STATUTORY INSTRUMENTS

2015 No. 1652

TRANSPORT AND WORKS, ENGLAND TRANSPORT, ENGLAND

The Ecclesbourne Valley Railway Order 2015

Made - - - - 7th September 2015

Coming into force - - 28th September 2015

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 1992 Act").

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.

Notice of the Secretary of State's determination was published in the London Gazette on 25th August 2015.

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

Citation and commencement

1. This Order may be cited as the Ecclesbourne Valley Railway Order 2015 and comes into force on 28thSeptember 2015.

Interpretation

2.—(1) In this Order—

"the 1996 Order" means the Duffield and Wirksworth Light Railway Order 1996(**3**);

"the Company" means WyvernRail plc, a company incorporated under the Companies Act 1985(**4**), whose registered number is 02754846 and whose registered office is Wirksworth Station, Coldwell Street, Wirksworth, Matlock, Derbyshire DE4 4FB;

(**1**) S.I. 2006/1466.
(**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.
(**3**) S.I. 1996/2660.
(**4**) 1985 c. 6.

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003(**5**);

"Lafarge Tarmac" means Lafarge Tarmac Cement & Lime Limited a company incorporated under the Companies Act 2006(**6**), whose registered number is 66558 and whose registered office is at Portland House, Bickenhill Lane, Solihull, Birmingham B37 7BQ;

"Network Rail" means Network Rail Infrastructure Limited, a company whose registered number is 02904587 and whose registered office is at 1 Eversholt Street, London NW1 2DN;

"the railway" means the railway described in the Schedule together with all lands and works relating to it which—

(a) are held by Network Rail at the date on which this Order comes into force; or

(b) were at any time vested in the former British Railways Board, and which at the date on which this Order comes into force are owned by or leased to the Company, or otherwise occupied by the Company; and

"the undertaker" means the Company and following any sale, lease or underlease under article 5 (transfer of railway by undertaker) this expression means or includes the transferee within the meaning of that article.

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

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

Transfer of railway to the undertaker

3.—(1) Network Rail and the undertaker may enter into and carry into effect agreements providing for the sale to and vesting in the undertaker of any part of the railway which is vested in Network Rail at the date on which this Order comes into force on such terms and conditions as may be agreed between Network Rail and the undertaker.

(2) Lafarge Tarmac and the undertaker may enter into and carry into effect agreements providing for the sale to and vesting in the undertaker of any part of the railway which is vested in Lafarge Tarmac at the date on which this Order comes into force on such terms and conditions as may be agreed between Lafarge Tarmac and the undertaker.

Transfer of rights and obligations to the undertaker, etc.

4.—(1) Except as may be otherwise provided in this Order, as from the date upon which that part of the railway owned by Network Rail is transferred to the undertaker—

(a) the railway or any part of it continues to be subject to all statutory and other provisions applicable to it 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 railway; and

(**5**) 2003 c. 21.
(**6**) 2006 c. 46.

(ii) subject to paragraph (c), subject to all obligations, statutory or otherwise, relating to the railway (in so far as they are still in force and capable of taking effect), to the intent that Network Rail is released from all such obligations; and

(c) sections 116 (transfer of responsibility for maintenance of highways on bridges over certain railways, inland waterways, etc.), section 117 (duty as respects bridges carrying highways) and section 118 (duty of highway authorities, etc., as respects bridges over certain railways or inland waterways) of the Transport Act 1968(**7**) apply to the railway or the relevant part of it as if references to the "Railways Board" were references to the undertaker.

(2) Except as may be otherwise provided in this Order, as from the date upon which that part of the railway owned by Lafarge Tarmac is transferred to the undertaker –

(a) the railway or any part of it continues to be subject to all statutory and other provisions applicable to it 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 Lafarge Tarmac—

(i) entitled to the benefit of, and to exercise, all rights, powers and privileges relating to the railway; and

(ii) subject to all obligations, statutory or otherwise, relating to the railway (in so far as they are still in force and capable of taking effect), to the intent that Lafarge Tarmac is released from all such obligations.

Transfer of railway by undertaker

5.—(1) In this article—

"lease" includes an underlease and "lease" where used as a verb is to be construed accordingly;

"the transferor" means any person by whom the railway, or any part of it, is leased or sold under the powers conferred by this article;

"the transferee" means any person to whom the railway, or any part of it, is leased or sold under the powers conferred by this article; and

"the transferred undertaking" means so much of the railway as is leased or sold under the powers conferred by this article.

(2) The undertaker may, with the consent of the Secretary of State, sell or lease the railway, or any part of it, 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 sale or lease (in so far as those provisions continue in force and are capable of taking effect); and

(b) the transferee, to the exclusion of the transferor—

(i) is entitled to the benefit of, and to exercise, all rights, powers and privileges relating to the transferred undertaking; and

(**7**) 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, and 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.