

The Railways Act 1993
(as amended)

Kier Construction Limited
Licence Exemption 2005

2005 No. 3

Made 23 March 2005

Coming into force 23 March 2005

The Office of Rail Regulation, in exercise of the powers conferred upon it by section 7(3) of the Railways Act 1993 (as amended), after consultation with the Secretary of State and the Strategic Rail Authority in accordance with the said section 7(3), hereby grants to Kier Construction Limited the following exemption.

Citation and commencement

1. (1) This exemption may be cited as the Kier Construction Limited Licence Exemption 2005.

(2) This exemption shall come into force on 23 March 2005 and shall continue in force until revoked in accordance with article 6.

Interpretation

2. (1) In this exemption:

“the Act” means the Railways Act 1993 (as amended);

“the Company” means Kier Construction Limited, incorporated in England and Wales with company registration number 1157281, whose registered office is at Tempsford Hall, Sandy, Bedfordshire, SG19 2BD; and

“the exempt network” means the network commencing at New Greenburn Junction, located at 54m 60ch on the Network Rail Knockshinnoch goods line (itself connected to the Network Rail Glasgow and South Western main line at Bank Junction), and consisting of a single line 3538 metres in length, a 476 metre loop siding commencing at 3025 metres, and a 78 metre siding commencing at 3190 metres (all distances measured from New Greenburn Junction).

(2) In this exemption:

(a) unless the context otherwise requires, terms and expressions herein shall bear the same meaning as in the Act;

(b) the Interpretation Act 1978 shall apply as it applies to an enactment;

(c) any reference to a numbered article is a reference to the article in this exemption which bears that number, and any reference in an article to a numbered paragraph is a reference to the paragraph bearing that number in that article; and

(d) any reference to a person includes any individual, company, unincorporated association or body of persons (including a partnership, joint venture or consortium) or other entity and its respective successors and assigns.

Licence exemption

3. Subject to articles 5 and 6, this exemption is granted to the Company from the requirement to be authorised by licence to be the operator of the railway assets, or the classes or descriptions of assets, specified in article 4.

Railway assets to which article 3 applies

4. The railway assets to which article 3 applies are:
- (a) the exempt network; and
 - (b) any installations associated with any of the track comprised in the exempt network.

Condition

5. The Company shall notify the Office of Rail Regulation in writing as soon as possible and, in any event, within 30 days, if:
- it agrees to grant regular access to the exempt network to a train operator; and
 - such access is for a purpose other than providing services to the Company.

Revocation

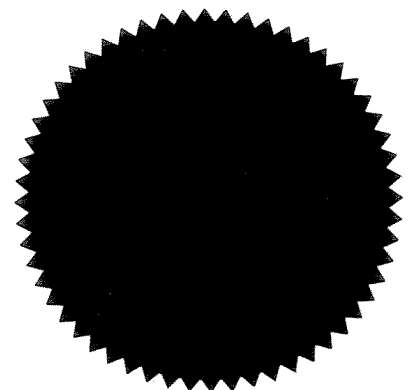
6. The Office of Rail Regulation may revoke the whole or any part of this exemption:
- (a) at the same time that it grants to the Company any licence or exemption to operate any other railway asset or assets notwithstanding that such licence or exemption may also apply to one or more of the assets specified in article 4;

- (b) if, having received written notification from the Company in accordance with article 5 above, it determines that such revocation is appropriate;
- (c) if it suspects on reasonable grounds that the Company has operated any railway asset without having in place a licence or exemption as required by section 6 of the Act;
- (d) by agreement in writing between the Office of Rail Regulation and the Company; or
- (e) if the Company does not hold a valid safety case or a valid safety case exemption as required by the Railway (Safety Case) Regulations 2000 (as amended).

Robert M. Askill

23 March 2005

Signed by authority of the
Office of Rail Regulation



EXPLANATORY NOTICE

This notice is not part of the exemption

This exemption provides for the grant of exemption from the licensing provisions of the Railways Act 1993 (as amended).

Article 3 provides for Kier Construction Limited (“the Company”) to be exempt from the requirement to hold a licence to be the operator of the railway assets specified in article 4.

This exemption will permit the Company to operate the network commencing at New Greenburn Junction, located at 54m 60ch on the Network Rail Knockshinnoch goods line (itself connected to the Network Rail Glasgow and South Western main line at Bank Junction), and consisting of a single line 3538 metres in length, a 476 metre loop siding commencing at 3025 metres, and a 78 metre siding commencing at 3190 metres (all distances measured from New Greenburn Junction) without need to hold a licence.

Article 6 sets out the circumstances in which this exemption may be revoked. The exemption may also be revoked under section 7(6) of the Railways Act 1993 (as amended) if the condition set out in article 5 is not complied with.