 c. 12.

(5) S.I.1994/157.

(6) 1991 c. 57.

(7) 1991 c. 59.

- (a) (3) (a) Before constructing Work No. 3 or carrying out any other works involving the erection of any obstruction to the flow of any watercourse which is not part of a main river within the meaning of section 113 of the Water Resources Act 1991 or the construction, alteration or replacement of any culvert or any structure designed to contain or divert the flow of any such watercourse in, under or through any land held for the purposes of or in connection with the railways the undertaker 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.
- (b) Approval of plans furnished under this paragraph shall not be unreasonably withheld and, if within 2 months after such plans have been supplied to the Agency, it shall not have intimated its disapproval thereof and the grounds of its disapproval, it shall be deemed to have approved the plans as supplied.
- (c) For the purposes of this paragraph, “plans” includes sections, drawings, specifications, calculations and descriptions.
- (d) Any consent granted by the Agency under section 23 of the Land Drainage Act 1991 before the coming into force of this Order in relation to any works for which approval would otherwise be required under this paragraph shall be deemed to be an approval under this paragraph.
- (a) (4) (a) 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 railways, whether constructed under the powers of this Order or in existence prior to the making hereof, shall be maintained by the undertaker in good repair and condition and free from obstruction.
- (b) Nothing in this paragraph shall have the effect of requiring the undertaker to carry out works of maintenance in respect of any culvert or structure which the Agency or any other person is liable to maintain.
- (5) If any obstruction is erected or any culvert is constructed, altered or replaced in contravention of this article the undertaker 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 undertaker as a debt due from it to the Agency.
- (6) Any dispute or difference which may arise between the Agency and the undertaker under this article shall be determined by arbitration of 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 for the time being of the Institution of Civil Engineers.
- (7) The provisions of the Act of 1845 applied by this Order shall be subject to the provisions of this article.

Signed by authority of the Secretary of State for Transport

A. S. D. Whybrow
Head of Traffic Policy Division,
Department of the Environment, Transport and
the Regions

8th July 1997