

# The Cardiff Canton (Transfer) Order 202[ ]

---

## EXPLANATORY MEMORANDUM

---

Transport and Works Act 1992	
Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006	
Rule Number	Rule 10(2)(b)
Author	Burges Salmon LLP

Version	Date	Description
1	January 2022	Rule 5 submission
2	June 2022	TAWO submission

## **1 EXPLANATORY MEMORANDUM**

- 1.1 This Memorandum explains the purpose and effect of each article of and Schedule to the draft Cardiff Canton (Transfer) Order (the “Order”), as required by Rule 10(2)(b) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006. It also highlights and explains the requirement for and impact of any departures from the Model clauses for Railways contained in Schedule 1 to the Transport and Works (Model Clauses for Railways and Tramways) Order 2006 (the “Model Clauses”).
- 1.2 The Order is promoted by Pullman Rail Limited (referred to as the “Applicant”), a provider of specialist engineering services for rail vehicles in the UK, which operates from Transport for Wales’ (“TfW”) Cardiff Canton Traction Maintenance depot (the “Depot”). The Order provides for the transfer of certain statutory provisions and other rights and liabilities relating to the Depot. The Order also provides for transferred rights and obligations to be exercised by the Applicant and Transport for Wales Rail Limited (“TfW Rail”).
- 1.3 The Order is necessary because the existing powers and statutory powers and liabilities relating to the Depot cannot be transferred to TfW, the Applicant and TfW Rail without the statutory authority that the Order would provide. The Order would not authorise the acquisition of land or the construction of works.
- 1.4 The Order is based on the Model Clauses but occasionally departs from those clauses and follows previous precedent order. Where there is a departure from the Model Clauses, an explanation is provided below.

## **2 ARTICLES OF THE ORDER**

- 2.1 *Article 1 (Citation and commencement)* provides for the commencement and citation of the Order.
- 2.2 *Article 2 (Interpretation)* defines the following terms that are used in the interpretation of the Order:
- (a) “the company”, being the Applicant;
  - (b) “the depot”, being that part of the Depot in relation to which the Applicant and TfW Rail have freehold interests;
  - (c) “the relevant date”, being the date on which the Order comes into force;
  - (d) “statutory provision”, meaning statutory provisions whether of a general or a special nature;
  - (e) “the undertaker”, being TfW; and
  - (f) “TfW Rail”, being Transport for Wales Rail Limited.

These definitions are not set out in the Model Clauses.

- 2.3 *Article 3 (Transfer of rights and obligations to undertaker, etc.)* provides for the depot to continue to be subject to all statutory and other provisions applicable to it on the relevant date, and provides that TfW is entitled to exercise all powers and is subject to all obligations relating to the depot. This provision is not based on the Model Clauses but has precedent in other orders relating to the transfer of rights and obligations where no works are being carried out, for example article 4 of the Wear Valley Railway (Transfer) Order 2020.
- 2.4 *Article 4 (Transfer of railway by undertaker)* provides for TfW to sell or lease any part of the depot with the consent of the Welsh Ministers. It also recognises that the Applicant

and TfW Rail are the freehold proprietors of the depot, and provides for the Applicant and TfW Rail to exercise all powers and be subject to all obligations relating to the depot. This provision is not based on the Model Clauses but has precedent in other orders relating to the transfer of rights and obligations where no works are being carried out, for example article 4 of the Cardiff and Valleys Railways (Transfer) Order 2019 and article 5 of the Wear Valley Railway (Transfer) Order 2020.

- 2.5 *Article 5 (Power to operate and use railway)* provides for TfW and any transferee (which would include the Applicant and TfW Rail) to operate and use the railway as part of a passengers and goods rail system. Paragraph (2) makes clear that the Order does not cut across any of the restrictions on the Welsh Ministers' powers in relation to railways under the Railways Act 1993 or the Government of Wales Act 2006. This is based on paragraph 34 of the Model Clauses.