STATUTORY INSTRUMENTS

1975 No. 1014

TRANSPORT

Festiniog Railway (Light Railway) (Amendment) Order 1975

Made - - - -	*17th June* 1975
Coming into Operation	*27th June* 1975

The Secretary of State for the Environment on the application of the Festiniog Railway Company and in exercise of powers conferred by sections 7, 9, 10 and 24 of the Light Railways Act 1896**(a)** as amended by the Light Railways Act 1912**(b)** and Part V of the Railways Act 1921**(c)** and now vested in him**(d)** and of all other powers enabling him in that behalf hereby makes the following Order:—

Citation and commencement

1.—(1) This Order may be cited as the Festiniog Railway (Light Railway) (Amendment) Order 1975 and shall come into operation on 27th June 1975.

(2) This Order and the Festiniog Light Railway Orders 1923 and 1968 may be cited together as the Festiniog Light Railway Orders 1923 to 1975.

Interpretation

2.—(1) Unless the context otherwise requires words and expressions (except expressions to which meanings are by this section expressly assigned) to which by the Light Railways Act 1896 or by the Order of 1923 or by any enactment incorporated with or applied to the Order of 1923 meanings are assigned have in this Order the same respective meanings and in this Order—

"the deposited plans", "the deposited section" and "the deposited book of reference" mean respectively the plans, section and book of reference deposited in respect of the application for this Order with the Department of the Environment and signed by a Senior Principal in the Department;

"the Order of 1923" means the Festiniog Railway (Light Railway) Order 1923**(e)**;

"railway (No. 3)" means the railway and works authorised by the Festiniog Railway (Light Railway) (Amendment) Order 1968**(f)**;

"railway (No. 4)" means the railway and works by this Order authorised or (as the case may be) any part thereof;

"the undertaking" means the undertaking of the Company as for the time being authorised by any enactment.

(2) Unless the context otherwise requires references in this Order to any enactment shall be construed as references to that enactment as amended by any subsequent enactment including this Order.

(a) 1896 c. 48.
(b) 1912 c. 19.
(c) 1921 c. 55.
(d) S.I. 1970/1681 (1970 III, p. 5551).
(e) S.R. & O. 1923/301.
(f) S.I. 1968/178.

(3) All distances and lengths stated in any description of works or powers shall be construed as if the words "or thereabouts" were inserted after each such distance and length and distances between points on a railway shall be taken to be measured along the railway.

(4) References in this Order to reference points shall be construed as references to the National Grid reference points.

(5) The Interpretation Act 1889**(a)** shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Application of parts of Order of 1923

3.—(1) Except as otherwise by this Order expressly provided the provisions of the Order of 1923 including the Schedule thereto, and the provisions of the enactments incorporated therewith or applicable thereto or to the railway as therein defined shall, so far as they may be applicable, apply to railway (No. 4) and to the Company and shall apply to, or as the case may be shall be deemed to be incorporated with, this Order; provided that the provisions of the Order of 1923 (other than section 35 (Trains not to stand on level crossings) thereof) specified in Schedule 1 to the Festiniog Railway (Light Railway) (Amendment) Order 1968 shall not apply to railway (No. 4) or to this Order or to the Company in respect thereof.

(2) The provisions of the Order of 1923 which are specified in column (1) of the Schedule to this Order as so applied shall have effect subject to the modifications set out in column (2) of the said Schedule.

(3) Without prejudice to the generality of the foregoing provisions of this section, the following provisions that is to say paragraph (*c*) of section 1 and sections 3, 5 and 6 of the Regulation of Railways Act 1889**(b)** (which provisions were kept in force for the purposes of the Order of 1923 by section 3(2) of that Order), shall apply both to the railway as defined by that Order and to railway (No. 4).

(4) The provisions of paragraph (*a*) of section 1 of the Regulation of Railways Act 1889 shall apply both to the railway as so defined and to railway (No. 4).

(5) Subject to the provisions of this Order and except where the context otherwise requires railway (No. 4) shall in all respects and for all purposes be deemed to be part of the principal railway authorised by the Order of 1923 to be worked and maintained as a light railway under the principal Act.

Power to make railway

4.—(1) Subject to the provisions of this Order the Company may make and maintain the railway hereinafter described in the lines and according to the levels and within the limits of deviation shown on the deposited plans and the deposited section and with all proper rails, plates, sidings, junctions, bridges, culverts, drains, approaches, roads, yards, buildings and other works and conveniences connected therewith including station premises at Tan-y-Grisiau.

(2) The said railway is situate wholly in the District of Meirionnydd in the County of Gwynedd and is —

A railway (No. 4) 2,735 metres in length including a tunnel commencing by a junction with the railway (No. 3) at reference point 677428 and terminating by a junction with the principal railway at reference point 683449.

(a) 1889 c. 63. **(b)** 1889 c. 57.

Abandonment of part of railway (No. 3)

5. The Company shall not later than the completion and opening for public traffic of railway (No. 4) abandon and discontinue such part of railway (No. 3) as is situate between the commencement of railway (No. 4) and the termination of railway (No. 3).

Power to take lands

6. Subject to the provisions of this Order the Company may enter upon, take and use such of the lands shown on the deposited plans and described in the deposited book of reference as may be required for the purposes of railway (No. 4).

As to user of railway

7. No part of the railway (No. 4) shall be used for the public conveyance of passengers without the permission in writing of the Secretary of State first being had and obtained which permission shall not be withheld if the Secretary of State is satisfied that such use will not be attended with danger to the public, and the Company shall comply with the conditions (if any) which the Secretary of State may from time to time prescribe for the safety of the public using railway (No. 4).

Power to borrow

8. Notwithstanding anything contained in any previous enactment, the Company may for the purposes of the undertaking and without obtaining any certificate of a justice under section 40 of the Companies Clauses Consolidation Act 1845**(a)** borrow, either by way of mortgage of the undertaking or by the creation and issue of debenture stock, or partly by one and partly by the other of those modes, any sum or sums not exceeding in the whole £500,000.

For protection of Central Electricity Generating Board

9. For the protection of the Board the following provisions shall, unless otherwise agreed in writing between the Company and the Board apply and have effect:—

(1) In this section unless the subject or context otherwise requires:—

"the Board" means the Central Electricity Generating Board;

"determined" means agreed in writing between the Company and the Board or in default of agreement determined by arbitration;

"the material section of the railway" means so much of railway (No. 4) as is to be constructed on the protected land and includes that section when so constructed;

"plans" includes sections, specifications and working drawings;

"the protected land" means the land numbered 2 on the deposited plans;

"the signed plans" means the plans comprising sheets Nos. 1, 2, 3, 4, 5 and 6 each of which has been signed in duplicate by Leslie John Walshaw Smith on behalf of the Company and by Alick Lowndes Wright on behalf of the Board one copy of which has been deposited with the Company and the other with the Board.

(2) The Company shall not under the powers of this Order acquire compulsorily any lands of the Board but they may acquire, and the Board shall

(a) 1845 c. 16

if so required by them, grant to the Company, such easements and rights for a term of years in the lands of the Board shown on the deposited plans as the Company may reasonably require for the purposes of railway (No. 4).

(3) Notwithstanding anything in section 21 (Power to deviate) of the Order of 1923 as applied to railway (No. 4) by section 3 (Application of parts of Order of 1923) of this Order or shown on the deposited plans the material section of the railway shall not be constructed by the Company except in the line shown on the signed plans.

(4) (*a*) The Company shall not construct so much of the material section of the railway as lies between reference point 678442 and the northern end of the protected land except in accordance with plans previously submitted to and approved with or without modifications by the Board and subject to such terms and conditions as the Board may think fit to impose;

(*b*) The said part of the material section of the railway shall be constructed to the satisfaction of the Board and under their supervision.

(5) (*a*) The Company shall before commencing to construct any other part of the material section of the railway submit to the Board for their reasonable approval plans thereof and of any temporary works to be constructed on the protected land and in giving their approval the Board shall be entitled to take into account the effect on the amenities of the area of the construction of such part of the material section of the railway;

(*b*) If the Board do not within fifty-six days after the submission to them of any such plans signify to the Company in writing their approval or disapproval thereof they shall be deemed to have approved thereof;

(*c*) No part of such part of the material section of the railway shall be constructed otherwise than in accordance with such plans as may have been approved (or deemed to have been approved) by the Board or if such approval be withheld as may be settled by arbitration and any such work shall be executed to the reasonable satisfaction of the Board.

(6) (*a*) The Company shall make and maintain the following works for the accommodation of the Board as the owners of the protected land;

(i) a stockproof gate or cattle grid of such type as may be determined at the southern boundary of the protected land where the railway crosses that boundary from the land numbered 1 on the plans at reference point 677432;

(ii) lockable gates of such type as may be determined where railway (No. 4) crosses the footpath and track between the disused reservoir and the Ystradau measuring weir of the Board at reference point 676434;

(iii) a sheep creep at either of the culverts marked on the plans as culvert No. 3 or culvert No. 4;

(iv) a fence to separate the protected land from railway (No. 4) such fence to be erected on either side of the material section of the railway and of such a type as may be determined.

(*b*) Where railway (No. 4) crosses any access road of the Board the Company shall comply with the requirements of the Secretary of State and with the reasonable requirements of the Board in respect of train control and safety arrangements;

(*c*) The works required to be made and maintained by the Company under the foregoing sub-paragraphs shall be treated as being works required by

section 68 of the Railways Clauses Consolidation Act 1845(a) (as incorporated with this Order by section 3 (Application of parts of Order of 1923) of this Order) and the said section 68 shall apply accordingly but nothing in this paragraph shall be taken as prejudicing or affecting the right of the Board under the said section 68 to require the making and maintaining of other works.

(7) The construction of the material section of the railway from reference point 678442 to the northern end of the protected land shall be carried out by a civil engineering contractor to be approved by the Board, and the Company shall complete the construction of that part of the material section of the railway within a period of nine months from the date on which they commence to construct it unless prevented by any cause beyond their control.

(8) (*a*) The Company shall not during the construction of railway (No. 4) enter upon and use any existing private road of the Board other than the private access road of the Board from the public road at Dolwen junction to the two points shown on the deposited plans as the points where railway (No. 4) will cross the said private access road on the level which the Company may enter upon and use subject to such terms and conditions as may be determined;

(*b*) No vehicles used for or in connection with the construction of railway (No. 4) shall be parked on the said access road.

(9) No explosives shall be used in connection with the making or maintaining of the material section of the railway except at such places and in accordance with such terms and conditions (including conditions relating to the making of excavations in which the explosives are to be placed) as may be approved in writing by the Board.

(10) Where railway (No. 4) crosses the dam of the disused reservoir of the Board on the protected land at reference point 677433 the side cuts in the dam shall be graded to the requirements of the Board and the said disused reservoir shall be fenced by the Company or, if required by the Board filled in.

(11) The Company shall repay to the Board the expenses reasonably incurred by the Board in modifying the Ystradau measuring weir of the Board and required in consequence of the construction of railway (No. 4).

(12) The Company shall instal check rails and barriers of such type as may be determined on the part of railway (No. 4) where it passes the Ffestiniog generating station of the Board.

(13) The Board shall permit the Company to use as a storage area the part of the protected land between the site of the former Tan-y-Grisiau Railway Station and Ty'n-y-Pistyll subject to the Company paying compensation if any, to any tenant whose rights may be affected and to reinstating the land to the reasonable satisfaction of the Board on the completion of railway (No. 4).

(14) The Company shall operate the material section of the railway subject to the powers, duties and obligations of the Board in respect of the operation, maintenance and management of their Ffestiniog generating station and associated works.

(15) The Company shall not run trains over the two level crossings referred to in paragraph (8) of this section at a greater frequency than four trains each hour and forty trains each day.

(a) 1845 c. 20.

Provided that in any peak operating period they may run not more than fifty-two trains over those crossings each day.

(16) (*a*) If at any time railway (No. 4) or any part thereof has been damaged, abandoned or suffered to fall into a state of disrepair the Company shall, if so required by the Board by notice in writing, either—

(i) repair or restore railway (No. 4) or any part thereof; or

(ii) remove railway (No. 4) or any part thereof to such extent and in accordance with such conditions as may be reasonably required by the Board.

(*b*) If on the expiration of 30 days from the date when a notice under sub-paragraph (*a*) of this paragraph is served upon the Company they have failed to comply with the requirements of the notice the Board may execute the works specified in the notice and recover the reasonable cost thereof (including a proper proportion of the overhead charges of the Board) from the Company.

(17) The Company shall at all times keep the Board indemnified against all damages, losses, costs and expenses which they may sustain or be liable for or reasonably and properly incur by reason or in consequence of any injury, damage or interference which may be caused or may result to any property of the Board in the exercise of any powers conferred by this Order;

Provided that the Board shall give to the Company notice of any claim or demand made against them which in the opinion of the Board is a claim or demand for which the Company may be liable under this subsection and no settlement or compromise of any such claim or demand shall be made without the consent in writing of the Company.

(18) If the Stwlan Dam access road of the Board is widened to double carriageway width or is or is about to be adopted by the highway authority the Company shall provide at their own expense such additional crossing gates or other works (including road improvement works) as will comply with the requirements of the Secretary of State and with the reasonable requirements of the Board or the highway authority.

(19) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the Board or to their satisfaction or in accordance with any directions or award of an arbitrator shall not relieve the Company from any liability under the provisions of this section.

(20) Except as may be otherwise expressly provided by this section any difference arising under this section between the Company and the Board (other than a difference as to the meaning or construction thereof) shall be referred to and determined by an arbitrator to be appointed by agreement between the Company and the Board or, failing agreement on the application of either party, after notice in writing to the other by the President of the Institution of Civil Engineers.

Costs of Order.

10. All costs, charges and expenses of and incident 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.

W. J. Sharp,
An Under Secretary in the Department of the Environment.

Signed by authority of
the Secretary of State
17th June 1975.

THE SCHEDULE

MODIFICATIONS OF PROVISIONS OF THE ORDER OF 1923

(1) Provision	(2) Modification
Section 3 (Incorporation and exception of Acts)	Subsection (2) shall be omitted. In subsection (3) (*a*) the words "whether for the purposes of Railway (No. 2) or otherwise" shall be omitted; (*b*) in paragraph (*b*) for the words "Clerks of the County Councils of the Counties of Carnarvon and of Merioneth" there shall be substituted the words "proper officer of Gwynedd County Council". (*c*) paragraph (*c*) shall be omitted.
Section 4 (Application to junction railways of Act of 1869)	For the words "the junction railways" wherever those words occur there shall be substituted the words "Railway (No. 4)".
Section 9 (Gauge of junction railways and motive power)	For the words "The junction railways" there shall be substituted the words "Railway (No. 4)".
Section 16 (Power to accept lease of lands)	For the words "the junction railways" there shall be substituted the words "Railway (No. 4)".
Section 20 (Period for completion of works)	For the words "the junction railways" there shall be substituted the words "Railway (No. 4)" and for the word "three" there shall be substituted the word "fifteen".
Section 21 (Power to deviate)	For the words "the junction railways" wherever those words occur there shall be substituted the words "Railway (No. 4)". In subsection (2)— (*a*) the words "With regard to such parts of the junction railways as are not laid on a road" shall be omitted; (*b*) the words "and of the road authority of any road affected by such deviation as may be approved by the Minister of Transport" shall be omitted from paragraph (*a*); (*c*) sub-paragraph (i) of paragraph (*b*) shall be omitted. References to the plan and section shall be deemed to be references to the deposited plans and the deposited section.
Section 33 (Inspection by Minister of Transport)	For the words "the junction railways" wherever those words occur there shall be substituted the words "Railway (No. 4)".

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