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STATUTORY INSTRUMENTS

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**2020 No. 1137**

**TRANSPORT AND WORKS, ENGLAND**  
**TRANSPORT, ENGLAND**

**The Wear Valley Railway (Transfer) Order 2020**

*Made* - - - - *15th October 2020*

*Coming into force* - - - *5th November 2020*

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 proposal comprised in the application with modifications which, in the opinion of the Secretary of State, do not make a substantial change in the proposals.

Notice of the Secretary of State’s determination was published in the London Gazette on 19<sup>th</sup> October 2020.

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—

**PART 1**

**PRELIMINARY**

**Citation and commencement**

**1.** This Order may be cited as the Wear Valley Railway (Transfer) Order 2020 and comes into force on 5th November 2020.

**Interpretation**

**2.—(1)** In this Order—

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(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, S.I. 2013/755, S.I. 2014/469, S.I. 2015/377, S.I. 2015/627, S.I. 2015/1682, S.I. 2017/1070 and S.I. 2019/311.  
(2) 1992 c. 42. Section 1 was amended by paragraphs 51 and 52 of Schedule 2 to the Planning Act 2008 (c. 29). Section 5 was amended by S.I. 2012/1659.

“the Company” means Weardale Railway Limited (company number 12392050) whose registered office is Vinovium House, Saddler Street, Bishop Auckland, United Kingdom, DL14 7BH;

“protective equipment” includes gates, barriers, lights, traffic signs (within the meaning of section 64 (general provisions as to traffic signs) of the Road Traffic Regulation Act 1984(3)), manual, mechanical, automatic, electronic or telephonic equipment or other devices;

“Weardale Realisations” means Weardale Realisations CIC (company number 02823284) whose registered office is Minerva, 29 East Parade, Leeds, Yorkshire, LS1 5PS;

“the railway” means so much of the railway as was transferred from Weardale Realisations to the Company in a transfer dated 13th March 2020 in the County of Durham and which is described in and authorised by the Bishop Auckland and Weardale Railway Act 1837(4), the Wear Valley Railway Act 1845(5), the Stockton and Darlington Railway Amalgamation Act 1858(6), the Frosterly and Stanhope Railway Act 1861(7), the Frosterley and Stanhope Railway Act 1862(8), the Wear Valley Extension Railway Act 1892(9) and the North Eastern Railway Act 1894(10), and works relating thereto, as lie between a point 200 metres west of the western end of the platform at Bishop Auckland Station, in the District of Wear Valley, at reference point NZ 207292 and a point 500 metres west of the western end of the southern platform of Eastgate Station, in the District of Wear Valley, at reference point NY 951384 and includes all lands held by the Company relating to the said railway and to any stations or other works connected therewith (other than Bishop Auckland Station), and lying between those points;

“reference point” means Ordnance Survey National Grid reference point;

“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 railway 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 railway was authorised have effect subject to the provisions of this Order.

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

### **Disapplication of certain enactments relating to level crossings**

3. Section 47 (provision in cases where roads are crossed on a level) of the Railways Clauses Consolidation Act 1845(11) and section 6 (company to erect lodge at point of crossing, etc) of the Railways Clauses Act 1863(12) will on the relevant date cease to apply to the railway.

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(3) 1984 c. 27. Section 64 was amended by paragraph 25(3) of Schedule 3 to the Road Traffic (Consequential Provisions) Act 1988 (c. 54) and paragraph 47 of Schedule 8 to the New Roads and Street Works Act 1991 (c. 22). There are other amendments to section 64 that are not relevant to this Order.

(4) 1837 c. cxxii.

(5) 1845 c. clii.

(6) 1858 c. cxvi.

(7) 1861 c. lxxii.

(8) 1862 c. xl.

(9) 1892 c. cxxviii.

(10) 1894 c. cliii.

(11) 1845 c. 20.

(12) 1863 c. 92.

## PART 2

### TRANSFER OF THE RAILWAY

#### **Transfer of rights and obligations to undertaker, etc.**

- 4.—(1) Except as may be otherwise provided in this Order, from the relevant date—
- (a) the railway or any part of it continues to be subject to all statutory and other provisions applicable to the railway at that date; and
  - (b) the undertaker is—
    - (i) to the exclusion of Weardale Realisations, entitled to the benefit of, and to exercise, all rights, powers and privileges relating to the railway or any part of it; and
    - (ii) subject to all obligations, statutory or otherwise, relating to the railway or any part of it, with the intent that Weardale Realisations is to be released from all such obligations.
- (2) Paragraph (1)(b) is subject to article 9 (provisions as to bridges).

#### **Transfer of railway by undertaker**

- 5.—(1) In 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;
  - “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; and
  - “the transferred undertaking” means so much of the railway 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 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 lease or sale; 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, 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.

## PART 3

### MISCELLANEOUS

#### **Power to operate and use railway**

6.—(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) Nothing in this Order, or in any enactment incorporated with or applied by this Order, is to prejudice or affect the operation of Part 1 of the Railways Act 1993<sup>(13)</sup>.

#### **Level crossings**

7.—(1) On and after the relevant date, the provisions set out in Part 2 (conditions and requirements to be observed by the undertaker) of Schedule 1 (road level crossings) to this Order apply to the level crossings mentioned in Part 1 (level crossings to which Part 2 applies) of that Schedule.

(2) On and after the relevant date, the provisions set out in Part 2 (conditions and requirements to be observed by the undertaker) of Schedule 2 (footpath/bridleway level crossings) to this Order apply to the level crossings mentioned in Part 1 (level crossings to which Part 2 applies) of that Schedule.

#### **Restrictions as to the conveyance of passengers**

8. No part of the railway may be used for the conveyance of passengers without the prior written consent of the Office of Rail and Road.

#### **Provisions as to bridges**

9.—(1) From the relevant date, sections 116 (transfer of responsibility for maintenance of highways on bridges over certain railways, inland waterways, etc.), 117 (duty as respects bridges carrying highways) and 118 (duty of highway authorities, etc., as respects bridges over certain railways or inland waterways) of the Transport Act 1968<sup>(14)</sup> apply to the railway or to the relevant part of it as if references to the British Railways Board were references to the undertaker.

(2) The provisions of paragraph (1) do not affect the application of article 4 (transfer of rights and obligations to undertaker, etc.).

(3) On and after the relevant date, Durham County Council will remain responsible (to the exclusion of the undertaker) for the structure of any bridge carrying a highway over the railway or any relevant part of it.

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<sup>(13)</sup> 1993 c. 43.

<sup>(14)</sup> 1968 c. 73. Section 116 was amended by Schedule 30 to the Local Government Act 1972 (c. 70) and S.I. 1996/420, S.I. 2003/1615 and S.I. 2012/1659. Section 117 was amended by Schedule 13 to the Road Traffic Regulations Act 1984 (c. 27) and S.I. 1996/420, S.I. 2000/3251, S.I. 2003/1615, and S.I. 2012/1659. Section 118 was amended by Schedule 9 to the New Roads and Street Works Act 1991 (c. 22) and S.I. 1996/420, S.I. 2003/1615, S.I. and 2012/1659.

Signed by authority of the Secretary of State for Transport

15th October 2020

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

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

## SCHEDULES

### SCHEDULE 1

Article 7(1)

#### ROAD LEVEL CROSSINGS

#### PART 1

#### LEVEL CROSSINGS TO WHICH PART 2 APPLIES

<i>Location and reference point</i>	<i>Parish</i>	<i>Road</i>
Witton-le-Wear No. 1 (NZ 151312)	Witton-le-Wear	Low lane (unclassified road no. 41.27)
Enginemans Terrace (NZ 165318)	Witton-le-Wear	Unclassified road no. 41.27
Unthank No.2 (NY 989390)	Stanhope (Stanhope Ward)	B6278

#### PART 2

#### CONDITIONS AND REQUIREMENTS TO BE OBSERVED BY THE UNDERTAKER

The undertaker will provide, maintain and operate at each level crossing mentioned in this Schedule such protective equipment as the Office of Rail and Road may in writing require.

### SCHEDULE 2

Article 7(2)

#### FOOTPATH/BRIDLEWAY LEVEL CROSSINGS

#### PART 1

#### LEVEL CROSSINGS TO WHICH PART 2 APPLIES

<i>Location and reference point</i>	<i>Parish</i>	<i>Footpath/Bridleway No. reference</i>
Broken Bank (NZ 196293)	Bishop Auckland	Footpath No. 5
Enginemans Terrace (NZ 165318)	Witton-le-Wear	Footpath/Bridleway No. 121
Blakeley Hall (NZ 154315)	Witton-le-Wear	Footpath No. 128
Witton-le-Wear No.2 (NZ 151312)	Witton-le-Wear	Footpath No. 134

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<i>Location and reference point</i>	<i>Parish</i>	<i>Footpath/Bridleway No. reference</i>
Witton-le-Wear No.3 (NZ 148311)	Witton-le-Wear	Footpath No. 156
Witton-le-Wear No.4 (NZ 146311)	Witton-le-Wear	Footpath No. 132
Witton-le-Wear No.5 (NZ 142312)	Witton-le-Wear	Footpath No. 151
Witton-le-Wear No.6 (NZ 140313)	Witton-le-Wear	Footpath No. 152
Harperley (NZ 116347)	Wolsingham	Bridleway No. 134b
Bradley Hall No.2 (NZ 103358)	Wolsingham	Footpath No. 126
Scotch Isle Farm (NZ 092363)	Wolsingham	Bridleway No. 128
Scotch Isle Farm No.2 (NZ 089366)	Wolsingham	Footpath No. 127
Wolsingham Steel Works (NZ 082367)	Wolsingham	Footpath No. 126
Wiserley Hall (NZ 080368)	Wolsingham	Bridleway No. 129
Ashes House (NZ 064369)	Wolsingham	Footpath No. 111
Holbeck House No.2 (NZ 058368)	Wolsingham	Footpath No. 105
Holbeck House No.3 (NZ 055368)	Wolsingham	Footpath No. 101
Landieu (NZ 047367)	Wolsingham	Footpath No. 100
Broadwood Tip (NZ 042367)	Stanhope (Frosterley Ward)	Footpath No. 31
Broadwood (NZ 036368)	Stanhope (Frosterley Ward)	Footpath No. 27
Frosterley No.2 (NZ 030368)	Stanhope (Frosterley Ward)	Footpath No. 35
Stanhope No. 1 (NZ999386)	Stanhope (Stanhope Ward)	Footpath No. 9
Stanhope No. 4 (NY 996389)	Stanhope (Stanhope Ward)	Footpath No. 9
Stanhope No. 5 (NY 995389)	Stanhope (Stanhope Ward)	Footpath No. 69
Stanhope No. 6 (NY 998387)	Stanhope (Stanhope Ward)	Footpath No. 73
Unthank No. 1 (NY 992390)	Stanhope (Stanhope Ward)	Footpath No. 3
Unthank No. 4 (NY 983390)	Stanhope (Stanhope Ward)	Footpath No. 41
Wear Terrace (NZ 156316)	Witton-le-Wear	Footpath No. 184

## PART 2

### CONDITIONS AND REQUIREMENTS TO BE OBSERVED BY THE UNDERTAKER

The undertaker will provide, maintain and operate at each level crossing mentioned in this Schedule such protective equipment as the Office of Rail and Road may in writing require.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises the transfer from Weardale Realisations CIC to Weardale Railway Limited of certain statutory provisions and other rights and liabilities relating to the railway line between Bishop Auckland and Eastgate, County Durham.

The Order places responsibility on Durham County Council for bridges carrying highways over the railway and makes provision for the safety of works and equipment and for the safe operation of level crossings.

The Order does not authorise the construction of works.