

Initial draft Babbacombe Cliff Railway Order Explanatory Notes

The Transport and Works (Model Clauses for Railways and Tramways) Regulations 2006 prescribe the form and to a considerable degree, the content of the revised Order.

The power of disposal (Article 3):

This is subject to consent. The Parliamentary Agents advise that they “would be surprised if the Secretary of State let it go by without [such] inclusion.”

Operation of the Railway (Article 4):

This is approved standard wording and will be supplemented by the special provisions regarding use of electric power as motive power in the 1923 Order, relevant portions of which will remain extant. Article 4 permits greater flexibility as to the nature of the power source.

Safety of Approved Works etc. (Article 5):

This is again a standard clause. However, sub-clause 1(b) is a variation reflecting the fact that this is a funicular-type railway.

Power to charge fares (Article 6):

This enables the operator to charge fares at whatever level is deemed appropriate.

Amendments and Revocations (Article 7):

Sub-clause (1) provides for the amendment of the 1923 Order to exclude relevant sections of the Railways Clauses Consolidation Act 1845 which remain in force. These sections are:

- Conditions to be contained in leases executed in exercise of power to lease railway
- Powers vested in the company may be exercised by the lessees
- Engines to be approved by the company and certificate approval given – unfit engines to be removed
- Penalty on persons using improper engines
- Carriages to be constructed according to company's regulations
- Regulations to be in writing and to apply also to company's carriages
- Penalty on persons using improper carriages

- Owners name etc. to be registered and exhibited on carriages if required – owner to allow carriages to be weighed etc.
- On non-compliance carriage may be removed

Sub-Clause 2 provides for the following revocations

- Those articles of the 1923 Order which require agreements to be made with the Torquay Tramways Company Limited
- An article of the 1923 Order which makes provision for ministerial regulation of the working of the railway
- Those articles of the 1923 Order which are concerned with rates and charges
- Sub-clauses within the 1923 Order which require the Council to employ either insulated returns or un-insulated returns of low resistance
- The entirety of the 1926 Order which contains detailed specifications regarding mechanical power and safety which are now enforced through primary legislation through recent primary legislation
- The entirety of the 1955 Order which amends specific details within the 1926 Order