
STATUTORY INSTRUMENTS

2017 No. 370

TRANSPORT AND WORKS, ENGLAND
TRANSPORT, ENGLAND

The Cambrian Railways Order 2017

Made - - - - - *16th March 2017*

Coming into force - - - - - *6th April 2017*

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(1) for an Order under sections 1 and 5 of the Transport and Works Act 1992(2) (“the Act”).

The Secretary of State has considered the objections made and not withdrawn and has determined to make an order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any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 March 2017.

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

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the Cambrian Railways Order 2017 and comes into force on 6th April 2017.

Interpretation

2.—(1) In this Order—

(1) 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.
(2) 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.

“the Company” means Cambrian Heritage Railways Limited (Company No. 06999964) incorporated under the Companies Act 2006(3), a company limited by guarantee and having its registered office at Suite 1, Old Station Building, Oswald Road, Oswestry, Shropshire, SY11 1RE; “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 1 Eversholt Street, London, NW1 2DN and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purposes of this definition “associated company” means any company which is (within the meaning of section 1159 of the Companies Act 2006 the holding company of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited;

“the railways” means the railways described in the Schedule (the railways), and references to a numbered railway are references to a railway as numbered in the Schedule;

“the relevant date” means the date on which this Order comes into force; and

“the undertaker” means the Company and following any sale or lease under article 5 (transfer of railways 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 railways were authorised have effect subject to the provisions of this Order.

(3) All lengths and directions stated in any description of the railways are approximate.

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(4) apply to the railways or the relevant part of them as if references to the British Railways Board were references to the undertaker.

(3) 2006 c. 46.

(4) 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.

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.

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.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(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⁽⁵⁾.

(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⁽⁶⁾.

Signed by authority of the Secretary of State for Transport

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

16th March 2017

(5) 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) 2003 c. 21.

SCHEDULE

Article 2

THE RAILWAYS

In the county of Shropshire, town of Oswestry—

Railway No. 1 An existing railway (3,771 metres in length), consisting of the railway firstly described in section 12 of the Shrewsbury, Oswestry and Chester Junction Railway (Crickheath and Wem Branches) Act 1846(7), commencing in the parish of Gobowen and Selattyn in the branch line bay platform of Gobowen Station, passing through the parish of Whittington and terminating in the town of Oswestry at the site of the former Oswestry junction.

Railway No. 2 An existing railway (5,955 metres in length), consisting of part of the railway described in section 19 of the Oswestry, Welchpool and Newtown Railway Act 1855(8), commencing in the town of Oswestry at an end on junction with Railway No. 1, extending through the parish of Oswestry Rural and terminating in the parish of Llanyblodwel at the site of the former Llyncllys junction.

Railway No. 3 An existing railway (1,609 metres in length), consisting of part of the railway described in section 3 of the Oswestry & Newtown Railway (Porthywaen Branch) Act 1860(9), commencing in the parish of Llanyblodwel at an end on junction with Railway No. 2 and terminating in the parish of Llanyblodwel at the site of the former Porthywaen junction.

Railway No. 4 An existing railway (2,080 metres in length) in the parish of Llanyblodwel, consisting of part of the Llangynog branch railway described in section 11 of the Tanat Valley Light Railway Order 1898, commencing at an end on junction with Railway No. 3 and terminating at Llanddu junction.

Railway No. 5 An existing railway (302 metres in length) in the parish of Llanyblodwel, consisting of part of the railway (Railway No. 4) described in section 4 of the West Shropshire Mineral Railway (New Lines) Act 1864(10), commencing at an end on junction with Railway No. 4 and terminating at a point 3 metres to the north east of the bridge (Bridge Number 10) carrying the A495 Llyncllys to Llansantffraid road over the railway.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the transfer from Network Rail Infrastructure Limited to Cambrian Heritage Railways Limited of certain statutory provisions and other rights and liabilities relating to the existing railways described in the Schedule to the Order. The Applicant is Cambrian Heritage Railways Limited.

(7) 1846 c. cclxxiv.

(8) 1855 c. lxxxvi.

(9) 1860 c. cxxxix.

(10) 1864 c. cxxviii.