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STATUTORY INSTRUMENTS

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**2009 No. 3281**

**The South Devon Railway Order 2009**

**PART 1**

**PRELIMINARY**

**Citation and commencement**

1. This Order may be cited as the South Devon Railway Order 2009 and shall come into force on 30th December 2009.

**Interpretation**

2.—(1) In this Order—

“the altered railways” means the railways specified in Part 2 of Schedule 1 (“the railways”), together with all lands and works relating to the altered railways vested in the owner or the undertaker, as the case may be, at the date on which this Order is made and are held or used by the owner or the undertaker, as the case may be, for the purposes of its railway undertaking;

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

“the deposited plans” and “the deposited sections” mean respectively the plans and sections certified by the Secretary of State as the plans and sections for the purposes of this Order;

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003(1);

“the existing railways” means the original railways and the altered railways;

“the limits of deviation” means the limits of deviation shown on the deposited plans;

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

“the new railways” means the railways specified in Part 3 of Schedule 1 together with all lands and works relating to those railways;

“the original Acts” means the Buckfastleigh, Totnes and South Devon Railway Act 1864(2) and the Buckfastleigh, Totnes and South Devon Railway Act 1865(3);

“the original railways” means the railways specified in Part 1 of Schedule 1, together with all lands and works relating to those railways vested in the owner or the undertaker, as the case may be, at the date upon which this Order is made and are held or used by the owner or the undertaker, as the case may be, for the purposes of its railway undertaking;

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(1) 2003 c. 21.

(2) 1864 c. cclviii.

(3) 1865 c. xli.

“the owner” means Dart Valley Railway Plc a company incorporated under the Companies Acts 1948 to 1967 (registration number 00852020) as a public limited company and whose registered office is at Queens Park Station, Torbay Road, Paignton, Devon TQ4 6AF;

“the railways” means the original railways, the altered railways and the new railways;

“the transfer date”, in relation to any part of the existing railways, means the date on which that part is sold by the owner to the undertaker under article 9 (transfer of railways to undertaker); and

“the undertaker” means the South Devon Railway Trust, a company incorporated under the Companies Acts 1948 to 1967 (registration number 01157099) as a company limited by guarantee and whose registered office is at The Station, Buckfastleigh, Devon, TQ11 0DZ.

(2) All distances, directions and lengths stated in the descriptions of the railways or in any description of powers or lands are approximate; and distances between points on a railway shall be taken to be measured along the railway.

### **Incorporation of Railways Clauses Consolidation Act 1845**

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845<sup>(4)</sup> shall be incorporated in this Order and shall be applied to the new railways—

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

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<sup>(5)</sup>; and

section 145 (recovery of penalties).

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

“the company” means the undertaker;

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

“the special Act” means this Order.

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(4) 1845 c. 20.

(5) 1923 c. 20.