

The Railways Act 1993
(as amended)

McNicholas Construction Services Limited
Licence Exemption 2005

2005 No. 13

Made 15 November 2005

Coming into force 15 November 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 in accordance with the said section 7(3), hereby grants to McNicholas Construction Services Limited the following exemption.

Citation and commencement

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

(2) This exemption shall come into force on 15 November 2005 and shall continue in force until revoked in accordance with articles 5 and 6.

Interpretation

2. (1) In this exemption:

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

“the Company” means McNicholas Construction Services Limited, incorporated in England and Wales with company registration number 1510892, whose registered office is at 22 Melton Street, London, NW1 2BW;

“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; and

(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: non-passenger trains which consist of road-rail vehicles, permanent way trolleys and trailers which will be used in order to facilitate engineering works to the network.

Conditions

5. This exemption is granted subject to compliance with the following conditions:
- (a) the Company shall only be permitted to operate the railway assets specified in article 4 on network 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 railway assets specified in article 4 maintain or procure the maintenance of insurance against third party liabilities in accordance with the requirements of the Office of Rail Regulation as notified from time to time.

Revocation

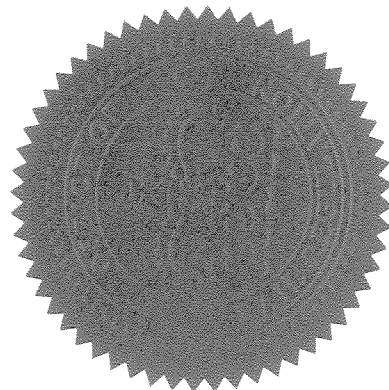
6. The Office of Rail Regulation may revoke the whole or any part of this exemption:
- (a) at the same time that it grants to the Company any licence or exemption to operate any other railway asset or assets notwithstanding that such licence or exemption may also apply to one or more of the assets specified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

- (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.
- (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 AA. Alaski

15 November 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 McNicholas Construction Services 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 road-rail vehicles, permanent way trolleys and trailers on Network Rail controlled infrastructure, 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 Conditions set out in article 5 are not complied with.