

The Railways Act 1993
(as amended)

Kilbride Properties (Swindon) Limited
(Railway Goods Terminals)
Licence Exemption 2008

2008 No. 2

Made 13 February 2008

Coming into force 13 February 2008

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 in accordance with the said section 7(3), hereby grants to Kilbride Properties (Swindon) Limited the following exemption.

Citation and commencement

1. (a) This exemption may be cited as the Kilbride Properties (Swindon) Limited (Railway Goods Terminals) Licence Exemption 2008.
- (b) This exemption shall come into force on 13 February 2008 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 Kilbride Properties (Swindon) Limited, incorporated in Scotland with company registration number SC334677, whose registered office is at 7 Castle Street, Edinburgh, EH2 3AH.

“exempt network” means any network operated by Kilbride Properties (Swindon) Limited that is a railway goods terminal, and includes any installations associated with any of the track comprised in such a network.

“exempt activities” means those things which the Company may do pursuant to this exemption and in respect of which it is exempt from the requirement to be authorised by licence by virtue of article 3.

“railway goods terminal” means any network used for the purposes of transporting goods and that is not used by passenger trains.

(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 article 5 exemption is granted to the Company from the requirement to be authorised by licence to be the operator of any exempt network specified in article 4.

Exempt networks to which article 3 applies

4. The exempt networks to which article 3 applies are:
 - (a) the railway goods terminal at Keypoint, Thornhill Road, Swindon, SN3 4RY,
 - (b) any railway goods terminal specified in a notice given to the Office of Rail Regulation, and in respect of which the Office of Rail Regulation:
 - i. has given the Company a notice stating that it does not object to article 3 applying to that railway goods terminal, or
 - ii. has not given the Company, within a period of 28 days from notification by the Company, a notice stating that it objects to article 3 applying to that railway goods terminal.

Conditions

5. Where the Company ceases to be the operator of a railway goods terminal in respect of which article 3 applies, it shall give notice of that fact to the Office of Rail Regulation without delay, and in any event within 14 days beginning with the day it ceases to be the operator, in which case article 7 shall apply.

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, or
 - (b) 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, or

- (c) if the Company has not commenced exempt activities within one year beginning with the day on which this exemption comes into force or if the Company ceases to carry on exempt activities for a continuous period of at least one year, or
 - (d) by agreement in writing between the Office of Rail Regulation and the Company.
7. Where the Company has specified in a notice given to the Office of Rail Regulation that it is no longer the operator of a railway goods terminal to which article 3 applies, the exemption granted in article 3 shall be deemed to no longer apply in respect of that railway goods terminal on receipt on that notice by the Office of Rail Regulation.



13 February 2008

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 Kilbride Properties (Swindon) Limited (“the Company”) to be exempt from the requirement to hold a licence to be the operator of exempt networks specified in article 4.

This exemption will permit the Company to operate Keypoint rail goods terminal at Swindon, and any other railway goods terminals if prior notification is given to the Office of Rail Regulation (ORR) with no objection served, without need to hold a licence.

Article 6 sets out the circumstances in which this exemption may be revoked. ORR may also revoke this exemption under section 7(6) of the Act if the condition at article 5 is not complied with.