
STATUTORY INSTRUMENTS

2003 No. 3364

**The Alconbury Airfield (Rail Facilities and
Connection to East Coast Main Line) Order 2003**

PART 4

MISCELLANEOUS AND GENERAL

Power to operate and use railways

22. The undertaker may operate and use the railways and other authorised works as a system, or part of a system, of transport for the carriage of goods.

Maintenance of approved works etc.

23.—(1) Where, pursuant to regulations⁽¹⁾ made under section 41 of the Act (approval of works, plant and equipment), approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part of the railways authorised by this Order, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time that the approval was given, unless any change thereto does not materially impair the safe operation of the railways so authorised.

(2) If without reasonable cause the provisions of paragraph (1) are contravened, the undertaker shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by or with the consent of the Health and Safety Executive or the Director of Public Prosecutions.

Disclosure of confidential information

24. A person who—

- (a) enters a factory, workshop or workplace in pursuance of the provisions of article 11, and
- (b) discloses to any person any information obtained by him relating to any manufacturing process or trade secret,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale unless the disclosure is made in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.

Statutory undertakers etc.

25. The provisions of Schedule 6 to this Order shall have effect.

(1) S.I.1994/157.

Certification of plans etc.

26. The undertaker shall, as soon as practicable after the making of this Order, submit copies of the book of reference, the land plan, the sections and the works plans to the Secretary of State for certification that they are true copies of, respectively, the book of reference, sections and plans referred to in this Order; and a document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Service of notices

27.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served by post.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(2) as it applies for the purposes of this article, the proper address of any person in relation to the service on him of a notice or document under paragraph (1) is, if he has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body, and
- (b) in any other case, his last known address at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and his name or address cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to him by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it), and
- (b) either, leaving it in the hands of a person who is or appears to be resident or employed on the land, or leaving it conspicuously affixed to some building or object on or near the land.

(5) This article shall not be taken to exclude the employment of any method of service not expressly provided for by it.

No double recovery

28. Compensation shall not be payable in respect of the same matter both under this Order and under any other enactment, any contract or any rule of law.

Arbitration

29. Any difference under any provision of this Order (other than a difference which falls to be determined by the tribunal) shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Trespass on railway

30.—(1) Any person who—

- (a) trespasses on any authorised railway, or

- (b) trespasses upon any land of the undertaker in dangerous proximity to the authorised railway or to any electrical or other apparatus used for or in connection with the operation of the authorised railway,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) No person shall be convicted of an offence under this article unless it is shown that notices warning the public not to trespass upon the railway were clearly exhibited and maintained at the boundary fence of the railway in the location where any streets cross the authorised railway.

Agreements with Network Rail

31.—(1) The undertaker and Network Rail may enter into and carry into effect agreements with respect to the construction, maintenance, renewal, use and operation of—

- (a) any of the authorised works, or any part of those works, and
- (b) any works required for the purposes thereof or in connection therewith, including any works to alter or adapt any property of Network Rail or to connect with any railway operated by Network Rail

by Network Rail or by the undertaker, or by the undertaker and Network Rail jointly.

(2) Any agreement made under paragraph (1) may make provision with respect to any other matters incidental or subsidiary thereto or consequential thereon, including the defraying of, or the making of contributions towards, costs of such works or the maintenance and renewal thereof incurred by either party to the agreement.

(3) Without prejudice to the generality of paragraph (1), any such agreement may provide for the exercise by Network Rail or by the undertaker, or by the undertaker and Network Rail jointly, of all or any of the powers of the undertaker with respect to any of the authorised works and any works required for the purposes thereof or in connection therewith.

(4) The exercise by Network Rail or the undertaker or by the undertaker and Network Rail jointly, of any powers and rights under any enactment or contract pursuant to any such agreement as is authorised in paragraph (1) shall be subject to the same provisions relating thereto as would apply if such powers and rights were exercised by the undertaker or Network Rail (as the case may be) alone, and accordingly, those provisions, with any necessary modification, shall apply to the exercise of such powers and rights by Network Rail or the undertaker, or by the undertaker and Network Rail jointly, as the case may be.

(5) In constructing the scheduled works the undertaker may with the agreement of Network Rail, which agreement shall not be unreasonably withheld but may be given subject to reasonable conditions, re-align so much of any of Network Rail's railways as lie within the limits of deviation of the scheduled works and may connect to Network Rail's railway in such locations within the limits of deviation for those works as shall be agreed between the undertaker and Network Rail.

(6) The undertaker and Network Rail may enter into, and carry into effect, agreements for the transfer to, and vesting in Network Rail or the undertaker, or the undertaker and Network Rail jointly, of—

- (a) any of the authorised works or any part of any of those works,
- (b) any works, lands or other property required or held for the purposes thereof or in connection therewith

together with the rights and obligations of the undertaker or Network Rail (as the case may be) in relation thereto.

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

(7) Nothing in this Order, or in any enactment incorporated with or applied by this Order, shall prejudice or affect the operation of the provisions of Part 1 of the Railways Act 1993⁽³⁾ in relation to anything done under or in pursuance of this Order.

For the protection of Network Rail

32. The provisions of Schedule 7 to this Order shall have effect.

For the protection of the Environment Agency

33. The provisions of Schedule 8 to this Order shall have effect.

(3) 1993 c. 43.