
STATUTORY INSTRUMENTS

1992 No. 1267

TRANSPORT

The Brechin and Bridge of Dun Light Railway Order 1992

Made - - - - - *20th May 1992*

Coming into force - - - - - *21st May 1992*

The Secretary of State for Transport, on the application of the Angus District Council and Caledonian Railway (Brechin) Limited, and in exercise of powers conferred by sections 3, 7, 9, 10, 11, 12 and 18 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. This Order may be cited as the Brechin and Bridge of Dun Light Railway Order 1992 and shall come into force on 21st May 1992.

Interpretation

2. 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 Boards former railway” means that part of the former Caledonian Railway authorised by the Aberdeen Railway Act 1845(4) as is described as “the new railway”;

“the Company” means Caledonian Railway (Brechin) Limited, incorporated under the Companies Act 1985(5) and having its registered office at 2 Park Road, Brechin, Angus;

“the Council” means the Angus District Council constituted by the Local Government (Scotland) Act 1973(6)

(1) 1896 c. 48; section 3 was amended by the Light Railways Act 1912 (c. 19), section 5(1); sections 7 and 9 were repealed in part by the Railways Act 1921 (c. 55), section 86(2) and Schedule 9; section 10 was repealed in part by the Statute Law (Repeals) Act 1986 (c. 12), Schedule 1; section 11 was amended by the Light Railways Act 1912, section 5(3), and the Railways Act 1921, section 73(1) and was repealed in part and further amended in respects not relevant to this Order; section 12 was repealed in part by the Finance Act 1929 (c. 21), section 6 and Schedule.

(2) 1968 c. 73.

(3) S.I.1970/1681, 1979/571 and 1981/238.

(4) 1845 c. cliii.

(5) 1985 c. 6.

(6) 1973 c. 65.

“the existing railway” means the railway described as such in the Schedule to this Order including all lands and works relating thereto;

“the lease” means any lease granted in pursuance of the powers of paragraph (1) of article 5 (Leasing of the railways to the Company) of this Order, any extension of the same or any new lease granted under any statutory powers or provisions;

“the new railway” means the railway described as such in the Schedule to this Order including all lands and works relating thereto;

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

“the railways” means the existing railway and the new railway;

“the transfer date” means the day on which the railways or any part thereof are vested in the Council by virtue of an Agreement made under article 3 (Transfer of the railways to the Council) of this Order.

Transfer of the railways to the Council

3.—(1) The Board and the Council may enter into and carry into effect agreements providing for the transfer to and the vesting in the Council of the railways or any part thereof on such terms and conditions as may be agreed between the Board and the Council.

(2) Except as may be otherwise provided in this Order, as from the transfer date the railways or any part thereof shall be subject to all statutory and other provisions applicable to the Board’s railways (insofar as the same are still subsisting and capable of taking effect) and the Council shall to the exclusion of the Board be entitled to the benefit of and to exercise all rights, powers and privileges and be subject to all obligations statutory or otherwise relating to the Board’s railways (insofar as the same are subsisting and capable of taking effect) to the intent that the Board shall be released from all such obligations.

(3) As from the transfer date the Council may work the railways or any part thereof as a light railway under the principal Act.

Applications of enactments

4.—(1) The following provisions of the Railway Clauses Consolidation (Scotland) Act 1845(7) so far as the same are applicable for the purposes and are not inconsistent with, or varied by, the provisions of this Order, are incorporated with and form part of this Order:—

Section 16 (Works to be executed);

Section 18 (Alteration of water and gas pipes, &c.);

Section 19 (Company not to disturb pipes until they have laid down others);

Section 20 (Pipes not to be laid contrary to Act of Parliament, and 18 inches surface road to be retained);

Section 21 (Company to make good all damage);

Section 23 (Penalty for obstructing supply of gas or water);

Section 60 (Maintenance of gates, bridges, fences, drains and watering places);

Section 68 (Penalty on persons omitting to fasten gates);

Section 79 (Company to employ locomotive power, carriages, &c.).

(2) Subject to the provisions of this Order such of the enactments set out in the Second Schedule to the principal Act as are still in force except section 22 (Communication between passengers and

(7) 1845 c. 33.

the company's servants to be provided) of the Regulation of Railways Act 1868⁽⁸⁾ 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⁽⁹⁾ shall cease to apply to the railways.

(3) In its application to the railways 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.

Leasing of the railways to the Company

5.—(1) As from the transfer date the Council may lease to the Company the railways or any part thereof together with the rights, interests, powers, privileges and obligations vested in the Council in accordance with article 3 (Transfer of the railways to the Council) of this Order on such terms and conditions as may be agreed between the Council and the Company.

(2) During the continuance of the lease the Company shall, as well as the Council, be entitled to the benefit of, and to exercise, all such rights, interests, powers and privileges and be subject to all such obligations of the Council whether statutory or otherwise as are transferred to or conferred on the Council by this Order and are for the time being in force in respect of the railways or such a part thereof as are comprised in the lease.

Powers to make the new railways

6. Subject to the provisions of this Order the Council may construct make and maintain the new railway on the same lines and levels as the Board's former railway.

Provisions as to bridges

7. Without prejudice to the generality of the foregoing, during the continuance of the lease sections 116, 117 and 118 of the Transport Act 1968 shall apply to the railways or any part thereof as if reference therein to the Board were references to the Company or the Council and during such time as there is no lease continuing the said sections shall apply as if references therein to the Board were references to the Council.

Gauge of the railways and motive power

8. The railways shall be operated on a gauge of 1.435 metres (4 feet 8 ½ inches) and the motive power shall be diesel or steam or internal combustion or such other motive power as the Secretary of State may approve:

Provided that nothing in this Order shall authorise the Council to use 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:

Provided also that, 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⁽¹⁰⁾ or with telecommunication by means of any such apparatus.

⁽⁸⁾ 1868 c. 119.

⁽⁹⁾ 1889 c. 57.

⁽¹⁰⁾ 1984 c. 12.

Restrictions and conditions as to working of the railways

9.—(1) The Council shall not use upon the railways or any part thereof any engine, carriage or truck bringing any weight upon the rails by any one pair of wheels exceeding such weight as the Secretary of State may allow.

(2) The Council shall not run any trains or engine upon any part of the railways at a rate of speed exceeding at any time that fixed by the Secretary of State for such part.

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

(4) If the Council contravene any of the provisions of this article they shall for each offence be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Public liability insurance

10.—(1) In this article—

“insurer” means any insurer or insurers authorised under the Insurance Companies Act 1982⁽¹¹⁾ to carry on in the United Kingdom insurance business of a relevant class or who has corresponding permission under the law of another member state of the European Economic Community;

“policy” means a public liability policy with an insurer providing maximum cover in respect of any one accident on or occasioned by the operation of the railways or any part thereof of not less than £2m.

(i) The Council shall not work the railways or any part thereof unless there is in force a policy.

(ii) In default of compliance with the provisions of this paragraph the Council shall be liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to a fine.

(3) The Company shall, while the railways or any part thereof are leased to the Company—

(a) at all times maintain a policy approved by the Council in the joint names of the Company and the Council and in default thereof the Council may (without prejudice to any other powers granted under this Order) effect and maintain such policy and pay the premiums payable in respect thereof so that the premiums so paid and all incidental expenses shall be repaid by the Company to the Council on demand;

(b) at the request of the Council produce to the Council such evidence as may be requisite for the purpose of proving compliance with the provisions of this paragraph.

(4) Notwithstanding and without prejudice to the provisions of this article, the Council may while the railways or any part thereof are leased to the Company effect and maintain a policy in their own name with an insurer providing such cover for such period or periods and generally in such manner as the Council may from time to time determine:

Provided that, during such times as the Company are not operating the railways or any part thereof under the lease granted under article 5(1) of this Order, the Council shall not work the railways or any part thereof unless there is in force a policy and the Council shall on those occasions be liable for failure to comply with this provision on the terms referred to in paragraph (2) of this article.

(5) The adequacy of the cover provided by a policy maintained in accordance with this article shall be regularly reviewed by the body which is for the time being required to effect and maintain the policy.

(11) 1982 c. 50.

For protection of public gas suppliers

11. 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⁽¹²⁾ 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 railways or any part thereof are constructed.

Costs of Order

12. All costs, charges and expenses incurred by the Council and the Company in or incidental to, the preparing for, obtaining and making of this Order or otherwise in relation thereto shall be paid by the Company and may in whole or in part be defrayed out of revenue.

Signed by authority of the Secretary of State for Transport

20th May 1992

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

(12) 1986 c. 44.

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

THE EXISTING RAILWAY

Such part of the former Caledonian Railway described in and authorised by the Aberdeen Railway Act 1845 as lies between the terminus at Brechin Station (Ordnance Survey Grid Ref. No. 601 602) in the Parish of Brechin and the boundary between the Parishes of Brechin and Dun (Ordnance Survey Grid Ref. No. 650 589) to the east of the bridge carrying the A935 Brechin/Montrose road over the railway also in the Parish of Brechin.

THE NEW RAILWAY

Such part of the said former Caledonian Railway authorised by the said Aberdeen Railway Act 1845 as lies between the said boundary between the Parishes of Brechin and Dun (Ordnance Survey Grid Ref. No. 650 589) to the east of the said bridge carrying the A935 Brechin/Montrose Road across the railway in the Parish of Brechin to a point (Ordnance Survey Grid Ref. No. 666 588) to the east of the centre of the bridge carrying the public road from Balwyllo to Barnhead in the Parish of Dun.