

The Railways Act 1993
(as amended)

Avondale Environmental Services Limited
Licence Exemption 2005

2005 No. 1

Made 9 February 2005

Coming into force 9 February 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 Avondale Environmental Services Limited the following exemption.

Citation and commencement

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

(2) This exemption shall come into force on 9 February 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 Avondale Environmental Services Limited, incorporated in England and Wales with company registration number 2927666, whose registered office is at Fort Horsted, Primrose Close, Chatham, Kent, ME4 6HZ; 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 vehicles comprising plant and machinery which are exclusively used for the carrying out of maintenance or repair works to a 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 Strategic Rail Authority 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) by agreement in writing between the Office of Rail Regulation and the Company; or

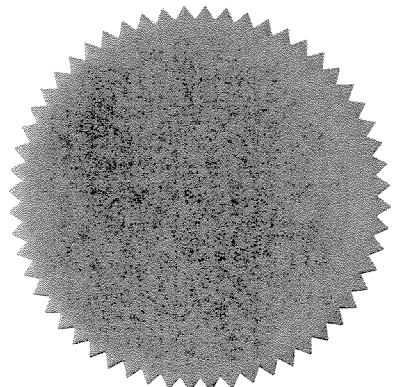
(d) if the Company does not hold a valid safety case or a valid safety case exemption as required by the Railway (Safety Case) Regulations 2000,

and shall do so, if required by the Strategic Rail Authority, in the event of the Company failing to comply with condition 5(b).



9 February 2005

Signed by the 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 Avondale Environmental 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 non-passenger trains which consist of vehicles comprising plant and machinery which are exclusively used for the carrying out of maintenance or repair works to a network 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.