

The Railways Act 1993

The Birse Construction Ltd (Non-passenger)

Licence Exemption 2000

2000 No 6

Made 4 July 2000

Coming into force 4 July 2000

The Rail Regulator, in exercise of the powers conferred upon him by section 7(3) of the Railways Act 1993, after consultation with the Secretary of State in accordance with the said section 7(3), hereby grants the following exemption.

1. Citation and commencement

- (1) This exemption may be cited as the Birse Construction Limited (Non-passenger) Licence Exemption 2000.
- (2) This exemption shall come into force on 4 July 2000.

2. Interpretation

- (1) In this exemption:

"the Act" means the Railways Act 1993; and

"the Company" means Birse Construction Limited, incorporated in England with registration number 2870195, whose registered office is at Hill House, 1 Little New Street, London EC4A 3TR.

- (2) In this exemption:

- (a) unless the context otherwise requires, terms and expressions defined in the Act shall bear the same meanings in this exemption;
- (b) the Interpretation Act 1978 shall apply to this exemption in the same way as it applies to an enactment; and
- (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.

3. **Licence Exemption**

Subject to paragraph 5, the exemption is granted to the Company from the requirement to be authorised by licence to be the operator of the railway assets specified in article 4.

4. **Railway asset to which article 3 applies**

The railway assets to which article 3 applies are non-passenger trains which consist of vehicles comprising plant and machinery which are exclusively used for the carrying out of works of maintenance or repair to a network.

5. **Conditions**

The exemption granted under article 3 is subject to the following conditions:

- (a) the Company shall only be permitted to operate the railway asset specified in article 3 on networks or parts of networks in respect of which it has been granted exclusive possession by the relevant facility owner; and
- (b) the Company shall in respect of the operation of the railway asset specified in article 3 maintain or procure the maintenance of insurance against third party liabilities in accordance with the requirements of the Strategic Rail Authority as notified to it from time to time.
- (c) the Company shall supply a further auditor's letter that meets the Regulator's requirements on third party liability insurance within 28 days following the completion of the audit for the financial year ending April 2000 of Birse Construction Limited.

6. **Terms as to Revocation**

The Rail Regulator may revoke the whole or any part of the exemption granted in article 3:

- (a) at the same time that he grants to the Company any licence or exemption to operate any other railway asset;
- (b) if he 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;
- (c) if he does not receive the information required under section 5 (c) or that it does not comply with the Regulator's requirements; or
- (d) by agreement in writing between the Rail Regulator and the Company; or

- (e) if so required by the Strategic Rail Authority because the Company has broken the condition in 5(b).

4 July 2000

Signed by authority
of
the Rail Regulator

LICENCE EXEMPTION 2000

No 6

Superseded 01-02-01

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Licence Exemption

3. Subject to paragraph 5, the exemption is granted to the Company from the requirement to be authorised by licence to be the operator of the railway assets specified in article 4.

Railway asset to which article 3 applies

4. The railway assets to which article 3 applies are non-passenger trains which consist of vehicles comprising plant and machinery which are exclusively used for the carrying out of works of maintenance or repair to a network.

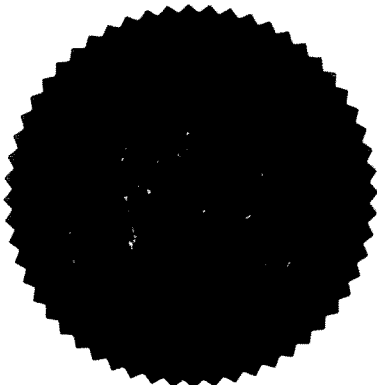
Conditions

5. The exemption granted under article 3 is subject to the following conditions:
- (a) the Company shall only be permitted to operate the railway asset specified in article 3 on networks or parts of networks in respect of which it has been granted exclusive possession by the relevant facility owner; and
 - (b) the Company shall in respect of the operation of the railway asset specified in article 3 maintain or procure the maintenance of insurance against third party liabilities in accordance with the requirements of the Rail Regulator as notified to it from time to time.
 - (c) the Company shall supply a further auditor's letter that meets the Regulator's requirements on third party liability insurance within 28 days following the completion of the audit for the financial year ending April 2000 of Birse Construction Ltd.

Terms as to Revocation

6. The Rail Regulator may revoke the whole or any part of the exemption granted in article 3:
- (a) at the same time that he grants to the Company any licence or exemption to operate any other railway asset;
 - (b) if he 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;
 - (c) if he does not receive the information required under section 5 (c) or that it does not comply with the Regulator's requirements; or
 - (d) by agreement in writing between the Rail Regulator and the Company.

4 July 2000



Signed by authority
of
the Rail Regulator

EXPLANATORY NOTE

(This note is not part of the exemption.)

This exemption provides for the grant of exemption from the licensing provisions of the Railways Act 1993.

Article 3 provides for Birse Construction Limited to be exempt from the requirement to hold a licence to be the operator of the railway asset specified in article 4.

Article 4 provides that the exemption applies in respect of non-passenger trains comprising of plant and machinery used for the maintenance or repair of railway networks, but only in the circumstances where Birse Construction Limited has exclusive access to those networks and has in place insurance requirements for third party liabilities in accordance with the requirements of the Rail Regulator.