
STATUTORY INSTRUMENTS

2017 No. 370

The Cambrian Railways Order 2017

PART 2

TRANSFER OF RAILWAYS

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 railways or any part of them continue to be subject to all statutory and other provisions applicable to the railways 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 railways or any part of them; and
 - (ii) subject to paragraph (2), subject to all obligations, statutory or otherwise, relating to the railways or any part of them (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⁽¹⁾ apply to the railways or the relevant part of them as if references to the British Railways Board were references to the undertaker.

Crossings and Level crossings

4. Regardless of the effect of article (1) (transfer of rights and obligations to undertaker, etc), the undertaker must not—

- (1) without the consent in writing of the Office of Rail and Road and Highways England operate—
 - (a) railway no. 1 at the point where it is crossed by the A5 trunk road at Pentre Clawdd; and
 - (b) railway no. 2 at the point where it is crossed by the A483 trunk road at Weston,and such crossings must not be on the level; and
- (2) without the consent in writing of the Office of Rail and Road operate —
 - (a) railway no.4 at the point where it crosses the A495 in Porth-y-waen; and
 - (b) railway no.4 at the Porth-y-waen School crossing,over the level crossings at those points.

(1) 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 and S.I. 2013/2314.

Transfer of railways by undertaker

5.—(1) In this article—

“the transferee” means any person to whom the railways, or any part of them, are leased or sold under the powers conferred by this article;

“the transferor” means any person by whom the railways, or any part of them, are leased or sold under the powers conferred by this article; and

“the transferred undertaking” means so much of the railways 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 railways or any part of them to any person on such terms and conditions as may be agreed between the undertaker and that person.

(3) Except as may be 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 lease or sale (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 railways

6.—(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 to paragraphs (3) and (4), the motive power to be used on the railways 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 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 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 applied by this Order, prejudices or affects the operation of Part 1 of the Railways Act 1993(2).

(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(3).

(2) 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).

(3) 2003 c. 21.

