

2003 No. 359

TRANSPORT

The Greenburn Light Railway (Scotland) Order 2003

Made 10th July 2003

Coming into force 11th July 2003

The Scottish Ministers, in exercise of the powers conferred by sections 7, 9, 10, 11 and 12 of the Light Railways Act 1896(a) and all other powers enabling them in that behalf, hereby make the following Order.

Citation and commencement

1. This Order may be cited as the Greenburn Light Railway (Scotland) Order 2003 and shall come into force on 11th July 2003.

Interpretation

2. In this Order:

“the Act” means the Light Railways Act 1896.

“the Company” means Kier Minerals Limited, a company incorporated under the Companies Act 1985(b) and having its registered office at Tempsford Hall Sandy, Bedfordshire;

“the Company’s railway” means the railway authorised by Article 3 and described in Schedule 1 to this Order and includes all the lands and works relating thereto;

“the deposited plan” means the plan prepared in accordance with the Ministry of Transport (Light Railways) Procedure Rules 1927(c);

The Company’s Railway

3.—(1) The Company may on lands owned by, leased or licensed to the Company construct, make and maintain a railway as described in Schedule 1 to this Order with all the necessary works and conveniences connected therewith and work the same as a light railway under the Act and in accordance with the provisions of this Order.

(2) The Company shall obtain all additional consents and approvals required for the operation of the Company’s railway from the Health and Safety Executive in terms of The Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994(d).

The new level crossing

4.—(1) The Company shall have authority to make and maintain a crossing on the level of the C36 road between Cumnock and Connel Park as described in Schedule 2 to this Order with all the necessary works and conveniences connected therewith

(a) 1896 c. 48 as amended by section 68 of the Railways Act 1921. The functions of the Minister under that Act vested in the Secretary of State for Transport by virtue of S.I. 1970/1681, 1979/571 and 1981/238. The functions of the Secretary of State for Transport transferred to the Scottish Ministers in respect of the promotion and construction of railways in Scotland by virtue of the Scotland Act 1998 (Modification of Schedule 5) Order 2002 (S.I. 2002/1629).

(b) 1985 c.6.

(c) S.I. 1927/196.

(d) S.I. 1994/157.

(2) The Company may carry out and maintain such other works as may be necessary or expedient for the purposes of, in connection with or in consequence of the construction of the new level crossing.

Gauge of railway and motive power

5.—(1) The Company's railway shall be operated on a gauge of 1.435 metres (four feet eight and one half inches).

(2) The motive power shall be diesel, diesel-hydraulic or diesel-electric.

Restriction of weight on rails and of speed and as to conveyance of passengers

6.—(1) The Company shall not run or permit to be run any train or engine upon any part of the Company's railway at a rate of speed exceeding 32 kilometres per hour (20 miles per hour), or such lower speed as the Health and Safety Executive may direct, at any time.

(2) The Company shall not run any train, engine, carriage or vehicle upon any part of the Company's railway which exceeds such maximum axleweight as the Health and Safety Executive may direct.

(3) No part of the Company's railway shall be used for the conveyance of any person other than those persons involved in the operation of the Company's railway.

For protection of public gas suppliers

7. Nothing in this Order shall prejudice or affect the rights of any public gas supplier within the meaning of Part I of the Gas Act 1986(a), in any apparatus belonging to them, or for the maintenance of which they are responsible or any structure for the lodging therein of apparatus, being any apparatus or structure situate under, over or upon lands in or upon which the Company's railway may be constructed.

For protection of sewerage and water undertakers

8. For the protection of sewerage and water undertakers (in this article referred to as "the undertakers") the following provisions shall, unless otherwise agreed in writing between the Company and the undertaker concerned, apply and have effect:—

- (a) In this article, "relevant pipe" in relation to an undertaker means any mains sewer or water supply pipe passing under or through the Company's railway.
- (b) The Company shall not raise, sink or otherwise alter the position of, or in any way to interfere with, any relevant pipe without the consent in writing of the undertaker concerned, such consent not to be unreasonably withheld.
- (c) Where any relevant pipe is situated in or under any land owned or held for the purposes of the Company's railway the Company shall at their own expense maintain all culverts over such relevant pipe which are in existence at the coming into force of this Order so as to leave the relevant pipe accessible for the purposes of repairs.
- (d) The Company shall afford reasonable facilities to the undertakers for the execution and doing of all such works and things as may be reasonably necessary to enable them to inspect, repair, maintain, renew, replace, remove, alter or use any relevant pipe.
- (e) Nothing in this Order shall prejudice or affect the rights of the undertakers in respect of any relevant pipe or the provisions of any agreement regulating the relations between the Company and the undertakers with regard to any relevant pipe and whether made before or after this Order comes into force.
- (f) Any difference arising between the Company and the undertakers under this article (other than a difference as to its meaning or construction) shall be referred to and settled by arbitration as regulated by the Arbitration (Scotland) Act 1894(b).

(a) 1986 c.44.

(b) 1894 c.13.

Public Liability Insurance

9.—(1) In this article—

“insurer” means any insurer or insurers authorised under the Insurance Companies Act 1982(a) to carry on in the United Kingdom insurance business of a relevant class or who has corresponding permission under the law of another member state of the European Economic Community;

“policy” means a public liability policy with an insurer providing maximum cover in respect of any one accident on or occasioned by the operation of the railway of not less than £2,000,000.

(2) The Company shall not work the railway unless there is in force a policy.

(3) The adequacy of the cover provided by a policy maintained in accordance with this article shall be regularly reviewed and increased by the Company.

(4) The Company shall comply with any valid direction given by the Secretary of State requiring insurance in terms of section 46 of the Transport and Works Act 1992(b).

ROBERT E ROBERTS

A member of the staff of the Scottish Ministers

St Andrews House,
Edinburgh
10th July 2003

(a) 1982 c. 50.
(b) 1992 c. 42.

SCHEDULE 1

THE COMPANY'S RAILWAY

The freight carrying railway 3.5 kilometres or thereby in length commencing at a point some 650 metres from the Bank Junction on the Knockshinnoch Branch of the Glasgow and South Western main line, OS grid reference NS 607137, in the parish of New Cumnock in the county of East Ayrshire all as shown on the deposited plan, including the new level crossing and authorised to be constructed and maintained by the Company in accordance with article 3(1) of this Order.

SCHEDULE 2

THE NEW LEVEL CROSSING

The new level crossing at Connalwood, by New Cumnock in the County of East Ayrshire whereby the Company's railway will cross the public road C36 known as Boig Road between Cumnock and Connel Park on the level at reference point NS 598 134 or in the vicinity thereof.

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