SCOTTISH STATUTORY INSTRUMENTS

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(**1**) 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(**2**) 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(**3**);

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.

(**1**) 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).

(**2**) 1985 c. 6.

(**3**) S.I. 1927/196.

(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(**4**).

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

(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(**5**), 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.

(**4**) S.I. 1994/157.
(**5**) 1986 c. 44.