

2014 No. 1604

TRANSPORT AND WORKS, ENGLAND

TRANSPORT, ENGLAND

The Swanage Railway Order 2014

Made - - - - *5th June 2014*

Coming into force - - *26th June 2014*

An application has been made to the Secretary of State, in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(a), for an Order under sections 1 and 5 of the Transport and Works Act 1992(b) (“the 1992 Act”).

The Secretary of State has determined to make an order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any substantial change in the proposals.

Notice of the Secretary of State’s determination was published in the London Gazette on 3rd June 2014.

The Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1, 8, 15 and 17 of Schedule 1 to, the 1992 Act, makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Swanage Railway Order 2014 and comes into force on 26th June 2014.

(2) The Swanage Light Railway Order 1987(c) and the Swanage Light Railway (Extension) Order 1993(d) and this Order may be cited together as the Swanage Railway Orders 1987 to 2014.

Interpretation

2.—(1) In this Order—

(a) S.I. 2006/1466, amended by S.I. 2010/439, S.I. 2011/556, S.I. 2011/2085, S.I. 2012/147, S.I. 2012/1658, S.I. 2012/2590 and S.I. 2013/755.
(b) 1992 c. 42; section 1 was amended by the Planning Act 2008 (c. 29), Schedule 2, paragraphs 51 and 52; section 5 was amended by S.I. 2012/1659.
(c) S.I. 1987/1443.
(d) S.I. 1993/1607.

“the Company” means the Swanage Railway Company Limited (Company No. 01412568) incorporated under the Companies Act 1948(a) and having its registered office at The Station House, Swanage, Dorset BH19 1HB;

“lease” includes an underlease and “lease” where used as a verb is to be construed accordingly;

“Network Rail” means Network Rail Infrastructure Limited (Company registration number 02904587) whose registered office is at Kings Place, 90 York Way, London, N1 9AG and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006(b)) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“the railway” means the railway described in the Schedule together with all lands and works relating to it which are held by the Company or Network Rail at the date when this Order comes into force;

“the relevant date” means in relation to any part of the railway, the date upon which that part is sold or leased by any person to the Company;

“the undertaker” means the Company and following any sale or lease under article 4 (transfer of railway by undertaker) this expression means or includes the transferee within the meaning of that article.

(2) Any enactments by which the construction and operation of the railway were authorised have effect subject to the provisions of this Order.

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

Transfer of rights and obligations to undertaker, etc.

3.—(1) Except as may be otherwise provided in this Order, as from the relevant date—

- (a) the railway or any part of it continues to be subject to all statutory and other provisions applicable to the railway at that date (in so far as those provisions continue in force and are capable of taking effect); and
- (b) the undertaker is to the exclusion of Network Rail—
 - (i) entitled to the benefit of, and to exercise, all rights, powers and privileges relating to the railway or any part of it; and
 - (ii) subject to paragraph (2), subject to all obligations, statutory or otherwise, relating to the railway or any part of it (in so far as those provisions continue in force and are capable of taking effect), with Network Rail released from all such obligations.

(2) As from the relevant date sections 116 (transfer of responsibility for maintenance of highways on bridges over certain railways, inland waterways, etc.) to 118 (duty of highway authorities, etc., as respects bridges over certain railways or inland waterways) of the Transport Act 1968(c) apply to the railway or to the relevant part of it as if references to the British Railways Board were references to the undertaker.

(a) 1948 c. 38.

(b) 2006 c. 46.

(c) 1968 c. 73; section 116 was amended by the Local Government Act 1972 (c. 70), section 272 and Schedule 30, S.I. 1996/420, S.I. 2003/1615 and S.I. 2012/1659; section 117 was amended by the Road Traffic Regulation Act 1984 (c. 27), section 146 and Schedule 13, paragraph 7, S.I. 1996/420, S.I. 2000/3251, S.I. 2003/1615, S.I. 2012/1659, S.I. 2013/2314; section 118 was amended by the New Roads and Street Works Act 1991 (c. 22), section 168(2) and Schedule 9, S.I. 1996/420, S.I. 2003/1615, S.I. 2012/1659, 2013/2314.

Transfer of railway by undertaker

4.—(1) In this article—

“the transferor” means any person by whom the railway, or any part of it, is leased or sold under the powers conferred by this article;

“the transferee” means any person to whom the railway, or any part of it, is leased or sold under the powers conferred by this article; and

“the transferred undertaking” means so much of the railway as is leased or sold under the powers conferred by this article.

(2) At any time after the relevant date the undertaker may, with the consent of the Secretary of State, sell or lease the railway or any part of it to any person on such terms and conditions as may be agreed between the undertaker and that person.

(3) Except as otherwise provided in this Order—

(a) the transferred undertaking continues to be subject to all statutory and other provisions applicable to it at the date of the sale or lease (in so far as those provisions continue in force and are capable of taking effect); and

(b) the transferee is, to the exclusion of the transferor—

(i) entitled to the benefit of, and to exercise, all rights, powers and privileges relating to the transferred undertaking; and

(ii) subject to all obligations, statutory or otherwise, relating to the transferred undertaking (in so far as those provisions continue in force and are capable of taking effect), with the transferor released from all such obligations.

(4) Paragraph (3) has effect during the term of any lease granted, and from the operative date of any sale, under the powers conferred by this article.

Operation of railway

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

(2) Subject to paragraphs (3) and (4), the motive power to be used on the railway is to be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Office of Rail Regulation may in writing approve.

(3) Nothing in this Order authorises 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.

(4) If electrical power is used as motive power on the railway, such electrical power must not be used in such a manner as to cause, or be likely to cause, any interference with any electronic communications apparatus or with the use of such apparatus.

(5) Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993(a).

(a) 1993 c. 43. As amended by the Transport Act 2000 (c. 38), Railways and Transport Safety Act 2003 (c. 43) and the Railways Act 2005 (c. 14).

(6) In this article—

“electronic communications apparatus” has the same meaning as in the electronic communications code, being the code as defined by section 106 of the Communications Act 2003(a).

Signed by authority of the Secretary of State for Transport

Martin Woods

Head of the Transport and Works Act Orders Unit
Department for Transport

5th June 2014

SCHEDULE THE RAILWAY

Article 2

A portion (4708 metres in length) of the railway authorised by the Swanage Railway Act 1881(b) in the County of Dorset, District of Purbeck, commencing in the parish of Arne at a point 587 metres from the junction (Worgret Junction) with the Poole to Weymouth line of Network Rail and terminating in the parish of Corfe Castle (Norden) at a junction with the railway authorised by the Swanage Light Railway (Extension) Order 1993, 527 metres west of the bridge carrying the A351 road between Corfe Castle and Stoborough over the said railway, together with all the lands relating to the said railway and lying between the points of commencement and termination.

(a) 2003 c. 21.
(b) 1881 c. cliv.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the transfer from Network Rail Infrastructure Limited to the Swanage Railway Company Limited of certain statutory provisions and other rights and liabilities relating to part of the existing branch railway. The applicant for the Order is the Swanage Railway Company Limited.

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