
STATUTORY INSTRUMENTS

2002 No. 2398

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The Strand Road, Preston Railway Order 2002

Made - - - - *3rd September 2002*

Coming into force - - *24th September 2002*

Whereas 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 2000⁽¹⁾ made under sections 6, 6A, 7 and 10 of the Transport and Works Act 1992⁽²⁾ (“the Act”), for an Order under section 1 of the Act;

And whereas the objections to that application have been withdrawn;

And whereas 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;

And whereas notice of the Secretary of State’s determination was published in the London Gazette on 2nd September 2002;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 1 and 5 of, and paragraphs 1, 3, 8, 15 and 17 of Schedule 1 to, the Act 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 Strand Road, Preston Railway Order 2002 and shall come into force on 24th September 2002.

Interpretation

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

“the Council” means the Preston City Council;

“the lease” means any lease of the railway granted by the owner to the undertaker pursuant to article 3(1);

(1) S.I.2000/2190.

(2) 1992 c. 42 as amended by S.I. 1995/1541 and S.I. 1998/2226.

“the network licence” means the licence granted in exercise of the powers conferred by section 8 of the Railways Act 1993⁽³⁾ by the Secretary of State to Railtrack, as the same is amended from time to time;

“the owner” means Railtrack, to the extent that Railtrack is the owner of the railway, and the Council, to the extent that the Council is the owner of the railway, and this expression shall include Railtrack and the Council as joint owners to the extent that they own the railway jointly;

“Railtrack” means Railtrack PLC a company incorporated under the Companies Act 1985⁽⁴⁾ and having its registered office at Railtrack House, Euston Square, London NW1 2EE;

“the railway” means the railway (which at the date of this Order is owned jointly by the Council and Railtrack) described in the Schedule to this Order, together with all lands and works relating thereto (including the Strand Road level crossing), to the extent that the same are vested in the owner at the date upon which this Order comes into force and are held or used by the owner for the purposes of its railway undertaking;

“the transfer date”, in relation to any part of the railway, means the date on which that part is leased or sold by the owner to the undertaker under article 3;

“the undertaker” means Steamport Southport Ltd, a company incorporated under the Companies Act 1985 as a company limited by guarantee and whose registered office is at 3 Lincoln Drive, Old Roan, Liverpool L10 3LJ, and following any sale or lease under article 4 this expression shall mean or include the transferee within the meaning of that article.

(2) In this Order distances between points on a railway shall be taken to be measured along the railway.

(3) Any enactment by which the construction and operation of the railway was authorised shall have effect subject to the provisions of this Order.

Transfer of railway to undertaker

3.—(1) Subject, in the case of Railtrack, to compliance with all relevant conditions of the network licence, the owner may lease the railway or any part of the railway to the undertaker on such terms and conditions as may be agreed between the owner and the undertaker.

(2) Subject, in the case of Railtrack, to compliance with all relevant conditions of the network licence, the owner and the undertaker may enter into and carry into effect agreements providing for the sale to, and vesting in, the undertaker of the railway or any part of the railway on such terms and conditions as may be agreed between the owner and the undertaker.

(3) Except as may be otherwise provided in this Order, as from the transfer date the railway or any part thereof shall continue to be subject to all statutory and other provisions applicable to the railway at that date (insofar as the same are still subsisting and capable of taking effect), and the undertaker shall, to the exclusion of the owner, 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 railway (insofar as the same are still subsisting and capable of taking effect), to the intent that the owner shall be released from all such obligations.

(4) Paragraph (3) shall have effect during the currency of any lease granted under the provisions of paragraph (1) and from the operative date of any sale under the provisions of paragraph (2).

Transfer of railway by undertaker

4.—(1) In this article—

(3) 1993 c. 43. Section 8 has been amended by section 216 and Schedule 17 of the Transport Act 2000 (c. 38).

(4) 1985 c. 6.

“lease” when used as a noun includes an underlease and “lease” where used as a verb shall be construed accordingly;

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

“the transferred undertaking” means so much of the railway as is leased or sold pursuant to this article.

(2) The undertaker may, with the consent of the Secretary of State—

(a) lease the railway, or any part of it, to any person; or

(b) following any sale under article 3(2), sell the railway, or any part of it, to any person;

on such terms and conditions as may be agreed between the undertaker and the transferee.

(3) Except as may be otherwise provided in this Order, the transferred undertaking shall continue to be subject to all statutory or other provisions applicable to the transferred undertaking at the date of the lease or sale (insofar as the same are still subsisting and capable of taking effect), and the transferee shall, to the exclusion of the undertaker, 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 transferred undertaking (insofar as the same are still subsisting and capable of taking effect), to the intent that the undertaker shall be released from all such obligations.

(4) Paragraph (3) shall have effect during the term of any lease granted under paragraph (2)(a) and from the operative date of any sale under paragraph (2)(b).

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 the provisions of paragraphs (3) to (5), the motive power to be used on the railway 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 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 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⁽⁵⁾) or with telecommunication by means of such apparatus.

(5) Nothing in this Order, or in any enactment incorporated with or applied by this Order, shall prejudice or affect the operation of Part I of the Railways Act 1993.

For the protection of public gas transporters

6.—(1) Paragraph (2) shall apply to any part of the railway which is leased or sold by the owner to the undertaker under article 3.

(2) Nothing in this Order shall prejudice or affect the statutory or other rights of any public gas transporters within the meaning of Part I of the Gas Act 1986⁽⁶⁾ in or relating to any pipe, main or apparatus belonging to them or for the maintenance of which they are responsible, or any structure for the lodging therein of any pipe, main or apparatus, being any pipe, main or apparatus or structure

(5) 1984 c. 12.

(6) 1986 c. 44. A new section 7 was substituted by section 5 of the Gas Act 1995 (c. 45).

situated under, over or upon lands in or upon or near to which the railway or any part thereof is constructed.

Safety of approved works etc

7.—(1) Where pursuant to regulations(7) made under section 41 of the Transport and Works Act 1992 (approval of works, plant and equipment) approval has been obtained from the Health and Safety Executive with respect to any works, plant and equipment (including vehicles) forming part of the railway, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time when the approval was given unless any change thereto does not materially impair the safe operation of the railway.

(2) If without reasonable cause the provisions of paragraph (1) 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.

Signed by authority of the First Secretary of State

Ellis Harvey
Head of the Transport and Works Act Processing
Unit,
Office of the Deputy Prime Minister

3rd September 2002

(7) See S.I. 1994/157.

SCHEDULE

Article 2(1)

THE RAILWAY

An existing railway (158 metres or thereabouts in length), in the County of Lancashire, City of Preston, consisting of part of the Preston Dock branch railway (also known as the Ribble branch railway) authorised by the North Union and Ribble Navigation Branch Railway Act 1845⁽⁸⁾, commencing at a point on the eastern side of Strand Road adjacent to Preston signal number 116, extending over the Strand Road level crossing and terminating at a point 55 metres or thereabouts from the western boundary of the said crossing.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order relates to a portion of the Preston Dock branch railway (also known as the Ribble branch railway) in the vicinity of, and including, the Strand Road, Preston level crossing which at the date of the Order is owned jointly by Preston City Council and Railtrack PLC (in Railway Administration). The Order authorises the owners to transfer the railway to Steamport Southport Ltd and makes other provisions in relation to it.

⁽⁸⁾ 1845 c. cxvi.