WELSH STATUTORY INSTRUMENTS

2010 No. 2136 (W.192)

TRANSPORT AND WORKS, WALES

The Llangollen and Corwen Railway Order 2010

Made - - - -	*25 August 2010*
Coming into force - -	*27 August 2010*

An application has been made to the Welsh Ministers 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 1992 Act").

Objections to that application have been withdrawn.

The Welsh Ministers, having considered the report of the person asked by them to provide an appraisal of the application have determined to make an Order giving effect to the proposals comprised in the application with modifications which in the opinion of the Welsh Ministers do not make any substantial change in the proposals.

Notice of the Welsh Ministers' determination was published in the London Gazette on 24 August 2010.

Accordingly, the Welsh Ministers, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1, 2, 5, 7, 8, 11 to 13 and 15 to 17 of Schedule 1 to, the 1992 Act make the following Order:—

PART 1

PRELIMINARY

Citation and commencement

1.—(1) The title of this Order is the Llangollen and Corwen Railway Order 2010 and it comes into force on 27 August 2010.

(2) The Llangollen and Corwen Light Railway Order 1984(**3**) and this Order may be cited together as the Llangollen and Corwen Railway Orders 1984 and 2010.

(**1**) S.I. 2006/1466.
(**2**) 1992 c. 42. As amended by S.I. 1995/1541, S.I. 1998/2226, S.I. 2000/3199 and S.I. 2006/958.
(**3**) S.I. 1984/558.

Interpretation

2.—(1) In this Order—

"the 1961 Act" ("*Deddf 1961*") means the Land Compensation Act 1961((**4**)

"the 1990 Act" ("*Deddf 1990*") means the Town and Country Planning Act 1990(**5**);

"address" ("*cyfeiriad*") includes any number or address used for the purposes of electronic transmission;

"authorised works" ("*gweithfeydd awdurdodedig*") means the scheduled work and any other works authorised by this Order;

"building" ("*adeilad*") includes any structure or erection or any part of a building, structure or erection;

"electronic transmission" ("*trosglwyddiad electronig*") means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

"the existing railway" ("*y rheilffordd bresennol*") means the railway authorised by the Llangollen and Corwen Light Railway Order 1984 together with all lands and works relating to that railway;

"the extension railway" ("*y rheilffordd estyniadol*") means the railway authorised to be constructed by this Order together with all lands and works relating to that railway and pending the completion of any part of the extension railway the expression shall include the site of that part;

"the former railway" ("*yr hen reilffordd*") means the railway or former railway authorised by the Llangollen and Corwen Railway Act 1860(**6**) and so much of any other railway or former railway as is situated within the Order limits together with so much of all works relating to such railway or former railway as is so situated;

"the further limits" ("*y terfynau pellach*") means the limits delineated by the lines shown on the works plans and marked "limits of land to be used" ("*terfynau'r tir sydd i'w ddefnyddio*");

"highway" ("*priffordd*") and "highway authority" ("awdurdod priffyrdd") have the same meaning as in the Highways Act 1980(**7**);

"the limits of deviation" ("*terfynau'r gwyriad*") means the limits of deviation for the scheduled work shown on the works plans;

"maintain" ("*cynnal a chadw*") includes inspect, repair, adjust, alter, remove, reconstruct and replace, and "maintenance" ("*gwaith cynnal a chadw*") shall be construed accordingly;

"the Order limits" ("*terfynau'r gwyriad*") means any limits of deviation and the further limits;

"owner" ("*perchennog*"), in relation to land, has the same meaning as in the Acquisition of Land Act 1981(**8**);

"the PLC" ("*y CCC*") means Llangollen Railway plc, a company registered under the Companies Act 1985 whose registered number is 2716476 having its registered office at the Railway Station, Abbey Road, Llangollen, Denbighshire LL20 8SN;

"the railways" ("*y rheilffyrdd*") means the existing railway and the extension railway, or either of them;

(**4**) 1961 c. 33.
(**5**) 1990 c. 8.
(**6**) 1860 c. clxxviii.
(**7**) 1980 c. 66.
(**8**) 1981 c. 67.

"the scheduled work" ("*y gwaith rhestredig*") means the work specified in Schedule l (Scheduled work) or any part of it;

"the sections" ("*y trawsluniau*") means the sections certified by the Welsh Ministers as the sections for the purposes of this Order;

"street" ("*stryd*") includes part of a street;

"street authority" ("*awdurdod strydoedd*") has the same meaning as in Part 3 of the New Roads and Street Works Act 1991(**9**)

"the Trust" ("*yr Ymddiriedolaeth*") means the Llangollen Railway Trust, a registered charity and company limited by guarantee registered under the Companies Act 1985 whose registered number is 3040336 (originally incorporated as the Llangollen Railway Society Limited under the Industrial and Provident Societies Act 1965(**10**)) having its registered office at the Railway Station, Abbey Road, Llangollen, Denbighshire; LL20 8SN;

"the undertaker" ("*yr ymgymerwr*") means the Trust and following any sale, lease or underlease under article 17 (transfer of railways by undertaker) this expression shall mean or include the transferee within the meaning of that article;

"watercourse" ("*cwrs dŵr*") includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

"the works plans" ("*planiau'r gweithfeydd*") means the plans certified by the Welsh Ministers as the works plans for the purposes of this Order.

(2) References in this Order to rights over land include references to rights to do or to place and maintain, anything in, on or under land or in the air-space above its surface.

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

Incorporation of Railways Clauses Consolidation Act 1845

3.—(1) The following provisions of the Railways Clauses Consolidation Act 1845(**11**) shall be incorporated in this Order—

section 68 (accommodation works by company);

section 73 (accommodation works not to be required after prescribed period);

section 75 (omission to fasten gates);

sections 103 and 104 (refusal to quit carriage at destination);

section 105 (carriage of dangerous goods on railway);

section 145 (recovery of penalties); and

section 154 (transient offenders).

(2) In those provisions, as incorporated in this Order-

"the company" ("*y cwmni*") means the undertaker;

"goods" ("*nwyddau*") includes any thing conveyed on the railway authorised to be constructed by this Order;

"prescribed" ("*rhagnodedig*") in relation to any such provision means prescribed by this Order for the purposes of that provision;

(**9**) 1991 c. 22.
(**10**) 1965 c. 12.
(**11**) 1845 c. 20.

"the railway" ("*y rheilffordd*") means the extension railway and any other authorised works;

"the special Act" ("*y Ddeddf neilltuol*") means this Order; and

"toll" ("*toll*") includes any rate or charge or other payment payable under this Order or any other enactment for any passenger or goods conveyed on any railway authorised to be constructed by this Order.

PART 2

WORKS PROVISIONS

Principal powers

Power to construct and maintain works

4.—(1) The undertaker may construct and maintain the scheduled work.

(2) Subject to article 6 (power to deviate), the scheduled work may only be constructed in the lines or situations shown on the works plans and in accordance with the levels shown on the sections.

Power to construct and maintain ancillary works

5.—(1) Subject to paragraph (4), the undertaker may carry out and maintain such of the following works as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled work, namely—

(a) works to alter the position of apparatus, including mains, sewers, drains and cables;

(b) works to alter the course of, or otherwise interfere with, a watercourse;

(c) landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the scheduled work;

(d) works for the benefit or protection of premises affected by the scheduled work.

(2) Subject to paragraph (4), the undertaker may carry out such other works (of whatever nature) as may be necessary or expedient for the purposes of, or for purposes ancillary to, the construction of the scheduled work.

(3) Subject to paragraph (4), the undertaker may in particular within the land specified in column (1) of Schedule 2 (additional works) carry out and maintain any works specified in column (2) of that Schedule with all necessary works and conveniences in connection with those works.

(4) Paragraphs (1) to (3) shall only authorise the carrying out or maintenance of works outside the limits of deviation if such works are carried out within the further limits.

Power to deviate

6. In constructing or maintaining the scheduled work, the undertaker may—

(a) deviate laterally from the lines or situations shown on the works plans to the extent of the limits of deviation for that work; and

(b) deviate vertically from the levels shown on the sections—

(i) to any extent not exceeding 3 metres upwards; or

(ii) to any extent downwards as may be found to be necessary or convenient.

Streets

Access to works

7.—(1) The undertaker may, for the purposes of the authorised works—

(a) form and lay out means of access, or improve existing means of access, in the location specified in column (1) of Schedule 3 (access to works) to the highway specified in column (2) of that Schedule; and

(b) with the approval of the highway authority, such approval not to be unreasonably withheld, form and lay out such other means of access or improve existing means of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised works.

(2) If a highway authority which receives an application for consent under paragraph (1) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made, it shall be deemed to have granted it.

Level crossing, etc.

8.—(1) The undertaker may construct the extension railway so as to carry it on the level across footpath FP 61 ("the footpath") 435 metres south-west of Carrog Station.

(2) The undertaker may in the exercise of the powers conferred by this article alter the level of the footpath.

(3) During and for the purpose of the construction of the authorised works the undertaker following consultation with the street authority for the footpath may for any reasonable time prevent all persons from passing along so much of the footpath as is situated within the limits of deviation.

(4) The highway authority and the undertaker may enter into agreements with respect to the construction and maintenance of the level crossing authorised by this article; and such an agreement may contain such terms as to payment or otherwise as the parties consider appropriate.

(5) Any person who suffers loss by the suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part I of the 1961 Act.

Supplemental powers

Discharge of water

9.—(1) The undertaker may use any watercourse or drain for the drainage of water in connection with the construction or maintenance of the authorised works and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, or drain.

(2) .The undertaker shall not discharge any water into any watercourse, or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but shall not be unreasonably withheld.

(3) The undertaker shall not make any opening into any drain except—

(a) in accordance with plans approved by the person to whom the drain belongs, but such approval shall not be unreasonably withheld; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(4) The undertaker shall not, in the exercise of the powers conferred by this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.